

PASSED

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**ORDINANCE NO. PA 1141) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE
) PLAN TO REDESIGNATE LAND FROM "AGRICULTURAL" TO "RURAL",
) REZONE THAT LAND FROM "E-40/EXCLUSIVE FARM USE" TO
) "RR-5/SR (RURAL RESIDENTIAL with SITE REVIEW)", ADOPTING AN EXCEPTION
) TO STATEWIDE PLANNING GOALS 3 AND 4; AND ADOPTING SAVINGS AND
) SEVERABILITY CLAUSES (file PA 98-2230; DOAK)**

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 July 1998, application no. PA 98-2230 was made for a minor amendment to redesignate tax lot 600 of map 19-01-16, from "Agricultural" to "Rural" and concurrently rezone the property from "E-40/Exclusive Farm Use" to "RR-5/Rural Residential" with adoption of exceptions to statewide planning goals 3 and 4; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearings of January 5 and March 2, 1999, and on that date 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 600 of map 19-01-16, from "Agricultural" to "Rural", such territory depicted on Plan Plot 529 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 600 of map 19-01-16, is rezoned from "E-40/Exclusive Farm Use" (Lane Code 16.212) to "RR-5/SR Rural Residential with Site Review" (Lane Code 16.231 with Lane Code 16.257), such territory depicted on Rural Zoning Plot 529 and further identified as Exhibit "B" attached and incorporated herein. The Site Review is to be used to insure that the following conditions are implemented:

1. Testimony has been received concerning the potential for adverse changes in stormwater drainage patterns, volume, or duration caused by future residential development. As such, the applicant shall provide, prior to preliminary subdivision approval, a report from a certified engineer or hydrologist, addressing the requirements of Lane Code 13.050(10).
2. Testimony has been received expressing concerns over water availability and septic capability of the subject parcel. Notwithstanding the aquifer study and septic information provided in the file record, the following statement shall be placed on the final recorded subdivision plat: "Duplexes are not permitted on any parcel within this subdivision."

Section 3. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 600, map 19-01-16. The findings of fact and conclusions of law supporting the exceptions are adopted as part of the Rural Comprehensive Plan and are set forth in Exhibit "C" (pages 17-30), attached to this Ordinance.

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.

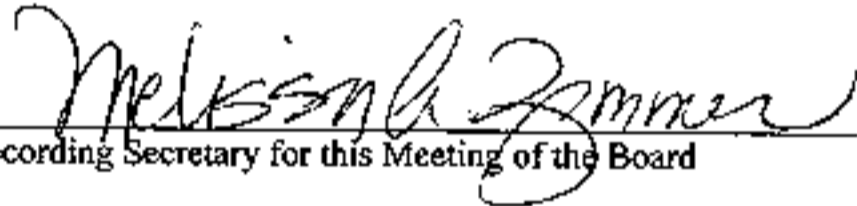
The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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 17th day of August, 2000.



Chair, Lane County Board of County Commissioners



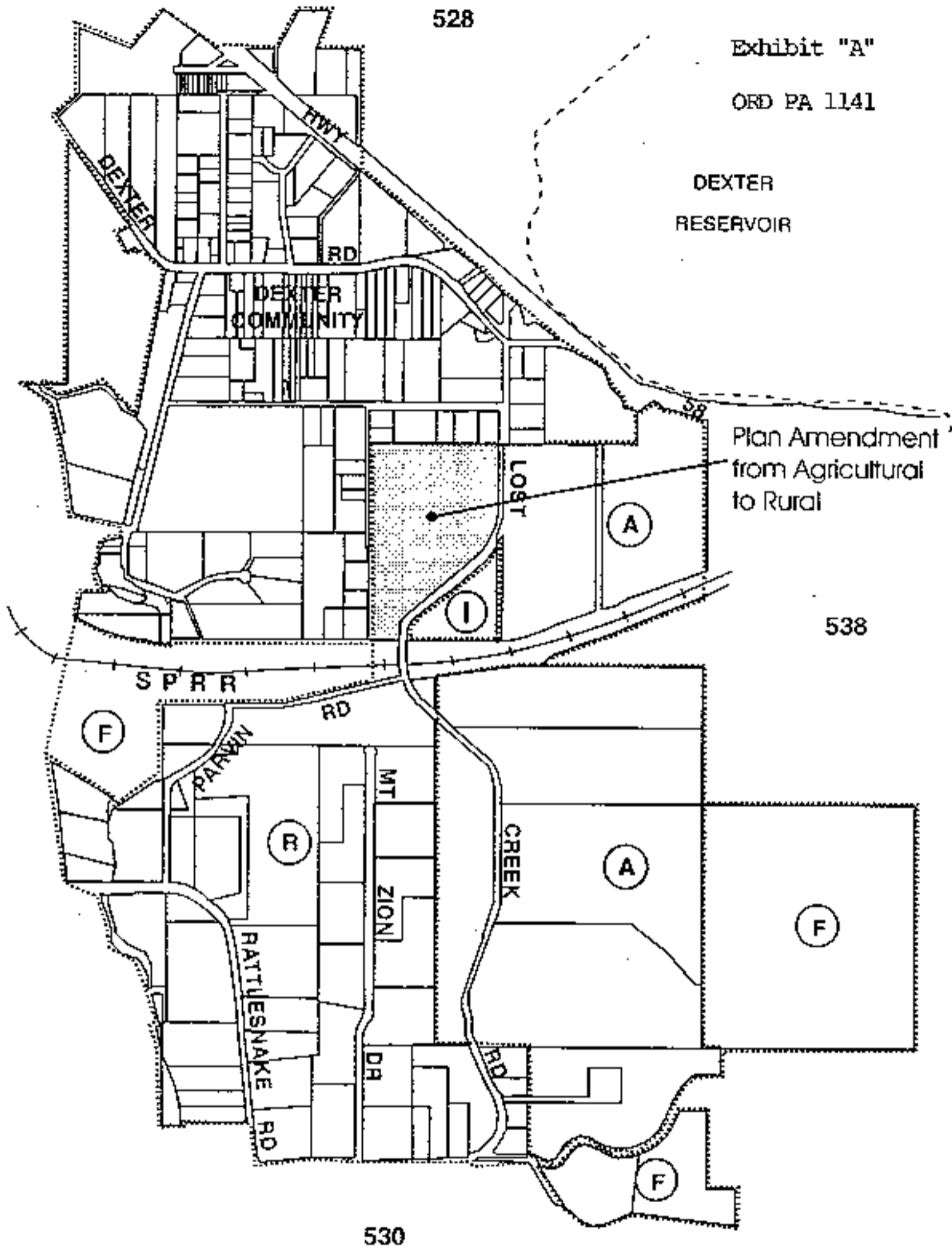
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 8-16-2000 1829 county



OFFICE OF LEGAL COUNSEL



lane county



OFFICIAL PLAN MAP

PLOT #529

Twship Range Section

19 01 16

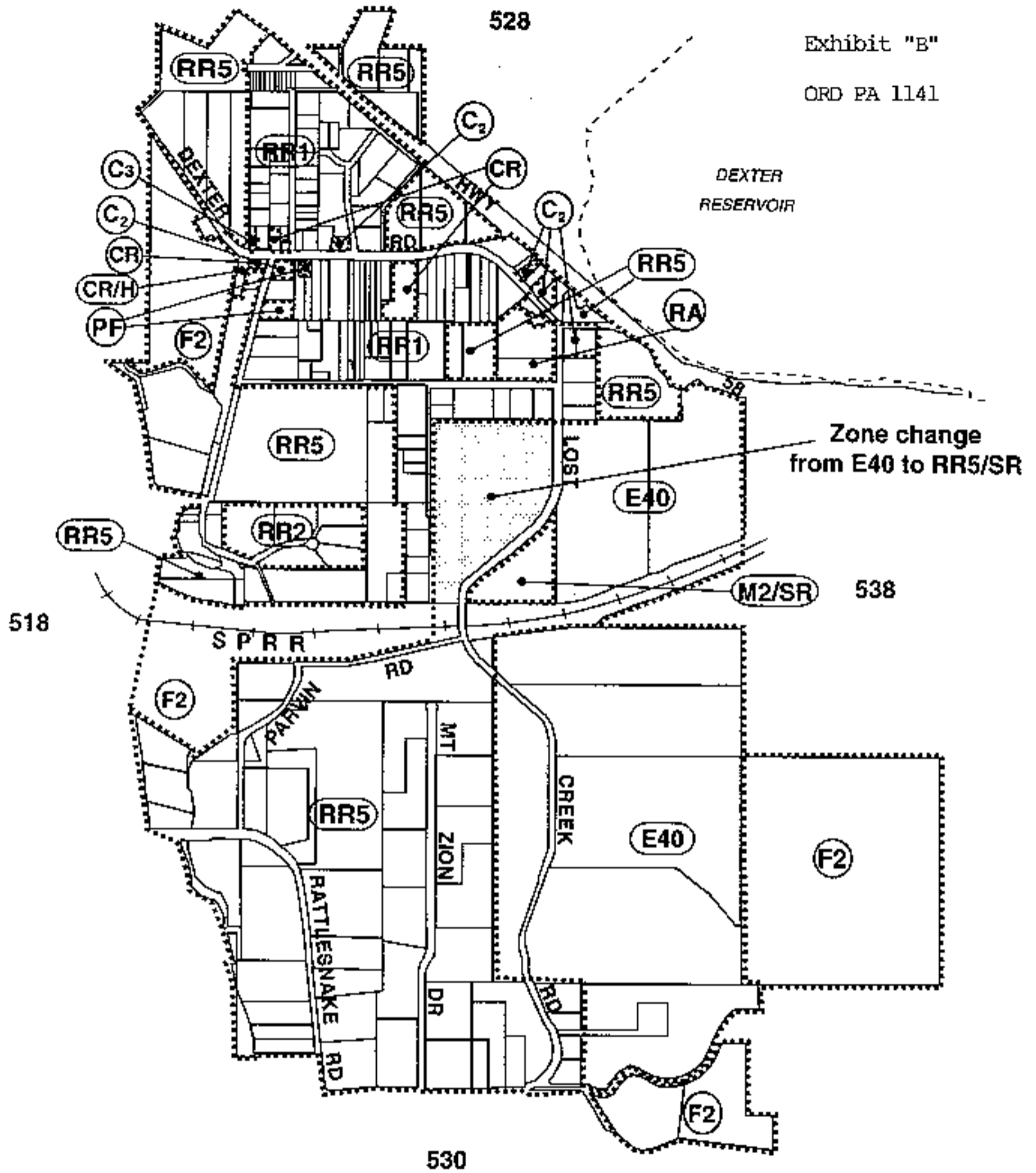
19 01 21

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

REVISION # _____ ORD# _____ DATE _____ FILE # _____

Exhibit "B"

ORD PA 1141



lane county



OFFICIAL ZONING MAP

PLOT #529

Township Range Section

19 01 16

19 01 21

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

REVISION # _____ ORD# _____ DATE _____ FILE # _____

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Regarding Ordinance No. PA 1141

The following information represents the Findings of Fact and Conclusions of Law supporting the Lane County Board of County Commissioners decision regarding the Plan Amendment and Zone Change for Snow Mountain Resources. These findings are divided into the following five sections:

- I. Specific Findings Relating to the Subject Property.
 - A. Description of Subject Property and Summary of Action.
 - B. Natural Site Features.
 - C. Existing Surrounding Development Pattern.
 - D. Existing Public Facilities and Services.
- II. Findings and Conclusions Relating to Plan Amendment Criteria Of Lane Code 16.400.
 - A. 16.400(d)(h)(iii)
 - B. 16.400
 - C. 16.400(8)
- III. Findings and Conclusions Relating to Exception Criteria Including OAR 660-04-000.
 - A. Exception Area 529-1
 - B. OAR 660-04-018
 - C. OAR 660-04-028
 - D. OAR 660-04-028(3)
 - E. OAR 660-04-028(4) & (6)
 - F. Board Order 89-10-25-4
 - G. Plan Amendment Conclusion
- IV. Findings and Conclusions Relating to Rezoning Criteria of Lane Code 16.252.
- V. Conclusion

I. SPECIFIC FINDINGS RELATING TO THE SUBJECT PROPERTY

A. **The Board of Commissioners Finds the Following Facts Regarding Descriptions of the Subject Property and Summary of Action.**

1. This action entails a Plan Amendment redesignating 32.54 acres of land from Exclusive Farm Use to Rural Residential and rezoning that area from Exclusive Farm Use (E-40) to Rural Residential with a Site Review suffix (RR-5/SR). The purpose of the Site Review suffix is to provide a process which will assure that duplex housing will be prohibited and that a surface drainage plan is submitted and approved prior to residential development of the property. A Developed and Committed Exception to Statewide Planning Goals 3 (Agriculture) and 4 (Forest Land) is provided herein and includes the subject property within adjacent Developed and Committed Exception Area #529-1 to the west, the designated Dexter Rural Community.
2. The subject property is identified as tax lot number 600 on assessor's map number 19-01-16. It includes 32.54 acres located on Lane County Zoning Plot Map number 529. The subject property exists adjacent to the acknowledged Developed and Committed Exception Area #529-1, the Dexter Rural Community.
3. The subject property is a legal lot as verified by the Lane County Land Management Division in PA 2229-98.
4. The Plan Amendment/Zone Change would make zoning of the subject property conform to that of developed properties within the adjacent exception area.
5. A maximum of six (6) rural, single-family residential dwellings are enabled within the subject property by this Board action. The additional rural residences are considered to constitute appropriate rural development.
6. The Lane County Planning Commission ruled in favor of the application. In the subject case, it was determined that the subject acreage, zoned Exclusive Farm Use, was not practicable for farm or forest use due to the following factors:
 - a. The subject property is bordered along two sides by 15 rural residences, along a third side by an elevated railroad, and partially along a fourth side by an industrial equipment yard.

- b. Seventy-two percent (72%) of the property's soils were excavated up to a depth of 20 feet and utilized off-site to construct the railroad. This fact reinforces the conclusion that the property is impracticable for either farm or forest management.
- c. The property has been vacant and unused for resource purposes for 50 years.

B. **The Board of Commissioners Finds the following Facts Regarding the Natural Site Features.**

1. **Parcel Configuration**

The subject property can be generally characterized as a modified rectangularly shaped parcel a maximum of 1,120 feet wide east to west and a maximum of 1,610 feet long north to south. The parcel is situated north to south with its eastern boundary along north-south and south-southwest tangents of Lost Creek Road.

2. **Slopes and Terraces**

The property slopes upward from the roadway southward at an approximate gradient ranging from 7.5% to 23.5%. Within the property, slope gradients range from 1 to 11% upon generally level terrain within individual areas of the property to slope gradients of from 20-30% along the southeastern boundary - along Lost Creek Road.

3. **Storm water Drainage and Wetlands**

For the most part, natural storm water is conveyed overland across the property northward along the eastern and western sides of a small ridgeline. Surface runoff is conveyed through a combination of open ditches and enclosed piped systems until it flows into Lost Creek or ultimately the Middle Fork of the Willamette River. To assure that proper surface water drainage occurs as the property is developed, a drainage plan must be submitted and approved by Lane County prior to the land being divided. The subject property is located upon both the Lowell 3 and 4 National Wetland Inventory Panels which do not identify wetland features being located on the property. However, two small ponds and a spring exist on-site which are fed by seasonal groundwater flows.

4. **Vegetation**

The property is partially vegetated by young coniferous trees, primarily Douglas-fir (*Pseudotsunga menziesii*) and a few Incense Cedar (*Libocedrus decurrens*) and deciduous species such as Big Leaf Maple (*Acer macrophyllum*) and Black Cottonwood (*Populus trichocarpa*). Many of the young tree clusters are chlorotic and stunted in growth.

5. **Soils**

The U.S.D.A. Natural Resources Conservation Service Soil Maps show that approximately 23.58 acres (72%) of the property's soils have been excavated and that an exposed "PIT" was left. Twenty-eight percent (28%) of the property's original Salkum silty clay loam surface soils remains in an uneven pattern around the property's perimeter.

6. **Wildlife Habitats**

The property lies within a land area designated by the Oregon Department of Fish and Wildlife as Impacted Big Game Range. The ODFW has concluded that these lands are no longer considered to be of prime value as managed large mammal habitat due to impacts from prior parcelization and rural development. No identified sensitive bird habitat exists within the property. The property does not support federally listed endangered plant or animal species.

7. **Natural Hazards/Scenic, Historic or other Natural Resources**

The property is not located within a regulated (100 year) floodplain area. It is not within 100 feet of a Class I Stream. The property has not been otherwise identified as having natural hazards or significant historic, cultural, scenic or additional natural resources.

C. **The board of Commissioners Finds the Following Facts Regarding the Existing Surrounding Development Pattern.**

1. The subject property is vacant and undeveloped with the exception of a recently installed water well.
2. Fifteen (15) developed parcels to the north and west are zoned RR-1, Rural Residential. A parcel to the south consists of the

elevated Southern Pacific Railroad and right-of-way. Two parcels to the east consist of an industrial equipment yard zoned Industrial (M-1) and a Christmas tree farm zoned Exclusive Farm Use (E-40).

3. Surrounding zoning may be summarized as RR-1 within the Community of Dexter adjacent to the west and to the north of the property; M-2 Industrial along 69% of the east boundary and E-40 along 31% of the east boundary. The property is segregated from resource land by the Southern Pacific Railway line and Lost Creek Road.
4. The Dexter Rural Community consists of rural residential development with numerous non-residential businesses, employment, and industrial land uses, a medical clinic and three churches.

D. The Board of Commissioners Finds the Following Facts Regarding the Existing Public Facilities and Services.

1. The subject property is served by the following public and quasi-public entities: Pleasant Hill School District #1; Emerald Peoples Utility District (E.P.U.D.) electricity; U.S. West Communications - telephone service; Dexter Rural Fire Protection District - fire protection; Oregon State Police and Lane County Sheriff - law enforcement; and Star Garbage Company - solid waste collection for disposal at Lane County's Glenwood Recycling Center. Retail grocery, hardware, nursery, gasoline and automotive, and medical and veterinary services exist within the Dexter Rural Community. Based upon Lane County Comprehensive Plan Policy 6f, Goal 11, this is an adequate level of public facilities and services necessary to support the development of dwellings on five (5) acre rural residential parcel.
2. A direct at-grade access approach onto Lost Creek Road, a County road, exists at the subject property's eastern boundary. State Highway No. 58 is located 1/4 mile north of the property. The traffic planning firm of JRH, Engineers Planners and Project Managers, has determined that proposed development does not require mitigation at the Lost Creek Road and State Highway 58 intersection. Further, no improvements will be required for Lost Creek Road, and its Level of Service (LOS) is projected to remain at level "A". Based upon this study the Board concludes that Lost Creek Road has adequate capacity to support the additional daily vehicle trips associated with six (6)

potential additional rural residential dwelling units which could result from this decision.

3. An examination of a total of 118 well logs within the USGS Sections 19-01-16 and 21 demonstrates that existing water wells within the immediate and general vicinities of the subject property, drilled to an average depth of 122.12 feet, yield an average flow of 30.34 gallons per minute. The property exists within a designated groundwater quantity/quality limited area. Therefore, supplemental dual well flow testing data was submitted by a registered hydrologist with the firm of EGR & Associates, Inc. to demonstrate that adequate groundwater supplies exist.

EGR & Associates conducted the required study assuming a scenario of 15 dwellings, far more than the six possible with this decision. EGR states that a conservative (high) estimate of water needed to supply a single-family dwelling is 500 gallons per day. This translates to a continuous pumping rate of 0.35 gpm. A test of an on-site well showed that it can be pumped at an average of 19.6 gpm with a safe draw-down. The 19.6 gpm rate could sustain up to 55 residences. The Board therefore finds that the aquifer underlying the subject property can accommodate an additional six (6) residences without exceeding the carrying capacity or adversely affecting adjacent properties.

II. Findings and Conclusions Relating to Plan Amendment Criteria of Lane Code 16.400.

- A. Lane Code 16.400(d)(h)(iii) Provides That The Board May Amend Or Supplement The Rural Comprehensive Plan Upon Making The Following Findings:

(aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

The Board finds that this Plan Amendment meets all legal requirements in that it is being processed pursuant to the requirements of Lane Code and the acknowledged Rural Comprehensive Plan. A Developed and Committed Exception to Goals 3 and 4 is provided in Section III of this document in conformance with Statewide Planning Goal and OAR 660-04-000 requirements. An exception to other Statewide Goals is

not necessary since they have been addressed or they do not apply to this specific action as follows:

Goal 1 - Citizen Involvement has been complied with by virtue of Lane County's public notification and hearing processes and the accessibility to the public of appropriate documents and professional staff.

Goal 2 - Land Use Planning has been complied with through the processing of the application pursuant to Lane Code, State law and Administrative Rule requirements for land use decisions, including the public hearing process wherein public input was received and duly considered.

Goal 5 - Open Space, Scenic and Historic Areas, and Natural Resources. The subject property and surrounding area has not been designated as containing any of these resources.

Goal 6 - Water and Land Resources Quality. Water and land resources quality have been discussed under Lane County Policies 3 and 5, Goal 5 Water Resources and other sections of this report.

Goal 7 - Areas Subject to Natural Disasters and Hazards. The property is not within any designated floodplains and is not otherwise subject to any identified natural hazards.

Goal 8 - Recreational Needs. The subject action does not involve recreation planning or the provision for recreational facilities.

Goal 9 - Economic Development. The subject action does not involve economic development or the creation of employment opportunities upon the subject property.

Goal 10 - Housing. The decision would allow up to six (6) dwellings on parcels of five (5) acres or more which is consistent with plan policies and provisions relating to rural residential lands.

Goal 11 - Public Facilities and Services; Goal 12 - Transportation and Goal 13 - Energy Conservation. Public facility and services and transportation issues have been addressed within other sections of this decision and are adequate for the level of development which would be allowed; energy conservation does not apply to this site specific application.

Goal 14 - Urbanization. 5.0 acre minimum sized parcels which will be served by on-site water and sewage disposal systems do not constitute

urban development because this density can be supported by existing services and facilities and will not create a situation where an urban level of service is required for this or other properties. Further, the proposed development does not impact an established Urban Growth Boundary.

The Planning Director's Inter-Office Memorandum to Planning Staff suggests, at a minimum, findings on the following three issues to address Goal 14:

(1) Will the proposed increase in density require an urban level of services (i.e., community water and/or sewer systems)?

The Board finds that the proposed increased density will not require an urban level of services for water or sewer systems because each lot will have its own on-site well and on-site sewage disposal system.

(2) Will the proposed increase in density result in a cumulative impact that, if allowed, could result in requiring an urban level of services elsewhere in the Developed and Committed Exception Area?

The Board finds, upon the basis of the EGR Report and the Discussion and Findings in connection with the water resources portion of these findings, that the cumulative impact of on-site wells for each lot will not adversely affect neighboring water supplies and therefore will not require an urban level of services to be necessary in the Committed Exception Area. Similarly, upon the basis of evidence in the record concerning on-site sewage disposal systems, and because all lot owners must comply with Lane Code and DEQ standards in securing septic and building permits, the use of independent on-site sewage disposal systems to serve the subject property will not impact sewage treatment methods now existing within the Community.

(3) Is the proposed increase in density comparable and consistent with the remainder of the Developed and Exception Area?

Upon the basis of the findings in Sections I and III of these findings, the Board finds that the proposed increase in density to allow one dwelling per five (5) acres is comparable and consistent with the remainder of the Developed and Committed Exception area which allows development of dwellings on parcels of five acres or less.

Goal 15 - *Willamette River Greenway*. The subject property is not within the Greenway jurisdiction.

Goal 16 - *Estuarine Resources*; Goal 17 - *Coastal Shorelands*; Goal 18 - *Beaches and Dunes*; and Goal 19 - *Ocean Resources*. The subject property is not located in a geographic area where these Goals apply.

(bb) *For Major and Minor Amendments as defined in IC 16.400(8) (a) below, the Plan amendment or component is:*

(i-i) *necessary to correct an identified error in 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 decisions, to be desirable, appropriate or proper.*

The Board finds that this Amendment meets criteria (iv-iv) and v-v) above.

(iv-iv)

Lane County Comprehensive Plan Policies 9, 11, and 12 under Goal 2 provide that a Goal 2 (Developed and Committed) exception may be applied through the Plan Amendment process to lands where Goals (i.e. 3 and 4) do not apply to a specific property. These properties may then be designated as Rural Residential in areas devoted to rural housing. The Board finds that this Amendment implements these Policies based upon satisfaction of the exception criteria contained in Section III of this document.

(v-v)

The Board also finds, based upon reasons discussed in this document, that it is desirable, appropriate and proper to designate the subject 32.54 acres of land as Rural Residential.

- (cc) *For Minor Amendments as defined in IC 16.400(8) (a), the Plan Amendment or component does not conflict with adopted Policies of the rural Comprehensive Plan and, if possible, achieves policy support.*

The Board finds the proposed Amendment to conform with all applicable Rural Comprehensive Plan Policies as discussed below:

Goal 2 (Land Use Planning)

Policy 12:

Changes to Plan designations for developed and committed exception areas outside of a Community designation shall be accomplished through the County's Plan Amendment Procedure.

This Amendment is a change in the Plan Diagram and, consistent with this Policy, is being processed through the Plan Amendment criteria of IC 16.400.

Goal 5 (Water Resources)

Policy 3:

Adequacy of water supply, particularly those relying on groundwater sources, shall be a major concern in reviewing major land use changes. For the purposes of applying this policy, major land use change shall be any application review by the Hearings Official or the Planning Commission.

Goal 5 (Water Resources)

Policy 5:

Land Use designations in the Comprehensive Plan and implementing zoning shall be commensurate with groundwater aquifer capacities.

Policies 3 and 5 above are applied using procedures established in Lane Code 13.050(13) relative to the evaluation for water supply. The subject property is within a designated groundwater quantity/quality limited area by Lane Manual 13.010 and a well log evaluation is required along with on-site or adjacent dual well testing to determine potential groundwater flow impacts.

An examination of a total of 118 well logs within Sections 16 and 21 of Township 19 South, Range 1 West demonstrates that

water wells within the immediate and general vicinities of the subject property, drilled to an average dept of 122.12 feet, yield an average flow of 30.34 gallons per minute. Further, well testing and analysis conducted by EGR & Associates establishes that adequate groundwater resources exist to serve proposed development without detriment to existing adjacent parcels.

Witnesses have testified and have submitted written testimony expressing concern that the aquifer underlying the subject property may not support development of 16 additional residences as originally proposed; and that the projected water use from the proposed additional residences might adversely affect the availability of water on neighboring properties. EGR conducted an aquifer study and concluded there was not only adequate water for 16 lots proposed at that time but that the pumped well was adequate to support up to 55 dwellings. A reduction in density to allow only 6 dwellings as authorized by this approval minimizes any potential for impacting neighboring wells.

The Watermaster of District Two (the "Watermaster"), which includes Lane County and the subject property, submitted an Interoffice Memorandum dated January 22, 2000 from Karl Wozniak (the "Wozniak Memorandum"), and a follow up memo received April 5, 2000.

Karl Wozniak is a hydrogeologist for the State of Oregon Water Resources Department. The Wozniak Memoranda, addressing the EGR Report, identified what Mr. Wozniak characterized as technical errors, some faulty analyses, and several conclusions which are not justified by the data or the analyses provided. The Wozniak Memoranda did not, however, state that the conclusions in the EGR report are inaccurate or wrong. Moreover, the Watermaster stated that the Wozniak Memoranda "does not mean the report's [EGR Report] conclusions are necessarily wrong".

EGR & Associates, Inc. responded to the Wozniak Memorandum with letters dated March 15 and April 19, 2000, which addressed the concerns which Mr. Wozniak raised. EGR's response concluded that, in EGR's professional opinion "sufficient water is available for the proposed rezoning without adverse effects to neighboring properties [or] on the aquifer underlying the

site." EGR's response pointed out that Mr. Wozniak did not agree with the application of Test Analyses regarding water availability as required by the Lane Code. The EGR analysis did comply with Lane Code. (Lane Code requires a five-hour minimum pump test; EGR performed a 24-hour pump test, thus exceeding Code requirements).

Interoffice memoranda were submitted by Harry Youngquist, Lane County Public Health Engineer. Mr. Youngquist's memo stated that EGR did conduct an aquifer test meeting the requirements and standards specified by Lane County.

Based upon the data submitted, including the oral and written testimony of witnesses who testified at the public hearing and/or submitted written statements and other data on this issue, the Board finds:

1. The aquifer beneath the subject property is a fractured rock aquifer. There is no testing procedure which is entirely conclusive to supply data upon which to determine with absolute certainty the level of sustainable water supply. It is not likely that any reasonable method for such testing will be developed in the foreseeable future.
2. The EGR & Associates testing and analyses meets or exceeds the minimum requirements of Lane Code. In order to provide a margin of safety, the EGR underlying assumptions and testing procedures are conservative and result in conservative conclusions. EGR's analysis, assumptions, and testing procedures are well within professional and industry standards. In addition the density allowed by this action will be less than half that analyzed in the EGR study.
3. The Wozniak Memorandum did not address the requirements of Lane Code. Nor did it or the Watermaster suggest that EGR's conclusions were inaccurate or wrong despite the limited availability of testing procedures for fractured rock aquifer conditions.
4. The procedures which EGR utilized are consistent with the requirements of Lane Manual and is the commonly used approach for analyses of fractured rock aquifers in Lane County.
5. The EGR Report shows that available water is sufficient to sustain up to 55 residences. The Board specifically finds that evidence submitted, including the EGR analysis, review of existing wells in the vicinity,

and evaluation by the County Public Health Engineer indicates that the aquifer underlying the subject property is adequate to accommodate the proposed six residences without adversely affecting neighboring properties.

Goal 11 (Public Facilities and Services)

Policy 6e describes the service levels appropriate for rural residential lands to include the following: schools, on-site sewage disposal, individual water supply system, electrical service, telephone service, rural level fire and police protection, and reasonable access to a solid waste disposal facility.

The existing adjacent Exception Area #529-1 and the subject property are served by Lost Creek Road, a County roadway, and State Highway No. 58; Emerald Peoples Utility District - electric; and U.S. West Communication - telephone facilities. Each of these is available to serve the subject property. Star Garbage Company provides solid waste collection and disposal services. Law enforcement is provided by the Lane County Sheriff and the Oregon State Police. Water will be provided by on-site wells. Sanitary sewage disposal will be provided by on-site subsurface systems. The area is within Pleasant Hill School District No. 1 and the Dexter Rural Fire Protection District service areas. Retail trade and food services; a U. S. Post Office; businesses; medical and veterinary facilities; and automotive services are available within the Community.

The Board finds that the subject property is adequately served by public and quasi-public facilities and services necessary to accommodate an additional six rural residential dwelling units. No negative impacts upon facilities or services are expected as a result of approval of the requested Plan Amendment/Zone Change.

(dd) For Minor Amendments as defined in IC 16.400(8) (a), the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The Board finds that this Plan Amendment follows the existing procedural structure of the Rural Comprehensive Plan. No land use designations which do not now exist are being requested. By virtue of being a Minor Amendment, the impact of the proposal will be site specific and consistent with unamended portions of the Plan Diagram. The Board finds the request to conform with existing Plan Policies and therefore it is consistent with unamended elements of the Plan.

B. Lane Code 16.400

- (i) *A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment. In such case, the Board shall also make the final zone change decision.*

On March 2, 1999, the Lane County Planning Commission held a public hearing and acted to recommend to the Board of Commissioners approval of a Plan Amendment to redesignate the 32.54 acre subject property to Rural Residential. At the same time the Planning Commission recommended RR-5 zoning as opposed to RR-2 which the Applicant had originally requested. The Applicant has since changed its application to concur with RR-5 zoning as recommended by the Planning Commission.

Through the public hearing process the Board received testimony from citizens objecting to the original 2 acre zoning due partially to groundwater and surface runoff issues.

The Board finds that the issues raised are properly resolved with a zoning of RR-5 to reduce density and a Site Review suffix to assure that no duplexes are allowed (which would increase water usage) and that a surface water drainage plan is submitted and approved by the County prior to development of the property.

The Board hereby accepts the recommendations of the Planning Commission and grants final approval to redesignate the property as Rural Residential and to rezone it to RR-5 with the addition of a Site Review/SR suffix to provide further review of the method of property development.

C. Lane Code 16.400(8).

- (a) *Minor Amendment: 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 other uses not allowed by an applicable goal.*

The Board finds that this Amendment is limited to the Plan Diagram only and thus qualifies as a Minor Amendment. The Board finds further that the subject property is irrevocably committed to non-resource land based upon the specific findings relating to the subject property and the criteria for committed

lands exceptions as enumerated in Section III of this document.

- (c) *Minor Amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by L.C. 16.400(6)(h)(iii) can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:*

- (i) *A complete description of the proposal and its relationship to the Plan.*

The required description is provided in the specific findings Section I and Attachments to this document and the Board adopts Section I of this findings document to provide the description of the proposal and its relationship to the Plan. The proposed use of the property is for rural residential development. The Rural Residential designation is applied to the property through the process of a Developed and Committed Exception to Goals 3 and 4.

- (ii) *An analysis responding to each of the required findings of L.C. 16.400(6)(h)(iii).*

- (aa) *Evaluation of land use and ownership patterns of the area of the amendment;*

An evaluation of land use and ownership patterns of the area is contained in specific findings Sections I and III of this document, and the Board adopts these findings to supply the evaluations.

- (bb) *Availability of public and/or private facilities, and services to the area of the amendment, including transportation, water supply, and sewage disposal;*

The Board finds that adequate facilities and services are available to the property. They include the Pleasant Hill School District No. 1, EPUD electric service, U.S. West Communication telephone service, individual on-site sanitary sewage disposal and potable water, Lane County Sheriff and Oregon State Police protection, and at-grade level vehicular access to Lost Creek Road, a County roadway. The Dexter Sanitary District provides sewage collection and treatment services to specific properties

with the Dexter Community but has no capacity or authority to serve the subject property. Public sewerage is not available to serve the subject property nor is it necessary because development for residential use is dependent upon verification that adequate soil conditions exist to support onsite sewage disposal on each of the six additional potential dwellings in accordance with DEQ Rules.

- (cc) *Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable;*

Impact on resource land is addressed in Section III of this document.

No historic, archeological or sensitive wildlife habitat sites have been identified on or near the subject property. The County's Wildlife Inventory Maps show the property to be within an Impacted Big Game Range. As such, no special considerations apply. No significant elements of wildlife habitat have been identified within the property. The property does not contain jurisdictional wetlands identified by the National Wetland Inventory and it is not within 100 feet of a Class I Stream. The Board finds therefore, that a Goal 5 ESEE analysis is not applicable to the Amendment.

The Board concludes that the proposal will not have a negative impact upon natural resources, resource lands or resource sites.

- (dd) *Natural hazards affecting or affected by the proposal;*

Flood Insurance Rate Map (FIRM) Panel #415591 0645E D for Lane County demonstrates that the subject property is not impacted by either 100 or 500 year floodplains. There are no additional hazards which exist on or near the property nor is it anticipated that this action will influence any natural hazard in any way.

- (ee) *For a proposed amendment to a non-residential, non-agricultural, or non-forest designation, an assessment of employment gain or loss, tax revenue impacts and public*

service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;

The Board finds that this criterion does not apply since the Amendment is not for a nonresidential designation.

(ff) For a proposed amendment to a non-residential, non-agricultural or non-forest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan within the jurisdictional are of the Plan and located in the general vicinity of the proposed amendment;

The Board finds that this criterion does not apply since the Amendment is not for a non-residential designation.

III. Findings and Conclusions Relating to Exception Criteria Including OAR 660-04-000.

A. The Board Finds the Following Facts Relating to Developed and Committed Exception Area 529-1.

The Board adopts the following findings related to a Developed and Committed Exception to Statewide Planning Goals 3 and 4 which is an Amendment to the previously acknowledged Exception Area Number 529-1. This information and findings are adopted in accordance with Comprehensive Plan Policies and Oregon Administrative Rule 660-04-000 (Goal 2 Exception) for a Developed and Committed Exception for the subject 32.54 acres. This process results in the inclusion of the subject property into the previously acknowledged adjacent exception area.

Summary Data for Exception Area #529-1.

Assessor's Map:	19-01-16	Acknowledged Size:	288
Plot Map:	529	Residential Parcels:	147
Location:	Lost Creek Road	Average Parcel Size:	2.00
Additional Acreage:	32.54		
Additional Parcels:	6		

B. The Board Finds the Following Facts Relating to OAR 660-04-018, Planning and Zoning for Exception Areas.

OAR 660-04-018 (2)

Physically developed and irrevocably committed exceptions under OAR 660-05-025 and 660-04-028 are intended to recognize and allow continuation of existing types of development in the exception area. For physically developed and irrevocably committed exceptions to goals, plan, and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:

OAR 660-04-018(2) (a)

Uses which are the same as the existing types of land use on the exception site, or

The Board finds that since this action expands an existing exception area and enables the addition of six rural residential dwellings the action is recognized as a continuation of an existing rural residential development type and that proposed 5.0 acre minimum lot sizes represent like development, but with a density lower than that which currently exists within the exception area.

The Board finds that the average parcel size within the adjacent exception areas equates to 2 acres. It also finds that this exception to include the subject property will not significantly alter the overall density pattern or the appropriateness of the Rural Residential zoning existing upon adjacent acreage.

- C. The Board Finds the Following Facts Relating to OAR 660-04-028, Exception Requirements for Land Irrevocably Committed to Other Uses.

A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goals impracticable.

(a) *The Characteristics of the exception area;*

Exception Area 529-1, within which the subject parcel will be included, describes the rural Community of Dexter. The exception area includes 147 rural residential parcels on 288 acres. The average rural residential parcel size is two (2) acres. The Community also includes public facility and Commercial zoned properties which contain supporting uses within the Community including retail sales, medical and veterinary services, automotive repair and churches.

(b) *The characteristics of the adjacent lands;*

Land adjacent to the subject parcel can be described as follows:

North - Four parcels within the exception area zoned RR-1.

West - Eleven developed parcels within the exception area zoned RR-1.

South - The elevated Southern Pacific Railroad and right-of-way.

Southeast - Across Lost Creek Road exists Little W Logging Company zoned Industrial.

East - Across Lost Creek Road is a Christmas tree farm zoned E-40.

Exception Area 529-1 is adjacent to another exception area to the south (529-2) which includes additional rural residential development. Exception Areas 529-1 and 529-2 combined include a total of 190 residential zoned parcels on 503.31 acres. The average of parcels within the combined exception areas is 2.65 acres.

The characteristics of lands adjacent to Exception Areas #529-1 and #529-2, are as follows: Lands surrounding the Dexter Rural Community are situated within the Middle Fork Basin of the Willamette River. Public recreation facilities associated with Dexter Reservoir encompass a large land area north and east of the Dexter Rural Community, and a surface mining operation exists southwest of the subject exception area and the subject property. As more fully described in Section III E.(3) of this document the exception areas within Plot 529 are within a series of adjacent exception areas which have a combined total of 641 residential parcels on 2132 acres for an average parcel size of 3.33 acres.

(c) *The relationship between the exception area and the lands adjacent to it;*

The subject Exception Area #529-1 is adjacent and contiguous to Exception Area 529-2 to the south. These two exception areas are generally isolated from other lands along the north and northeast by the Middle Fork of the Willamette River and Dexter Reservoir. The subject property is near a single parcel zoned E-40 across Lost Creek Road. The property is further surrounded by M-2 zoned industrial development, the Southern Pacific Railroad, and 15 developed rural residential parcels.

Sprague Lane, a private gravel roadway extends 10 feet within and along the subject property's western boundary.

(d) *The other relevant factors set forth in OAR 660-04-028;*

A relevant factor applicable to the subject property is its prior use as a source of material for railway fill. The development of the railroad grade located south of the property has rendered the parcel impracticable for farm or forest use because 72 percent of the surface has had the soil removed.

(6) (a) *Existing adjacent uses;*

The subject property is located within the southeast portion of Exception Area 529-1 and Exception Area 529-2 is located farther to the south. Developed parcels zoned Rural Residential within the exception area are located to the north, west, and across a railroad right-of-way to the south. Industrial zoned property used for a logging operation is located across Lost Creek County Road to the southeast. A Christmas tree farm zoned E-40 is located across Lost Creek Road to the east.

The two exception areas within Plot 529 are surrounded by land which has a mixture of zone designations, a large portion of which is rural residential. Dexter Reservoir and a park zoned Public Recreation occupy most of the area adjacent to the north.

Land east of the exception areas is zoned generally as Exclusive Farm Use (E-40) and is used for pasture and Christmas trees.

Land west and south of the exception areas consists primarily of Rural Residential and small F2 zoned parcels, most of which are developed with dwellings. In addition to the two exception areas within Plot 529 which contain 190 residential parcels on 503 acres, the surrounding area includes 10 other exception areas which contain 451 parcels on 1630 acres. All together the contiguous rural residential developed area consists of 641 parcels on 2133 acres.

(6) (b) *Existing public facilities and services;*

The Board finds that the existing adjacent Exception Areas 529-1 and 529-2 and the subject property are served by Lost Creek

Road, a County roadway, and the State Highway No. 58. Emerald Peoples Utility District (EPUD), and U. S. West Communications telephone facilities are located within the Lost Creek Road right-of-way adjacent to the subject property. The Star Garbage Company provides solid waste collection and disposal services at the Lane County Glenwood Recycling Center. Law enforcement is provided by the Lane County Sheriff and the Oregon State Police. Water will be provided by on-site wells and potable treatment systems and sanitary sewage disposal will be provided by on-site subsurface systems. The area exists within the Pleasant Hill School District No. 1 and the Dexter Rural Fire Protection District service areas. Retail trade and food, business, medical, veterinary, automotive, and religious services are available within the exception areas.

(6) (c) Parcel size and ownership patterns of the exception area and adjacent lands;

The general area around and including the Community of Dexter can be described as typical of a rural service center. Retail goods and services are provided within the core area along with the more dense residential development. Outward from this core and beyond the designated Community the development pattern is less dense but continues to be primarily residential. This is evidenced by RR-5 zoning and small EFU and Forest zoned parcels which are developed with dwellings.

The two immediate exception areas (529-1 and 529-2) contain a total of 190 rural residential parcels with an average size of 2.65 acres. The parcels are almost entirely individually owned and there is little undeveloped land.

(6) (d) Neighborhood and regional characteristics;

The Board finds that the subject property fronts directly on Lost Creek Road and has existing at-grade vehicular access with culvert drainage. Lost Creek Road provides immediate access from State Highway No. 58, the Willamette Highway.

The surrounding zoning may be summarized as RR-1 along the entire north of the site, RR-1 adjacent to the site along the entire west, and the Southern Pacific Railroad along the south, an M-2 Industrial zoned logging operation to the southeast, and an E-40, zoned Christmas tree farm to the east. The overall land use pattern within the adjacent exception area is

dominated by rural community, suburban style residential development.

(6) (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land,

The Board finds that the 12 combined exception areas are bordered and isolated along the north by State Highway No. 58, the Middle Fork of the Willamette River and the Dexter Reservoir. The west is bordered by Lost Creek, Parvin and Williams Buttes and by foothills zoned F-2, Impacted Forest and F-1, Non-impacted Forest Lands. Expansion to the immediate south is limited by the Southern Pacific Railroad and its right-of-way. The east boundary of the exception area along the subject property border is Lost Creek County Road. The Board finds that the railroad to the south and County road to the east are man-made features which separate the subject property and Exception Area 529-1 from other lands to the south and east.

D. OAR 660-004-0028(3)

Whether uses or activities allowed by an applicable goal are impracticable as that term is used in CRS 197.732(1) (b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors as set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this Rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible". For exceptions to Goal 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

- (a) Farm use as defined in CRS 215.203;*
- (b) Propagation or harvesting of a forest product as specified in OAR 660-331-0020; and*
- (c) Forest operations or forest practices as specified in OAR 660-060-0025(2) (a).*

The Board finds that the surface and underlying soil has been removed from at least 72% of the subject property resulting in it having an Agricultural Class 8 soil rating and that the subject property

therefore does not meet applicable definitions or standards for farm use as defined in OAR 660-331-0020.

The Board also finds that the majority of the subject property is classified as "Pits" soil which, according to Lane County Soil Rating for forestry and Agriculture (Aug. 97) has no capability to produce forest products. The subject property has not been used for propagation or harvesting of forest products for at least 50 years and there are no forest operations or forest practices on the subject property. The parcel is therefore not suitable for forest use or forest practices as specified in OAR 660-331-0020 and 0025(2)(a).

E. OAR 660-004-0028(4) & (6)

A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the factors support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

1. *Findings Related to Goal 3 "Agricultural Lands".*

The Board finds that in 1947 the subject property was extensively excavated of its soils, which were used to construct the adjacent elevated Southern Pacific Railroad roadbed. Twenty-four acres, or 72% of the 32.54 acre subject property, were excavated to depths of up to 20 feet. The property was left in this state with no effort toward restoration, and most intrinsic natural resources normally providing the basis for viable farm or forest resource activities were eliminated. The U.S.D.A. Natural Resource Conservation Service declared the property a "PIT" within the published Soil Survey of Lane County Area, Oregon which has the lowest of all possible ratings for agricultural or forest production. Therefore, the Board finds that the natural ability of the majority of the property's soils to support the growth of harvestable crops or marketable timber was removed and the parcel cannot be used for those purposes.

2. *Findings Related to Goal 4 "Forest Lands".*

The Board finds that practicable forest resource management activities upon the subject property are limited by the following:

- No forest resource activities exist upon the subject property nor did such activities exist immediately prior to the property being excavated in 1947. The NRCS has subsequently categorized

the majority of the property as a PIT. While some level of tree growth may occur on pockets of soil not removed, the removal of the majority of surface soil to depths of up to 20 feet has resulted in conditions which will not support use of the property for any measurable level of timber production.

- Fifteen rural residential parcels exist adjacent to the subject property along the north and west. The eastern boundary is formed by the Lost Creek Road right-of-way. The southern boundary is formed by the elevated railroad.
- While a Christmas tree farm exists east of the subject property, beyond Lost Creek Road, it is not feasible that it could be combined with the subject property since subject soils were excavated to depths of up to 20 feet.

The Board, therefore, finds that the redesignation of the subject property will not remove forest resource land from production, but that it will establish a logical extension of existing rural residential development along the north and west.

3. *Findings of Fact for Committed Exception shall address the following factors:*

The Board adopts the prior as well as the following findings to support the exception in accordance with criteria specified by OAR 660-04-028(4) and (6).

1. *Existing Adjacent Land Uses.*

Three boundaries of the subject property are contiguous to Exception Area #529-1, the Dexter Rural Community. Land uses adjacent to these boundaries include developed rural residential parcels, the Lost Creek Road right-of-way and an industrial logging yard. All adjacent and surrounding land uses are described as follows:

NORTH - The following four developed RR-1 zoned parcels are adjacent to the northern subject property boundary: T.L.#700, #701, #1200, and #1201.

WEST - The following eleven developed RR-1 zoned parcels are adjacent to the western subject property boundary: T.L. #300, #400, #401, #402, #403, #800, #801, #803, #804, and #805. Fifty percent (50%) of a private roadway, Sprague Lane which provides access to these parcels, is located on the subject property.

SOUTH - The southern boundary is formed by the elevated Southern Pacific Railroad roadbed and right-of-way which was built from materials excavated from the subject parcel.

SOUTHEAST - Across Lost Creek Road is T.L #200, which is zoned Industrial and is the Little W Logging Company, Inc. equipment yard, machine shops, and offices. This parcel comprises 69% of the road frontage opposite the subject property.

EAST - Across Lost Creek Road is T.L #503, which is a Christmas tree farm which comprises 31% of the road frontage opposite the subject property.

The Board finds that the subject property is developed along 2 boundary lines by permanent rural residential dwellings within Exception Area 529-1. Two additional boundaries consist of an elevated railroad and Lost Creek County Road. The property is not part of agricultural or forest resource management activities on other lands nor can it be combined with adjacent lands for this purpose. Since the property is not practicable for farm or forest resource uses and otherwise conforms to adopted standards, it is logically included within contiguous Developed and Committed Exception Area #529-1.

The Board further concludes that area-wide development particularly in the form of paved county roadways along with permanent infrastructure such as electric, telephone, and cable television facilities; various non-residential/employment facilities; numerous permanent rural residences and associated access and site improvements including wells and treatment systems as well as sanitary sewage disposal systems all of which support adjacent and nearby rural residences establishes that rural residential development of the subject property would be in conformance with OAR 660-04-027(6)(c)(A).

2. *Existing Public Facilities and Services.*

The Board finds that the existing adjacent Exception Areas 529-1 and 529-2 and the subject property are served by Lost Creek Road, a County roadway, and State Highway No. 58. Emerald Peoples Utility District (EPUD), and U.S. West communications telephone facilities are located within the Lost Creek Road right-of-way adjacent to the subject property. The Star Garbage Company provides solid waste collection and disposal services at the Lane County Glenwood Recycling Center. Law enforcement is provided by the Lane County

Sheriff and the Oregon State Police. Water will be provided by on-site wells and sanitary sewage disposal is to be provided by on-site subsurface systems. The area is within Pleasant Hill School District No. 1 and the Dexter Rural Fire Protection District service areas. Retail trade, food services, business, medical, veterinary, automotive, and religious services are available within the exception areas.

The Board concludes that the subject property is served by public facilities and services necessary to accommodate an additional six dwelling units. No negative impacts upon facilities or services are expected as a result of approval of the requested Plan Amendment/Zone Change. Further, development of the property at a density of one dwelling per five (5) acres will not require the extension or development of new public facilities or services.

3. *Parcel Size and Ownership.*

Exception Area No. 529-1, contains 288 acres and 147 residential parcels for an average parcel size of 2.0 acres. It is contiguous to the subject property along 3 boundaries. Adjacent Exception Area No. 529-2, contains 215.31 acres and 43 residential parcels for an average parcel size of 5.01 acres. Together these exception areas contain parcels with an average size of 2.65 acres. Within the expanded study area, which includes all adjacent exception areas (12 total), 641 parcels exist upon 2,132.92 acres resulting in an average parcel size of 3.33 acres.

The Board finds the following statistics to accurately represent the study area parcel size averages and concludes that the 5 acre minimum parcel size allowed by this action will result in parcels which are consistent with other rural residential lands within the adjacent surrounding area.

**STATISTICAL SUMMARY FOR
CONTIGUOUS EXCEPTION AREAS**

TAX MAP NUMBER	PLOT MAP NUMBER	RURAL RESIDENTIAL ACREAGE	NO. OF PARCELS	AVERAGE PARCEL SIZE
19-01-28,29 & 30	530-1	516.20	129	4.00
20-01-04	531-1	38.86	16	2.45
20-01-04	531-2	8.40	5	1.68

20-01-03 & 10	539-1	231.31	57	4.06
19-01-16 & 21	529-1	288	147	2.00
19-01-21	529-2	215.31	43	5.01
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19-01-06 & 07	506-1	316.55	100	3.17
19-01-19	507-2	60.21	15	4.01
19-01-08	517-2	172.18	56	3.07
19-01-17	518-1	70.19	20	3.51
19-01-17 & 20	518-2	173.76	43	4.04
19-01-19	519-1	41.95	10	4.20
<hr/>				
TOTALS	12	2,132.92	641	3.33

NOTES:

Total contiguous exception area residential parcel acreage evaluated is 2,132.92 acres.

Total number of rural residential parcels within the exception areas evaluated is 641.

The average residential parcel size calculated within these 12 contiguous exception areas is 3.3 acres.

Average parcel size calculated within the subject exception area #529-1 is 2.00 acres.

4. *Neighborhood and Regional Characteristics.*

The Board finds that two adjacent Exception Areas No. 529-1 and No. 529-2 surround the subject property. The subject exception area was designated as the Dexter Rural Community upon acknowledgement by LCDC as a Developed and Committed Exception Area in 1988.

The Board finds that the rural Community which borders the subject property is decidedly rural residential in nature with several non-

residential land uses which support the local Community . Therefore, approval of the Plan Amendment/Zone Change conforms the subject property to adjacent and nearby rural residential parcels without any identifiable negative impacts to any nearby agricultural or forest uses. The inclusion of T.L. No. 600 into Developed and Committed Exception Area No. 529-1 establishes an ultimate boundary between parcels zoned Rural Residential-1 to the north, and west and the single agricultural resource parcel to the east, across Lost Creek Road.

5. *Natural and Manmade Features.*

The subject property is not within 100 feet of a Class I Stream. There are no wetlands designated upon the National Wetlands Inventory (NWI) Lowell 3 or 4 Panels. As shown on FIRM National Insurance Rate Map Panel 415591-6445E D the subject property does not lie within either the 100 or 500 year floodplain. No additional natural hazards, or historic or cultural resources have been identified with respect to the subject property.

The property is partially vegetated by immature coniferous trees (primarily Douglas-fir) and deciduous trees such as Big Leaf Maple and Black Cottonwood. The majority of soil on the property has been identified by the USDA Natural Resource Conservation Service (NRCS) as having been excavated leaving an area defined as a "PIT".

The property lies within a land area designated by the Oregon Department of Fish and Wildlife as Impacted Big Game Range. The ODFW has concluded that these lands are not considered to be of prime value as mammal habitat due to impacts from prior parcelization and rural development. No identified sensitive bird habitat exists within the property. The property does not support federally listed endangered plant or animal species.

The elevated railroad right-of-way to the south and Lost Creek County Road to the east are man-made features which create a boundary between the subject property and the exception area from EFU and Industrial zoned land to the east.

6. *Physical Development.*

No physical improvements aside from a recently installed water well utilized for groundwater flow testing purposes exist upon the subject property. The property has been physically altered, however, by the removal of the majority of its surface area for use as fill material for the railroad to the south.

F. *Findings related to Lane County Board Order 89-10-25-4.*

The Lane County Board of Commissioners has previously adopted and applied guidelines for the evaluation of lands meeting the developed and committed requirements of OAR 660-04-028(1) and (6). These standards are contained within Board Order 89-10-25-4, an addendum of the Acknowledged 1989 Developed and Committed Lands Working Paper. Section IV of the Working Paper discusses the affects of adjacent residential development upon the practicable use of parcels for farm and forest management. It states that in situations where "the land was suitable in every other way" for farm or forest management, thresholds where adjacent residential development otherwise makes farm and forest management impracticable were found as follows:

- a) *parcels of 20 acres or less with dwellings on three or more adjoining sides are committed to non-resource uses that make it impracticable to conduct farm or forest management.*
- b) *parcels with dwellings on two adjoining sides are impracticable for farm management if 15 acres or less and impracticable for forest management if 20 acres or less.*
- c) *parcels with a dwelling on one adjoining side are impracticable for farm management if 5 acres or less and impracticable for forest management if 15 acres or less.*

The above thresholds apply when only one dwelling exists on each adjoining side. The Working Paper also points out that "the more homes there are adjacent to Agriculture lands, the more likely the potential for conflict".

The Board finds that the Working Paper thresholds have little application to the subject parcel because it is not otherwise "suitable in every other way" for farm or forest management.

It has been demonstrated within this application that the subject property is impracticable for either farm or forest management due to its having the upper layer of soil (up to 20 feet deep) removed from 24 of the 32.5 acres. It is therefore impracticable for farm or forest management for reasons other than the location of adjacent dwellings. The subject property is bordered by 15 developed rural residential parcels along the north and west. If it were otherwise suitable for farm or forest use this large number of dwellings would impact the subject property for resource management beyond the standards set forth in the Working Paper as guideline thresholds.

The Board therefore finds that; to the extent that the Working Paper Addendum applies to this application, a finding that the subject property cannot be practicably used for farm or forest management is consistent with the intent of the information and guidelines established in the Working Paper Addendum.

G. Conclusion

The Board finds that the subject 32.54 acre property conforms to requirements of Oregon Administrative Rule 660-04-00 for a committed lands exception and should be included into the Developed and Committed Exception Area #529-1. The Board further finds that no Statewide Planning Goals other than 3 and 4 are applicable to this Plan Amendment. This action is also found to be consistent with standards contained in Board Order 89-10-25-4 and other elements of Lane Code and the Comprehensive Plan applicable to a Plan Amendment based upon a Committed Lands Exception.

The Board finds the subject property, Tax Lot #600, is a logical part of Exception Area #529-1 since it cannot be used for farm or forest management and it is contiguous to 15 rural residential parcels and a paved public roadway with existing improved entry to the property. The requested Plan Amendment/Zone Change provides a conforming land use pattern of future rural residential parcels adjacent to existing like parcels within the exception area.

The Board also finds that including the subject property in the exception area would not create negative impacts upon the agricultural resource property zoned E-40 east of Lost Creek Road. The subject property has neither a physical nor economic land use relationship to this nearby resource parcel. Including the subject property into the exception area establishes an appropriate boundary between parcels zoned Rural Residential and lands across Lost Creek Road to the east.

IV. Findings and Conclusions Relating to Rezoning Criteria of Lane Code 16.252

Rural Comprehensive Plan Policies

The Board finds that this Plan Amendment and Zone Change action complies with those certain Plan Policies having to do with the designation of Rural Residential lands within the County. It does not conflict with any of those Policies as discussed in the previous Section II of this findings document.

Lane Code 16.252(2) - Zoning and Rezonings

This section of the code requires that: Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

1. Each of the findings stated previously in response to other criteria applies as well here to the relevant criteria.
2. The general purpose of Lane Code Chapter 16 is stated at LC 16.003. It says that the general purpose of the Chapter is to regulate development and land use and to implement the Rural Comprehensive Plan. It lists 14 separate purposes which are addressed below. The Board finds that rezoning of the property to RR-5/SR conforms with these purpose statements as follows:
 - (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.

The subject property will be zoned as Rural Residential with Site Review (RR-5/SR) in conformance with Comprehensive Plan Policies and Board Order 88-2-10-14. Future development of the property will therefore occur in accordance with the requirements of the Rural Residential zone with additional provisions required through a Site Review process to assure proper development and use. Evidence has been submitted showing that the property can be developed within the carrying capacity of the land with adequate soils for subsurface sewage disposal and adequate groundwater for domestic water supplies. The property will therefore be developed in a manner which will promote and protect the public health, safety, convenience and welfare.

- (2) Protect and diversify the economy of the County.

Redesignation of the subject property for rural residential development will not have a direct impact on the economy of the County under the context of this purpose statement.

- (3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.

This purpose statement does not apply to the subject application.

- (4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject property has been found to be irrevocably committed to nonresource use. Therefore designation of this site for rural residential use will allow rural residential development of this property and relieve the pressures of development on other lands requiring protection for their resource value.

- (5) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.

Through the application of the requirements of Oregon Administrative Rules and Lane County Policies, this property has been found to be committed to nonresource use. As such it is appropriately designated for rural residential development which will allow a type of housing desired by some citizens of the County.

- (6) Conserve all forms of energy through sound economical use of land and land uses developed on the land.

The subject property is located in an existing developed and committed area where rural residential uses currently exist. The transportation system and other facilities and services already exist to serve this area and allow for the efficient economic use of the existing facilities.

- (7) Provide for the orderly and efficient transition from rural to urban land use.

Designation of the subject property to Rural Residential with a 5-acre minimum parcel size maintains its use for rural purposes and is not a transition from rural to urban land use.

- (8) Provide for the ultimate development and arrangement of efficient public services and facilities within the County.

The subject property is being designated for rural residential use in an area where public services and facilities already exist and where it will not be necessary to enlarge or extend those services to accommodate rural residential use.

- (9) Provide for and encourage a safe, convenient and economic transportation system within the County.

The subject property is located adjacent to an existing transportation system within the area which will not require improvement to support development.

- (10) Protect the quality of the air, water and land resources of the County.

The level of development which would be allowed on the subject property will be regulated by the Rural Residential 5 acre zone and Site Review suffix which limit the allowed uses within the area and assure the maintenance of significant amounts of open space. Evidence has been submitted showing that adequate water is available for the limited amount of residential development which can occur on the property and that the land is suitable for subsurface sewage disposal. Air, land and water quality will therefore be maintained.

- (11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

The subject property is not subject to natural disasters and hazards.

- (12) Provide for the recreational needs of residents of Lane County and visitors to the County.

The subject application does not involve any recreational uses.

- (13) Conserve open space and protect historic, cultural, natural and scenic resources.

Lane County has inventoried open space, historic, cultural, natural and scenic resources existing within the County. No such resources exist on or near the subject property. Redesignation to a Rural Residential zone will therefore have no impact upon these resources.

- (14) Protect, maintain and where appropriate, develop and restore the estuaries, coastal shore lands, coastal beach and dune area and to conserve the near shore ocean and continental shelf of Lane County.

The subject property is not located in an area where these conditions exist. The Board finds that based upon the above findings, the proposed Amendment will achieve the general purpose of Lane Code Chapter 16.

3. The Board finds that this application meets the State law requirements for a Rural Residential designation and is consistent with the general purposes of the Rural Residential zone designation.
4. As noted above, this application is consistent with the relevant Policies of the Rural Comprehensive Plan.
5. The Board finds that because the proposed Amendment is consistent with the Policies of the Rural Comprehensive, it is not contrary to the public interest.
6. The Board finds that since the Comprehensive Plan is acknowledged no Statewide Planning Goals examination beyond that provided in connection with the Plan Amendment is required.

V. CONCLUSION.

The Board concludes that based upon the factual information submitted within the applicant's report and supplemental documents; 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 32.54 acres subject property from Agriculture/E-40 to Rural Residential/RR-5/SR and including it within Exception Area #529-1, conforms with:

- a. All applicable State law criteria including a Developed and Committed Exception to Statewide Planning Goals 3 and 4;

- b. The standards set forth within Lane Code including 16.400 to allow a Plan Amendment from Resource Land to Rural Residential; and
- c. The standards set forth within Lane Code 16.252 enabling a Zone Change from Agricultural Resource (E-40) to Rural Residential with Site Review (RR-5/SR).