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## **AGENDA COVER MEMO**

**DATE:** November 17, 2008 (Date of Memo)  
December 3, 2008 (Date of First Reading)  
December 17, 2008 (Date of Second Reading/Public Hearing)

**TO:** LANE COUNTY BOARD OF COMMISSIONERS

**DEPT.:** Public Works Department/Land Management Division

**PRESENTED BY:** Rafael Sebba/Land Management Division

**AGENDA ITEM TITLE:** ORDINANCE NO. PA 1254 -- IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO REDESIGNATE LAND FROM "COMMERCIAL" TO "RESIDENTIAL" AND REZONING THAT LAND FROM "RC/RCP, RURAL COMMERCIAL" TO "RR-5/RCP, RURAL RESIDENTIAL"; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (file PA 07-5485: Oregon Land LLC)

### **I. MOTION**

1. December 3, 2008: I MOVE APPROVAL OF THE FIRST READING OF ORDINANCE PA 1254 AND SETTING THE SECOND READING AND PUBLIC HEARING FOR DECEMBER 17, 2008, AT 1:30 P.M. IN THE BOARD OF COUNTY COMMISSIONERS CONFERENCE ROOM, SECOND FLOOR, PUBLIC SERVICES BUILDING.

2. December 17, 2008: ALTERNATIVE MOTIONS AFTER THE PUBLIC HEARING:

A. I MOVE TO APPROVE ORDINANCE NO. PA 1254.

**OR**

B. I MOVE TO TENTATIVELY APPROVE ORDINANCE NO. PA 1254 SUBJECT TO REVISED FINDINGS.

**OR**

C. I MOVE TO TENTATIVELY DENY THE APPLICATION IN FILE PA 07-5485 AND DIRECT STAFF TO PREPARE AN ORDER WITH APPROPRIATE FINDINGS FOR FINAL ACTION.

## **II. ISSUE OR PROBLEM**

A privately-initiated minor amendment to the Rural Comprehensive Plan (RCP), and companion rezoning request, has been recommended for approval by the Lane County Planning Commission. This Ordinance sets the matter before the Board for adoption, modification, or denial.

## **III. DISCUSSION**

### **A. Background**

In April of 2007, application was made to redesignate 5 acres of privately owned land, from "Commercial" to "Residential" and rezone it from "RC/RCP, Rural Commercial" to "RR-5/C-RCP, Rural Residential". The property consists of five tax lots (3900, 4000, 4100, 4200, and 4300; Assessor's map 17-12-15), also identified as lots 1-5 of the Kamrin Court platted subdivision (filed February 6, 2006, Survey # 39668).

On July 15, 2008, the Lane County Planning Commission held a public hearing on the proposal, and deliberated the proposal on August 5, 2008. The Commission forwarded a recommendation for approval, by a 5:1 vote. No parties objected to the request.

### **B. Analysis**

The application is being made pursuant to Lane Code 16.400, which governs amendments to the Rural Comprehensive Plan, and LC 16.252, which governs rezoning actions. The proposal is also subject to compliance with the Statewide Planning Goals, RCP Goals and policies, the General Purpose Statements of LC 16.003, as well as the purpose of the Rural Residential ordinance, LC 16.290. No exceptions to resource goals are required, as such was taken in 1984 during the acknowledgement process.

The Subject Property was originally part of a larger parcel that contained a house, a duplex, and a general store along Highway 101, and a mobile home near the center of the parcel. On February 29, 1984, Ordinance No. PA 884 adopted the Rural Comprehensive Plan and designated and zoned the entire parcel for commercial use (Rural Commercial), based on the general store that existed at that time.

The Kamrin Court Subdivision, filed February 6, 2006, created 8 lots from the original parcel. This proposal seeks to establish residential zoning for the five eastern lots of the subdivision. One of these lots contains the existing mobile home, and none have ever been used commercially.

There are three issues worth noting when considering this proposal.

First, the Subject Property is located within a designated Developed and Committed exception area (007-1), which was acknowledged by the Land Conservation and Development Commission (LCDC Acknowledgement Number 90-ACK-639). The proposed plan amendment and zone change would change the designation of the Subject Property to match that of most of the surrounding Developed and Committed exception area, and recognize the existing use on one of the lots. The development pattern and density of this exception area is discussed in more detail on page 6 of the draft Findings.

Second, the five lots that comprise the Subject Property were lawfully created under the current RC zoning. The RC zone was adopted by Lane County in 2002 (Ordinance 6-02) during periodic review to address Goal 14, and has been approved by DLCD. Therefore, the existing lots are consistent with the statewide planning goals. Additionally, as discussed on page 7 of the draft Findings, the applicant has demonstrated that septic systems are feasible for the existing lots and that water is available.

Third, the proposed plan amendment and zone change would not have the effect of allowing further divisions of, or uses on, the Subject Property that would compromise the land as rural. A change in the zoning from commercial to residential actually decreases the potential intensity of use on the site, and more accurately reflects the predominantly residential uses on surrounding lands.

Please refer to the attached Planning Commission staff report for further details. Also attached is Ordinance No. PA 1245 with exhibits, including the applicant's draft Findings. The applicant's draft Findings also include a more detailed discussion of the property.

If the Board agrees with the applicant's draft Findings, the proposal is justified in that the Plan Amendment is desirable, appropriate, and proper, in light of the historic uses on the property. Additionally, the Amendment is necessary to recognize the existing rural residential use of the property. The rezone appears to achieve the general purpose of LC Chapter 16, is not contrary to the public interest, and is consistent with the purpose statement of the RR zone. Refer to the findings for further details.

The applicant is expected to be on hand at the Board hearing to present the proposal and respond to questions. Should additional written materials or testimony be produced concerning this item, it will be delivered to the Board in a supplement or delivered at the hearing.

### **Lane County Planning Commission Action**

The issues were presented to LCPC for its evaluation in a public hearing on July 15, 2008. The Commission held the record open for one week. On August 5, 2008, the Commission deliberated the proposal, and forwarded a recommendation for approval, by a 5:1 vote, with Commissioner Siekiel-Zdzienicki voting in opposition. Commissioner Siekiel-Zdzienicki did not provide a code or statutory basis for his opposition. Commission reasoning is set forth in

the Minutes of the meetings, attached to this packet. The Board should review the Planning Commission record (Minutes) and reach its own conclusion on the issues.

**C. Alternatives/Options**

1. Adopt the Ordinance as presented.
2. Adopt the Ordinance with enhanced findings.
3. Do not adopt the Ordinance and deny the application.

**D. Recommendations**

Staff recommends adoption of alternative #1.

**E. Timing**

The Ordinance does not contain an emergency clause.

**IV. IMPLEMENTATION/FOLLOW-UP**

Should the Board decide against the proposal (alternative 3), an Order with findings setting forth the Board's reasons for denying the Ordinance will need to be prepared and returned to the Board for adoption. Notice of Board action will be provided to DLCD, and all parties. If the Board adopts the Ordinance as presented or modified, notice will also be provided.

**ATTACHMENTS**

1. Ordinance PA 1245 with Exhibits "A" through "C". –20 pp.
2. LCPC Staff Report for July 15, 2008 (includes original submittal). –165 pp.
3. Minutes of LCPC meeting of July 15, 2008 –10 pp. and August 5, 2008,. –5 pp.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1254 ) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE  
 ) PLAN TO REDESIGNATE LAND FROM "COMMERCIAL" TO "RESIDENTIAL"  
 ) AND REZONING THAT LAND FROM "RC/RURAL COMMERCIAL" TO  
 ) "RR-5/RURAL RESIDENTIAL"; AND ADOPTING SAVINGS AND  
 ) SEVERABILITY CLAUSES (file PA 07-5485: Oregon Land LLC)

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 April 2007, application no. PA 07-5485 was made for a minor amendment to redesignate tax lots 3900, 4000, 4100, 4200, and 4300 of map 17-12-15, from "Commercial" to "Residential" and concurrently rezone the property from "RC/Rural Commercial" to "RR-5/Rural Residential"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of July 15, 2008, and on August 5, 2008, recommended approval of the proposed plan designation 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 lots 3900, 4000, 4100, 4200, and 4300 of Assessor's Map 17-12-15, also identified as lots 1-5 of Kamrin Court platted subdivision, from "Commercial" to "Residential", such territory depicted on Official Lane County Plan Map 1712 and further identified in Exhibit "A" attached and incorporated herein.

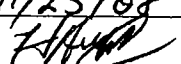
Section 2. Tax lots 3900, 4000, 4100, 4200, and 4300 of Assessor's Map 17-12-15, also identified as lots 1-5 of Kamrin Court platted subdivision, is rezoned from "RC/Rural Commercial" (Lane Code 16.291) to "RR-5/Rural Residential" (Lane Code 16.290), such territory depicted on Official Lane County Zoning Map 1712 and further identified in Exhibit "B" attached and incorporated herein.

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

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

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

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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|---|-------------|
| APPROVED AS TO FORM   |             |
| Date <u>11/25/08</u>  | Lane County |
|  |             |
| OFFICE OF LEGAL COUNSEL   |             |

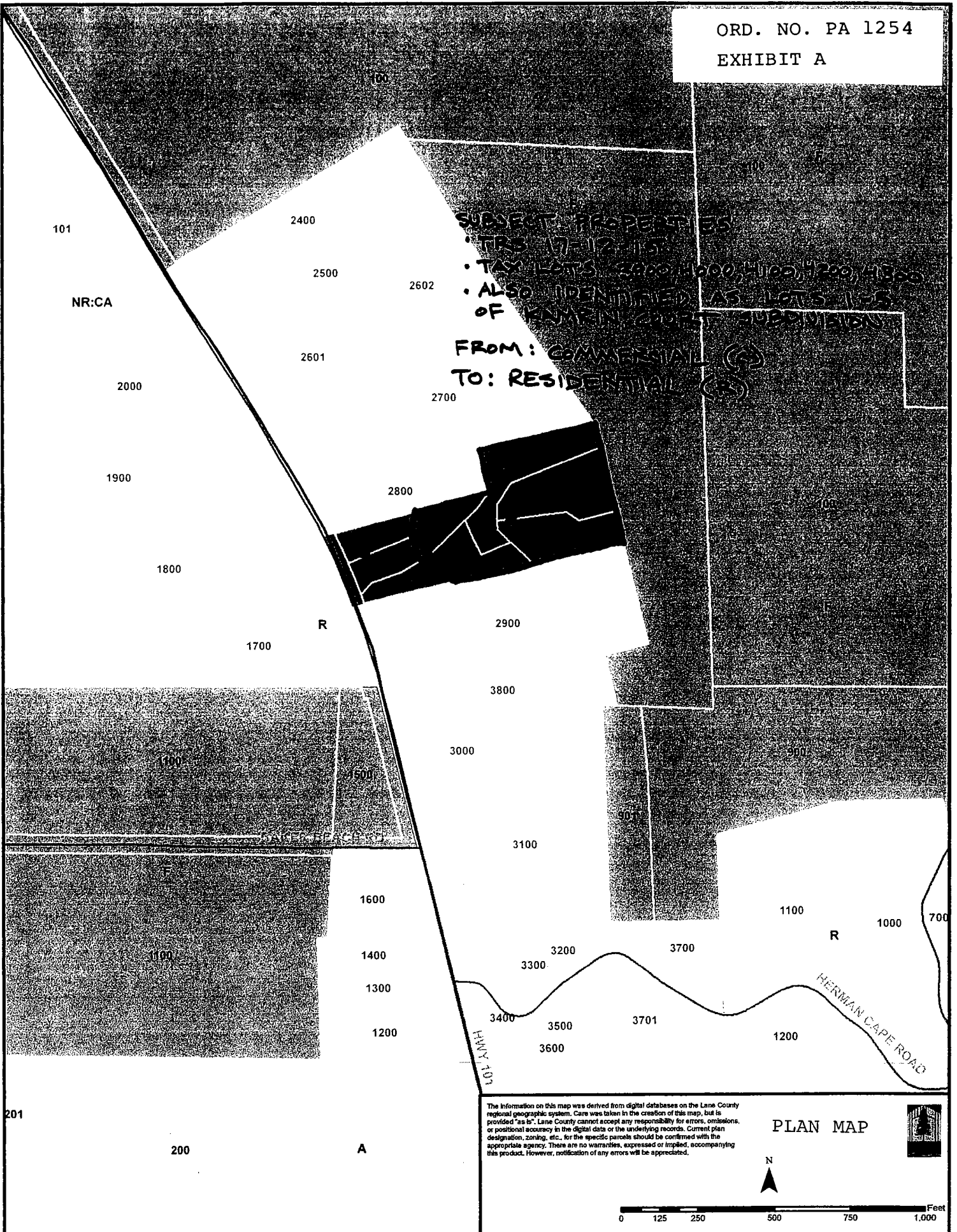
\_\_\_\_\_  
Chair, Lane County Board of County Commissioners

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

SUBJECT PROPERTIES

- TRS 17-12-15
- TAX LOTS 3400, 4000, 4100, 4200, 4300
- ALSO IDENTIFIED AS LOTS 1-5 OF KNAPP CREST SUBDIVISION

FROM: COMMERCIAL (C)  
TO: RESIDENTIAL (R)



The information on this map was derived from digital databases on the Lane County regional geographic system. Care was taken in the creation of this map, but is provided "as is". Lane County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for the specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

PLAN MAP

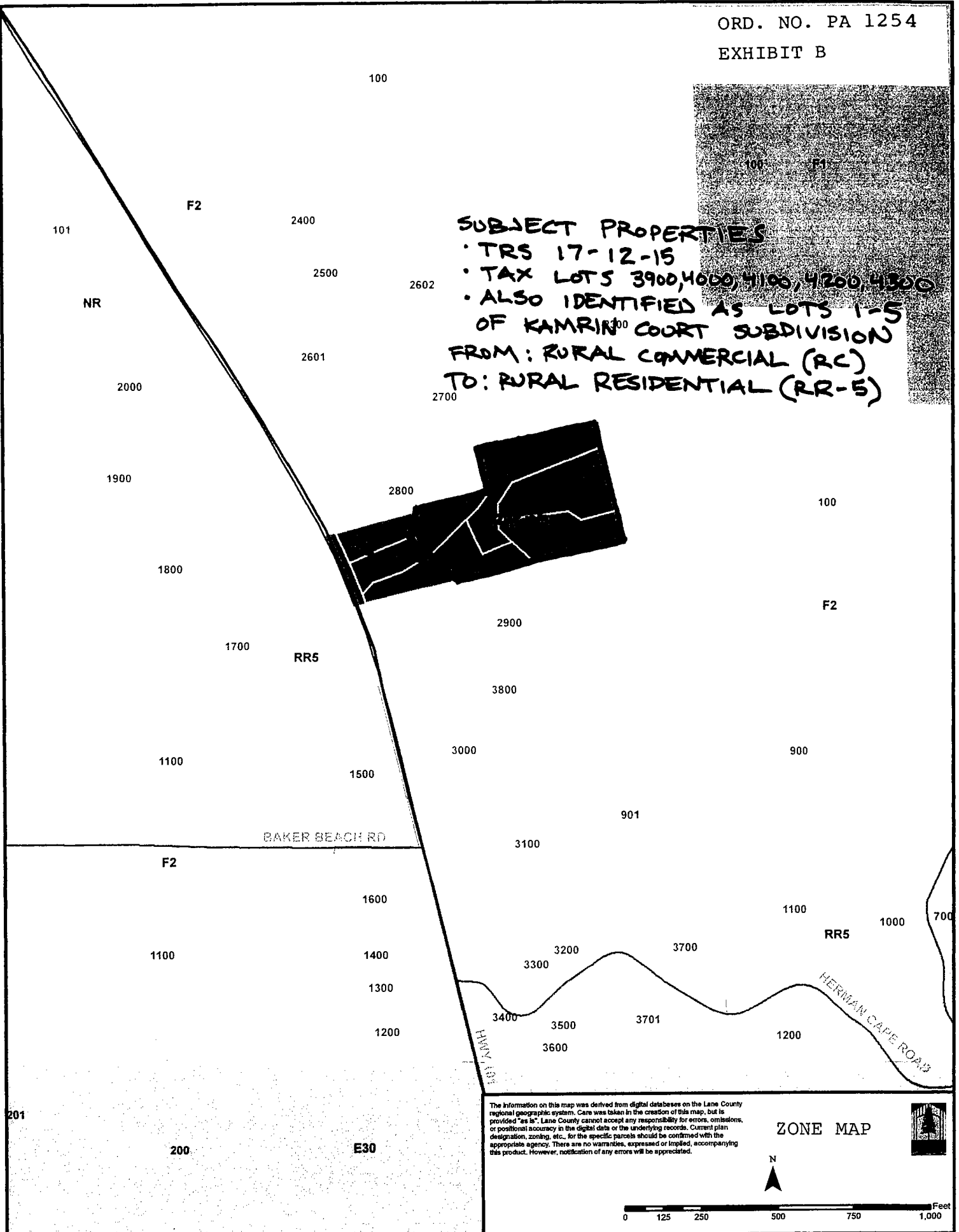


0 125 250 500 750 1,000 Feet

**SUBJECT PROPERTIES**

- TRS 17-12-15
- TAX LOTS 3900, 4000, 4100, 4200, 4300
- ALSO IDENTIFIED AS LOTS 1-5  
OF KAMRIN<sup>RD</sup> COURT SUBDIVISION

FROM: RURAL COMMERCIAL (RC)  
TO: RURAL RESIDENTIAL (RR-5)



**LANE COUNTY BOARD OF COMMISSIONERS  
MINOR PLAN AMENDMENT AND ZONE CHANGE  
F R O M  
RURAL COMMERCIAL (RC, RCP)  
TO  
RURAL RESIDENTIAL (RR-5/RCP)  
MAP 17-12-15-00-D001  
TAX LOTS 3900, 4000, 4100, 4200 & 4300**

**FINDINGS**

**Application Summary**

This application, PA 07-5485, is made by Oregon Land L.L.C. 92601 Pioch Lane, Springfield, OR 97478 for approval of a minor Rural Comprehensive Plan Diagram Amendment from Rural Commercial to Rural Residential concurrent with a Zone Change Map Amendment from RC/RCP to RR-5/RCP for tax lots 3900, 4000, 4200 & 4300, map 17-12-15-00-D001.

**Parties of Record**

Land Planning Consultants  
Oregon Land, L.L.C.

**Application History**

The Lane County Planning Commission held a public hearing on July 15, 2008, and voted to keep the record open through July 22, 2008 and to deliberate and make a decision at their next regular meeting on August 5, 2008. At their August 5, 2008 meeting the Commission voted 5 to 1 to recommend approval of the request to the Board of County Commissioners.

**Statement of Criteria**

OAR 660-04-018  
Lane Code 16.400  
Lane Code 16.252

**GENERAL FINDINGS OF FACT**

The Board of Lane County Commissioners adopts the following General Findings of Fact relating to this application:

1. The property subject to this application is identified as Tax Lots 3900, 4000, 4100, 4200 and 4300 on Assessor's Map No. 17-12-15-00-D001 (Lots 1, through 5 of Kamrin Court Subdivision, County Survey File No. 39668). The property lies on the East side of Hwy 101 and opposite of Lily Lake, on Surf View Lane, about 5 miles North of the City of Florence. The committed lands area where the property is located (Plot 007 Exception Area 1) is acknowledged by the Land Conservation and Development Commission.
2. On January 1, 1980 the Lane County Board of Commissioners enacted Ordinance No. 754 which zoned the subject property and other contiguous property as Rural Commercial, CA. At that time, the property was part of a larger ownership which included an operating grocery store on the front portion next to Hwy 101.
3. When acknowledged in 1988, the developed and committed exception area where this property is located contained 21 other parcels. 11 of those are less than 2 acres and 7 are less than 1 acre. (See exhibit 13 of application – D&C Exception Area 1, Plot 007) The subject property includes two lots with less than an acre and three with more than one acre. These lot sizes are compatible with the other residential parcels in the exception area where half (11) are less than two acres and a third (7) are less than one acre.
4. On February 29, 1984 the Lane County Board of Commissioners enacted Ordinance No PA 884 which adopted the Rural Comprehensive Plan, designated the subject property and other property in the same tract as Rural Commercial, and zoned it as Rural Commercial, CR. This designation and zoning was done consistently with RCP Goal 2 Policy “11.b.” which provided, “A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities”. As indicated, above, the primary reasons for the CR zoning of the subject property were to recognize the existing store on the front portion of the property and to apply CR zoning to the entire tract or contiguous property in the same ownership even though the property also included three residential structures.
5. On April 17, 2002, the Lane County Board of Commissioners enacted Ordinance No. PA 1173 which revised several RCP Goal Two policies and the Rural Commercial, CR zoning of rural properties located outside of communities. The zoning of the property was changed in name from Rural Commercial, CR, to Rural Commercial, RC. Lane County Official Zoning Map Plot 7, incorporated in Ordinance PA 1173, is correct and reflects the current RC zoning of the subject property.
6. The property consists of a total of 5 acres which includes five lots in the platted subdivision of Kamrin Court. All lots front Surf View Lane, a private easement road which intersects Hwy. 101 about 270 feet to the west, which is constructed with a gravel travel surface width of 20 feet. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane. Lot 4 (TL 4200) has a 1974 Gibraltar manufactured dwelling on it. Lots 1-3 and 5 are vacant. Wells exist on Lots 1, 2 and

7. Lot 4 contains a sewage disposal system that supports an existing mobile home. Lots 1, 2, 3 and 5 each have site inspections that approve a location and standards for installation of individual sewage disposal systems for those lots.
8. Lot one contains a 107 foot deep well that produces 100 gallons per minute, Lot 2 contains a 200 foot deep well that produces 40 gallons per minute and Lot 3 contains a 180 foot deep well that produces 40 gallons per minute. Adequate water is available in any of the wells to be shared with Lots 4 and 5, or new wells could be drilled on these lots.
9. The property has three soils types which are shown on the RLID soil map and are described in the RLID property statements as follows: 74B Lint silt loam 0 to 7 percent slopes, 74C Lint silt loam 7 to 12 percent slopes, and 3G Astoria variant silt loam 30 to 60 percent slopes. The predominant soil type is the 3G Astoria soil type with 30 to 60 percent slopes.
10. The property slopes upward in an easterly direction from Hwy 101. Vegetation consists of grasses, brush, and mixed conifers and hardwoods.
11. The property was originally part of a larger tract which contained a house, duplex and a general store that all fronted Hwy 101 and was zoned for commercial purposes. The portion of the original tract which had the general store, house and duplex (in Map 17-12-15-00-D001 Tax Lot 4400, 4500, 4600) is now in a different ownership. The property contains a mobile home and has never been used for commercial purposes but has been used for residential purposes.
12. A letter from the Department of Land Conservation and Development dated June 17, 2008 states that the proposal is reasonable and the Department found no conflicts with applicable requirements.
13. Available services are:
  - Schools: Siuslaw School District 97J, Lane ESD, Lane Community College
  - Fire: Siuslaw RFPD 1
  - Police: Lane County Sheriff and Oregon State Police
  - Sewer: On-site SDS
  - Water: On-site wells
  - Access: Surf View Lane
  - Power: Central Lincoln Peoples Utility District
  - Phone: US Qwest
  - Solid Waste: franchised haulers

## **I. LANE CODE 16.400 PLAN AMENDMENT CRITERIA**

### **A. Planning Commission Review and Recommendation:**

Pursuant to procedures set forth in Lane Code 16.400(6) (a) to (d), the Lane County Planning Commission has reviewed this application and has made a recommendation of approval of the request to the Board of Commissioners.

**B. Plan Amendment Criteria at LC 16.400(6) (h) Method of Adoption and Amendment.**

***“(iii) 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.”***

A minor amendment is one that amends only the Plan Diagram. A major amendment is any other Plan amendment. The change sought by this request is a minor amendment to the RCP designation for the Subject property from Rural Commercial to Rural Residential. The Board finds that this application provides substantial evidence that addresses the applicable requirements of Lane Code, RCP policies, and the Statewide Planning Goals. Specific findings are set forth below.

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

***(i-i) necessary to correct an identified error in the application of the Plan; OR”***

RCP Goal Two, Policy 11(a), for residential designations, policy 11(b) requires, in part, ***“A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential designation.”***

For residential designations, Policy 11(a) requires, in part, ***“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:***

- i. existing development pattern and density;***
- ii. on-site sewage disposal suitability, or community sewerage;***
- iii. domestic water supply availability;***
- iv. access;***
- v. public services;***
- vi. lack of natural hazards; and***
- vii. effect on resource lands.”***

The subject property was once part of a tract which included a general goods store. A commercial designation and zoning was applied to the entire tract in 1980 and again in 1984, because of the existing commercial use on a portion of the tract. The commercial designation and zoning did not reflect the existing residential use of a portion of the tract and the fact that a large portion of the tract was not used for commercial purposes. It would have been more consistent with Goal 2 Policy 11(a) and (b) to have applied two designations to the subject property, commercial and residential, in order to reflect the two different, existing uses. However, the County

seldom applied a split zoning on a single ownership. Therefore, the Board finds this request to change the designation and zoning of the subject property from commercial to residential is “necessary to correct an identified error in the application of the Plan.” The subject property includes an existing residential use and is no longer part of the tract which included the developed commercial use. The requested residential designation and RR5 zoning is a reflection of the existing residential use on the subject property and of the residential designations and RR5 zoning of abutting properties to the North, Northwest and South of the subject property.

***“(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR”***

Not applicable.

***“(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR”***

Not applicable.

***“(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR”***

The Board finds that the plan amendment is necessary to recognize the existing rural residential use of the property. See discussion, above, under (i-i).

***“(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.”***

The Board finds that the proposed request is consistent with past and current planning practice. As noted above, the planning and zoning history of the subject property has been tied to the historic use of the grocery store located on the property, originally known as the “Alderwood Store” then later as “Wheel in Groceries”. Beginning with the 1980 subarea plan and zoning, the property was designated for commercial use in recognition of the existing store which was consistent with applicable policies for that portion of the property.

The portion of the property that is the subject of this application, however, was never used commercially and is now in separate ownership from the store building. Throughout this history, most of the adjacent and nearby property has remained designated for residential use. Approval of this application would not change the commercial zone and plan designation on the property fronting Highway 101 that contains the store building.

The Board finds that the proposed request will not adversely affect the commercial viability of the area. The commercial zone and plan designation will remain on the property that fronts Highway 101 and contains the original store building. The

property proposed for Residential designation and zoning contains a mobile home that is not related to commercial use, has steeper topography and is set back approximately 270 feet from Highway 101. In addition, current provisions in the Rural Residential zone allow home occupations within dwellings that would enable limited commercial activities that would be consistent with the property's location.

Based on these factors, the inventory of lands available for commercial uses in this area will not change. This area with highway frontage and containing the store building will continue to be zoned Commercial. The subject property is not well suited to standard commercial uses because of topography, its existing residential use and lack of highway frontage.

For all of the above reasons, and because most of the surrounding properties are zoned for residential use, the Board finds that it is appropriate to re-designate the subject parcels to residential use.

***“(cc) For Minor Amendments as defined in LC 16.400(8)(a) below, 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 this plan amendment application is supported by the following RCP policies. No policies have been identified that conflict with this request.

Goal 2, Policy 11(a) states:

***“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:”***

***“i. existing development pattern and density”***

The subject property is adjacent to Rural Residential, RR5 zoned properties to the North, South and West across Highway 101. The area of the existing development pattern and density which includes the subject property is developed and committed exception area Plot 007, Exception #1. A copy of the “Supplemental Findings in Support of Ordinance No. PA 884” which Lane County adopted in 1988 and 1989 was included with this application. According to these findings, the development pattern of Plot 7, Exception area 1 is described as follows:

***“The acreage of the exception area is 83.42 acres. The exception area contains 22 parcels with an average parcel size of 3.79 acres and containing 22 residences. The development is clustered in a large group.”***

Since the adoption of the above information, in 1988 and 1989, the tract which included the subject property was subdivided into 8 lots by Kamrin Court subdivision. This lowers the average parcel size in the exception area from 3.79 acres to 2.87 acres. The RR5 zoning of the subject property will not allow any divisions of the subject property and will therefore maintain the existing parcel size of the exception area.

The Board finds that commercial use is normally considered to be a more intensive use of property than residential use. Therefore, a change in the zoning from commercial to residential will decrease the potential intensity of use on the site and will more accurately reflect the surrounding land uses which are predominantly residential.

***“ii. on-site sewage disposal suitability, or community sewerage”***

The subject property includes 5 platted subdivision lots which each have from Lane County an approved sewage disposal site evaluation or existing septic tank: Lot 1 – S.I.#04910, Lot 2 – S.I.#049116, Lot 3 – S.I.#049117, Lot 4 – has an existing septic system with the Gibraltar mobile home, Lot 5 – S.I.#049118. Copies of the approved site investigation reports, mentioned above, are included with this application. The Board finds that adequate sewage disposal is therefore available.

***“iii. domestic water supply availability”***

Each of the five platted lots in the subject property will have use of water from an existing well. Lot 1 has an existing well on it which according to State of Oregon water supply well report L71543 produces 100 gallons per minute. Lot 2 has an existing well on it which according to State of Oregon water supply well report L71542 produces 40 gallons per minute. Lot 3 has an existing well on it which according to State of Oregon water supply well report L71541 produces 40 gallons per minute. Copies of these well reports are included with this application. The subject property is not located within a water quantity or quality limited area as identified by Lane Code 13.010. The Board finds that an adequate domestic water supply is therefore available.

***“iv. access”***

All lots front Surf View Lane, a County approved private easement road which intersects Hwy. 101 about 270 feet to the west, and which is constructed with a gravel travel surface width of 20 feet. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane.

The Board finds that according to Table 1 – Generation by Use on Page 13, the traffic volumes associated with residential use will be less than if the property were to be developed with commercial uses as allowed under the current Commercial zoning.

***“v. public services”***

The subject property is accessed to Hwy 101 via Surf View Lane and has access to the full range of public services specified for developed and committed areas in RCP Goal 11: Public Facilities and Services, Policy 6.f. Each of the subject lots has an approved individual septic site as well as an existing or available source of water supply. The Board finds that adequate public services exist to support residential use.

***“vi. lack of natural hazards”***

The subject property does not include areas located within a designated flood hazard area. Each of the 5 lots fronts an existing, constructed road and has adequate area for the installation of a septic system, well and construction of a dwelling. The Board finds that there are no known hazards at the site.

***“vii. effect on resource lands.”***

The subject property lies within developed and committed area 1 of Plot 007. There is resource land adjacent to the subject property on the East side which is designated as forest land and zoned F-2. The Board finds that because the use will change from commercial to residential, the proposed change would have no foreseeable adverse effect on the adjacent F2 zoned property. Streams are located near the North and South property boundaries that are not identified as Class I streams.

***“(dd) For Minor Amendments as defined in LC 16.400(8)(a) below, 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 amendment is consistent with the RCP policies that provide for designating lands for residential use and approval of this amendment is consistent with unamended portions or elements of the Plan.

**C. Lane Code 16.400(8)**

***“Additional Amendment Provisions. In addition to the general procedures set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components.***

***(a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:***

***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.”***

This application requests a plan amendment and zone change within developed and committed exception area 1 of Plot 007. It only affects the Plan Diagram for the subject property. No text change to the RCP is proposed. No exception from the Statewide Planning Goals is required, because, this exception area is already an acknowledged exception area. The Board finds that this amendment is limited to the Plan Diagram and is, therefore, a minor amendment.

***“(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 LC 16.400(6)(h)(iii) above 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 Board finds that the required description is provided in the prior portions of these findings. The proposed use of the property is for rural residential purposes consistent with the density and other standards of Lane Code Chapters 13 and 16. The Plan amendment will change the Plan Designation from Rural Commercial to Rural Residential.

***“(ii) An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.”***

The Board finds that the required analysis is provided by previous findings.

***“(iii) An assessment of the probable impacts of implementing the proposed amendment, including the following:***

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

The subject property is adjacent to Rural Residential, RR5 zoned properties to the north and south as well as to the west, directly across Highway 101. The area of the existing development pattern and density which includes the subject property is developed and committed exception area Plot 007, Exception #1. The discussion regarding the existing development pattern and density of the area is located on page 6 of these findings.

***“(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 the Subject property is served by all of the basic facilities and services described in RCP Goal 11, Policy 6. f. for rural residential land. These include schools, on-site sewage disposal, electrical service, telephone service, rural level fire and police protection and reasonable access to solid waste disposal services.

***“(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;”***

The Subject property lies within developed and committed area 1 of Plot 007. There is resource land adjacent to the subject property on the East side which is designated as forest land and zoned F-2. The Board finds that because the use will change from commercial to residential, the proposed change would have no foreseeable adverse effect on the adjacent F2 zoned property. The subject property is not adjacent to or near any identified Goal 5 resource.

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

The Board finds that the subject property does not include areas located within a flood zone or other designated hazard area.

***“(ee) For a proposed amendment to a nonresidential, nonagricultural or nonforest 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 standard does not apply because the proposed amendment is for a residential designation.

***“(ff) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;”***

The Board finds that this standard does not apply because the proposed amendment is for a residential designation.

## **II. FINDINGS AND CONCLUSIONS RELATING TO THE STATEWIDE PLANNING GOALS**

The Oregon Land Conservation and Development Commission Goals and Guidelines are incorporated herein by reference, except as noted. The following applicable statewide goal statements have been summarized.

### ***Goal 1 - Citizen Involvement:***

Goal 1 requires that citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Public notification in the form of mailed public notice has been sent by Lane County to affected agencies, including the Department of Land Conservation and Development and owners of record within 250 feet of the site. No public testimony was provided in writing or at the public hearing held by the Planning Commission. The Board finds that this application provided adequate opportunity for citizen involvement.

### ***Goal 2 - Land Use Planning:***

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions, and requires development of an adequate factual base to support these decisions. A minor change is one that does not have significant effects beyond the immediate area of change, and is based on special studies or information. The justification for the specific change must be established by substantial evidence in support of the conclusion that the criteria have been met.

Lane County has adopted a comprehensive land use plan amendment process with specific standards that must be addressed to justify a minor change. Substantial

compliance with the plan amendment criteria in LC 16.400 constitutes compliance with the applicable provisions. The Board finds that this application provides substantial evidence upon which the Planning Commission gave its recommendation for approval and the Board concludes that the criteria have been met.

***Goal 3 - Agricultural Lands:***

Goal 3 strives to preserve and maintain agricultural lands. The subject property is part of developed and committed exception area 1 of Plot 007. The Board finds that it is in an approved exception area and is no longer available for resource use.

***Goal 4 - Forest Lands:***

Goal 4 requires the preservation and conservation of forest land for forest uses. The subject property is part of developed and committed exception area 1 of Plot 007. The Board finds that it is in an approved exception area and is no longer available for resource use.

***Goal 5 - Open spaces, Scenic and Historic Areas and Natural Resources:***

Goal 5 requires the conservation of open space and protection of natural and scenic resources that include cultural, historic, and scenic and wilderness area characteristics. The goal, as amended by OAR 660-23-000, contains policies and procedures for a variety of resources listed in Goal 5. This administrative rule requires evaluation of these resources. OAR 660-23-10 and -20 include definitions, standards and specific rules applicable to each Goal 5 resource.

Of the Goal 5 resources currently inventoried as part of the RCP, the Board finds that none of those are present on the subject property.

The subject property is located within an acknowledged "developed or committed" exception area. According to RCP Goal 5, Flora and Fauna Policy 10, such areas are treated as "Impacted Big Game Range." Neither the RCP nor Lane Code contains any special requirements for wildlife protection within exception areas. The Board finds that neither the subject property nor the adjacent lands are inventoried by Lane County as part of a critical quantity or quality groundwater area pursuant to Lane Manual 13.010 and groundwater supplies are adequate to serve the intended residential uses.

***Goal 6 - Air, Water and Land Resource Quality:***

Goal 6 is intended to maintain and improve the quality of the air, water and land resources of the State. As it pertains to site-specific development, it requires that adequate protection measures be taken to assure the retention of air, water and land quality. Generally this means that development will be subject to the air and groundwater regulations promulgated by the State Department of Environmental

Quality as administered by the Lane County Environmental Health Department and the Lane Regional Air Pollution Authority. The Board finds that redesignation from Commercial to Residential will not impact air, water or land resource quality.

***Goal 7 - Areas Subject to Natural disasters or Hazards:***

Goal 7 is intended to protect life and property from natural hazards. The Board finds that there are no identified potential hazards on the Subject property.

***Goal 8 - Recreational Needs:***

This goal addresses the recreational needs of the State including visitors. The Board finds that it is likely that the subject property will be developed with full-time or seasonal residences that are related to the scenic and recreational characteristics of the site.

***Goal 9 - Economy of the State:***

Goal 9's purpose is to diversify and improve Oregon's economy. This goal is primarily applicable to commercial and industrial development. Approval of this application will change the designation of the subject property from Rural Commercial to Rural Residential. The portion of the original tract historically used for commercial purposes will retain its Rural Commercial designation. Also, there is an inventory of commercial zoned property in the Florence UGB, situated to the South. The Board finds that approval of this request will not impact the economy in a negative manner.

***Goal 10 - Housing:***

Goal 10 is intended to provide for the housing needs of Oregon's citizens. The Board finds that this plan amendment and zone change request will facilitate the placement of housing on the site, which is otherwise not appropriate for commercial use.

***Goal 11 - Public Facilities and Services:***

The purpose of Goal 11 is to provide for the planning and development of public facilities and services in a timely, orderly and efficient manner in order to support rural and urban development.

The Board finds that the subject property has access to the full range of public services specified for rural residences in RCP Goal 11: Public Facilities and Services, Policy 6. f. and that no additional public facilities and services will be required beyond the present level.

***Goal 12 – Transportation:***

Goal 12 is intended to provide and encourage a safe, convenient and economical

transportation system. This goal does not address specific land use actions, such as this proposal, but is implemented at the comprehensive planning stage on an area-wide basis. The Goal 12 administrative rules identify an additional aspect that comes into play if an amendment to an acknowledged comprehensive plan "significantly affects" a transportation facility. (OAR 660-012-0060) A transportation facility is any physical facility that moves or assists in the movement of people or goods. (OAR 660-012-0005[24]) The relevant transportation facility for this application is Hwy 101 to the west. The Board finds that this amendment will not have a significant effect on the transportation system as demonstrated by the following responses to the criteria set forth in the administrative rule at OAR 660-012-0060(2)(a-d):

***"(2) A plan . . . amendment significantly affects a transportation facility if it:***

- (a) Changes the functional classification of an existing or planned transportation facility;***
- (b) Changes standards implementing a functional classification system;***
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or***
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP."***

In response to (2)(a) and (b), no changes in either the functional classification of the street system or the standards implementing the functional classification system are proposed by this application. In response to (2)(c) and (d), this change will replace the current commercial land use designation with one that allows only residential use. A comparison of trip generation factors as described in the trip generation manuals produced by the Institute of Transportation Engineers indicates that the residential designation will have far less traffic impact than the commercial uses currently allowed. See Table 1, below, which compares typical residential trip generation with uses allowed under the current zoning. The data demonstrates that there would be a decrease in the levels of potential travel or access, and the performance standards of the facility would not be altered.

**Table 1 – Trip Generation by Use**

| Use                      | Average<br>Daily<br>Trips | Peak<br>AM | Peak<br>PM |
|--------------------------|---------------------------|------------|------------|
| Rural Residential        | 10*                       |            |            |
| Clinic/Medical<br>Office | 31.45                     | 3.6        | 5.8        |
| Video Rental             | 31.54                     |            |            |
| Sit-down                 | 89.95                     | 9.27       | 10.86      |

|  |           |         |         |
|--|-----------|---------|---------|
| Restaurant                                   |           |         |         |
| Bank   | 156.48    | 4.07    | 33.15   |
| Convenience Store<br>with Service<br>Station | 162.778** | 10.64** | 13.19** |
| Min-mart                                     | 737.99    | 65.39   | 53.73   |

\* Trips per dwelling

\*\*Trips per pump

Source: Institute of Transportation Engineers, Trip Generation, 6<sup>th</sup> edition (1997)

Based on evidence that the proposed amendment will not significantly affect a transportation facility and that no further Goal 12 consideration is required, the Board finds that the amendment will not significantly affect a transportation facility.

***Goal 13 - Energy Conservation:***

This goal requires that land uses maximize conservation of all forms of energy based on sound economic principles. It is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. Any development on the subject property will be subject to those rules. The Board finds that this amendment will have no negative impact upon energy conservation.

***Goal 14 - Urbanization:***

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. Exception area 1 of Plot 007 has been designated and acknowledged as a rural residential area through the comprehensive planning process. As such, the Board finds that it is an appropriate location for the type of development proposed by this request.

***Goals 15-19 - (Willamette Greenway and Coastal Resources):***

The Board finds that Goals 15 -19 are not applicable to this plan amendment and zone change request because they are geographically oriented to specific areas not located on the site. Lane County Official Coastal Zones Plot 007 does not display any coastal overlay zoning for the Subject property.

**III. FINDINGS AND CONCLUSIONS RELATING TO OAR 660-04-018**

**“The proposed amendment will facilitate only rural uses, densities and public facilities and services that maintain the land as rural.”**

Lane County Rural Comprehensive Plan (RCP) Policy 11, Goal 2 states that “a Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential

designation”.

Therefore, the Board finds that the Rural Residential designation is qualified within the developed and committed exception area under the same standards as the Rural Commercial designation.

RCP Goal 11, Policy 6f establishes the service levels required for the Rural Residential designation and are; schools, on-site sewage disposal, electric service, rural level fire and police protection and reasonable access to solid waste disposal services.

As described in Finding 13 of this document, all of these services exist to serve the property. Each of the five existing parcels has an existing sewage disposal system (Lot 4) or has a site inspection approval from Lane County to install a system (Lots 1, 2, 3, & 5). There are three on-site wells capable of providing adequate potable water; two with yields of 40 gallons per minute and one at 100 gallons per minute.

The Board therefore finds that the facilities and services existing at the property are appropriate for rural residential use consistent with RCP Policies and no urban levels of services are needed for that use.

**“The change would authorize rural uses, densities, and public facilities and services that are compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses.”**

The “change” is from a Rural Commercial designation to a Rural Residential designation within a defined exception area acknowledged by LCDC. At the time of acknowledgement there were 21 residential parcels in addition to the subject commercial parcel. 11 of those were less than 2 acres and 7 were less than 1 acre. The change to a Residential designation will not convert resource lands to non-resource uses because the property is already planned and zoned for non-resource use. Strict residential use of the property is obviously less intensive than uses that could occur under a commercial designation. The Board finds that the change to Rural Residential is therefore compatible with the Impacted Forest Lands zoned property to the East and will not commit that land to non-resource uses. All other adjacent lands are already designated as residential, a non-forest use.

#### **IV. FINDINGS AND CONCLUSIONS RELATING TO LANE CODE 16.252 ZONE CHANGE CRITERIA**

Lane Code 16.252 provides:

***“(2) Criteria. 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***

***affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.***

***Consistency with the General Purpose of LC Chapter 16 and not Contrary to the Public Interest”***

For the reasons mentioned below, the Board finds that this application is consistent with the general purposes of LC Chapter 16 as set forth below from LC 16.003.

- 1) In conformity with various development rules discussed above, the property will be developed commensurate with the character and physical limitations of the land and will thus promote the public health, safety and general welfare of the area.
- 2) It will provide home construction opportunities that will aid the economy.
- 3) It will conserve farm and forest lands by locating residential opportunities within a designated developed and committed exception area.
- 4) It will aid the provision of affordable housing that allows reasonable selection for a place to live.
- 5) By its location within an acknowledged developed and committed area, it will not affect or inhibit the orderly and efficient transition from rural to urban lands use and the efficient provision of public facilities and services.
- 6) By the use of Surf View Lane, ( a private road intersecting Highway 101) and by eliminating the opportunity for traffic-intensive commercial land uses, it will maintain the safety of the transportation system.
- 7) By virtue of regulations discussed above, it will protect the quality of the land, air and water of the county and will protect life and property in areas subject to flooding.
- 8) Because it provides a potential for recreation homes, it may meet an incremental part of the recreational needs of the County.
- 9) Because it is consistent with the policies of the RCP and Statewide Planning Goals, it is not contrary to the public interest.

***“Consistency with the Purposes of the Rural Residential Zoning District”***

For the reasons mentioned below, the Board finds that this application is consistent with the general purposes of LC Chapter 16.

- 1) It provides opportunities for people to live in a rural area;

- 2) It will allow any of the uses permitted in the Rural Residential zoning district; and,
- 3) It is consistent with the intent of the RCP to guide development onto lands committed to non-resource use.

***“Consistency with Statewide Planning Goals for Unacknowledged Portions of Lane County.”***

Because there are no unacknowledged portions of Lane County, the Board finds that this criterion is not applicable.

#### **CONCLUSION:**

Based on the substantial evidence presented above, the Board finds that the subject applications for plan amendment and zone change meet and satisfy all of the relevant criteria.

#### **LIST OF ATTACHED EXHIBITS:**

1. Original applicant's application with Exhibits
2. July 8, 2008 staff report
3. June 17, 2008 letter from the Oregon Department of Land Conservation and Development
4. Applicant's July 22, 2008 supplemental submittal

# LANE COUNTY PLANNING COMMISSION

## STAFF REPORT



**HEARING DATE:** July 15, 2008

**FILE No. PA 07-5485**

**REPORT DATE:** July 8, 2008

LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

### I. APPLICATION DESCRIPTION

**A. Owner/Applicant:**

Oregon Land LLC  
92601 Pioch Lane  
Springfield, OR 97478

**Agents:**

Land Planning Consultants  
1071 Harlow Road  
Springfield, OR 97477

**B. Proposal**

To amend the Rural Comprehensive Plan to redesignate 5 lots totaling 5 acres in size from Commercial (C) to Residential (R) and to change the zoning of those parcels from Rural Commercial (RC) to Rural Residential (RR-5).

### II. RECOMMENDATION

Staff recommends:

- Approval of the Plan Amendment to "Residential", and
- Approval of the rezone to "Rural Residential", "RR-5/RCP".

### III. SITE AND PLANNING PROFILE

**A. Subject Property**

Map 17-12-15, tax lots 3900, 4000, 4100, 4200, & 4300

**B. Zoning**

Located on Plot 007; Zoned Rural Commercial, RC/RCP.

**C. Site Characteristics**

The subject property is located approximately 5 miles north of the Florence UGB, on the east side of Highway 101, opposite Lilly Lake (see Attachment 1). The property consists of 5 acres that include five lots in the platted subdivision of Kamrin Court (filed February 6, 2006, Survey #

39668). The property slopes upward in an easterly direction from Highway 101. Vegetation consists of grasses, brush, and mixed conifers and hardwoods. Refer to pages 1 through 3 of the applicant's submittal for further site details.

**D. Background**

The Subject Property was originally part of a larger parcel that contained a house, duplex, and a general store that all fronted Highway 101, as well as a mobile home near the center of the parcel. During the RCP acknowledgement process of 1983-84, the original parcel was zoned for commercial use (Rural Commercial) based on the general store existing at that time. The Kamrin Court Subdivision, filed February 6, 2006 Survey # 39668, created 8 lots from the original parcel. The Subject Property consists of the five eastern lots of the subdivision, one of which contains the mobile home. The three western lots, which front Highway 101 and include the dwelling, duplex, and the store building, have been under different ownership since February 22, 2006, and are not included in this Plane Amendment/Zone Change request. Refer to pages 1 through 3 of the applicant's submittal for additional background.

**E. Surrounding Area**

The Subject Property is adjacent to the north and south to land zoned Rural Residential (RR-5). Adjacent land to the east is zoned Impacted Forest Lands (F-2). The lots immediately west of the Subject Property are zoned Rural Commercial (RC).

**F. Services**

Fire: Siuslaw RFPD #1  
Police: Lane County Sheriff, Oregon State Police  
Water & Sewer: On site well and septic systems  
School: Siuslaw School District 97J  
Telephone: US Quest  
Power: Central Lincoln Peoples Utility District  
Access: Surf View Lane

**G. Referral Comments Received:**

The Oregon Department of Land Conservation and Development (DLCD) provided comment on the proposal (see Attachment 3). In their letter, OAR 660-004-0018 is cited. To ensure compliance, DLCD suggests that "... the County find that the proposed amendment will facilitate only rural uses, densities, and public facilities and services that maintain the land as rural. Additionally, the County should find that the change would authorize rural uses, densities, and public facilities and services that are compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses." These issues are discussed below in Section C.2 of this report.

Lane County Transportation Planning also provided comment on the proposal (see Attachment 4). Transportation found that, after reviewing the evaluation of trip generation included in the application, the requirement for a Traffic Impact Analysis can be waived, pursuant to LC 15.697(2)(b).

Any additional incoming referrals will be introduced at the hearing.

#### **IV. APPROVAL CRITERIA & ANALYSES**

##### **A. Character of the Request**

The proposal is a Minor Amendment pursuant to Lane Code 16.400(6)(h) and involves a rezoning subject to LC 16.252. No exception to resource goals is required, as the property is already within a "Developed and Committed" area.

The current application, if approved with the requested "Residential" and "Rural Residential RR-5/RCP" designations, would enable any uses allowed in the Rural Residential ordinance, (LC 16.290).

##### **B. Statement of Criteria**

Lane Code 16.400(8)(a) 'Major' and 'Minor' Amendments  
Lane Code 16.400(6)(h) Method of Adoption and Amendment  
Lane Code 16.400(8)(c) Additional Rural Comprehensive Plan Amendment Provisions  
Lane Code 16.252 Procedures for Zoning, Rezoning and Amendments to Requirements  
Statewide Planning Goals  
Lane County Rural Comprehensive Plan

##### **C. Evaluation**

The application is thorough and accurate, and staff agrees with the assertions made therein. Below is a breakdown of the components, with reference to the pages within the application text in which they are successfully addressed.

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

LC 16.400(8)(a) defines a 'Minor Amendment' as, "An amendment limited to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to uses not allowed by the applicable goal." This plan amendment application is for a minor amendment. Whereas the subject property is zoned RC, Lane County has already adopted an exception for the property and received acknowledgement of the exception. Because this amendment would be "limited to the Plan Diagram", it constitutes a 'minor amendment' as this term is defined by LC 16.400(8)(a). This provision is mentioned on page 8 of the submittal.

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

The requirements of Lane Code 16.400(6)(h) are addressed on pages 3 through 8 of the submittal. Lane Code 16.400(6)(h)(iii)(aa) requires compliance with the Statewide Planning Goals and applicable Oregon Administrative Rules. These are addressed on pages 10 through 14 of the submittal.

As stated above, the referral response received from DLCD cites OAR 660-004-0018, and suggests that "... the County find that the proposed amendment will facilitate only rural uses, densities, and public facilities and services that maintain the land as rural. Additionally, the County should find that the change would authorize rural uses, densities, and public facilities and services that are

compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses.”

In considering OAR 660-004, as well as Goal 14, there are several circumstances worth noting for the subject property.

First, the Subject Property is located within a designated Developed and Committed exception area (007-1), which was acknowledged by the Land Conservation and Development Commission (LCDC Acknowledgement Number 90-ACK-639). The applicant discusses the development pattern and density of this exception area on page 6 of the application. The proposed plan amendment and zone change would change the designation of the Subject Property to match that of most of the surrounding Developed and Committed exception area, and recognize the existing use on one of the lots.

Second, the five lots that comprise the Subject Property were lawfully created under the current RC zoning. The RC zone was adopted by Lane County in 2002 (Ordinance 6-02) during periodic review to address Goal 14, and has been approved by DLCD. Therefore, the existing lots are consistent with the statewide planning goals.

Third, the proposed plan amendment and zone change would not have the effect of allowing further divisions of, or uses on, the Subject Property that would compromise the land as rural. The application states on page 6, “A change in the zoning from commercial to residential will decrease the potential intensity of use on the site and will more accurately reflect the surrounding land uses which are predominantly residential.”

Given that these are lawfully established lots within an exception area, that the proposed designations would more closely match that of surrounding properties, and the proposed designations would have the effect of reducing the potential intensity of development, the proposal does not appear to conflict with OAR 660-004 and Goal 14.

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

Lane Code 16.400(8)(c) requires the applicant to provide information on the items listed in LC 16.400(8)(c)(i)-(iii). These are addressed on pages 8 through 10 of the submittal. These items elicit a description of the proposal and characteristics of the site and surrounding area, as well as services available.

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

This criterion requires a rezoning to comply with the criteria mentioned below. These are addressed on pages 8 through 10 of the submittal.

The rezoning must achieve the purpose of LC Chapter 16 and not be contrary to the public interest.

The "purpose" of Chapter 16 is specified in Lane Code 16.003, which is actually a list of 14 broadly worded goals and policy statements. It is difficult for a specific zone change application to address most of these purpose statements because of their general nature. The application includes responses to these statements on pages 14 and 15.

The rezoning must be consistent with specific purposes of the zone proposed.

The Rural Residential Zone, LC 16.290, contains four purpose statements: to implement the policies found in the RCP goals; to insure that residential zone land is protected from incompatible uses; to protect Class I streams on or near residential properties; and to insure that

the zoning is not retroactively used to initiate compliance for lawful uses and development established prior to the application of the zoning on a property.

The proposal meets these statements in that there is no conflict with RCP policies, that this rezone would have the effect of permitting residential rather than commercial uses on the subject property, that any development will need to comply with the riparian setbacks and vegetation removal limitations of LC 16.253, and that application of this zone would not be used to initiate compliance for lawfully established uses.

The rezoning must be consistent with the applicable RCP elements and components.

The RCP policies applicable to residential designations are discussed on pages 4 through 8 of the submittal. The state goals are addressed on pages 10 through 14, and mirror the local RCP goals. After review of the RCP goals by staff, no conflicts with the proposal have surfaced.

5. Lane County Rural Comprehensive Plan

The RCP is composed of various elements, including goals, policies, and ordinances, all of which have been discussed above and/or in the submittal.

## **V. CONCLUSION**

### **A. Summary and Recommendation**

The proposal to convert 5 acres of land from commercial to residential use is supported, or in the least, raises no conflicts with, state and local goals. Approval of the request is recommended.

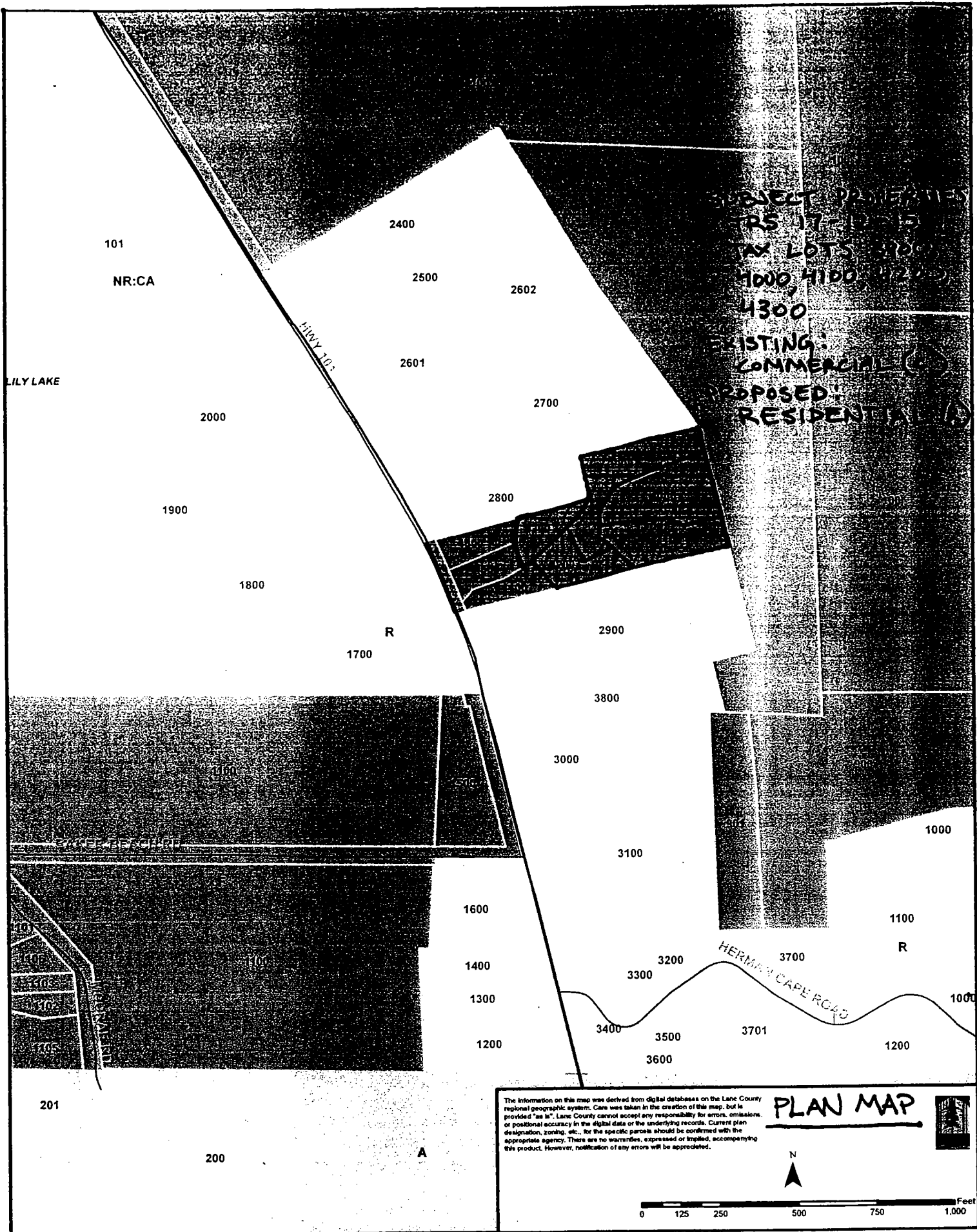
### **B. Attachments to Staff Report**

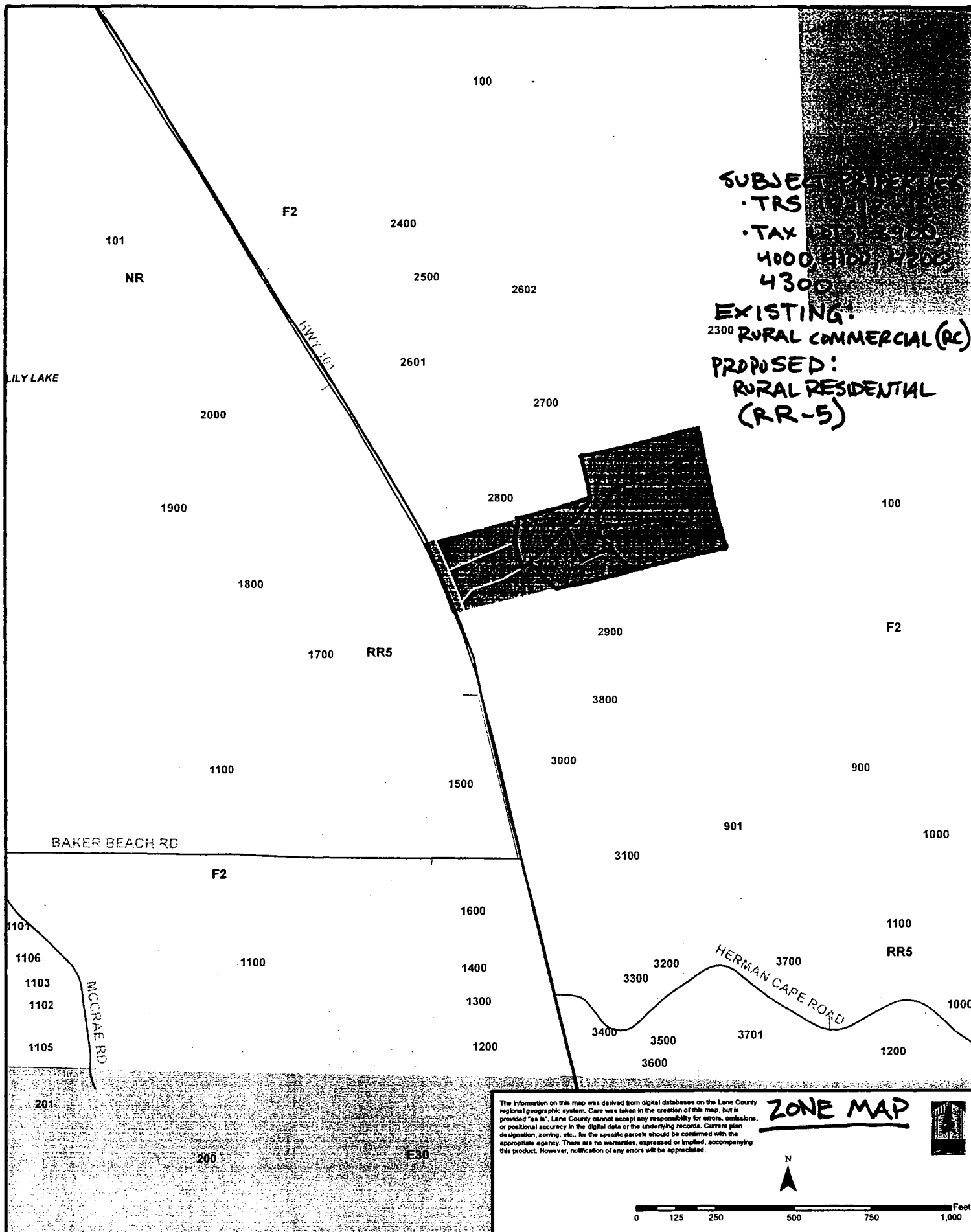
1. Vicinity Map
2. Plan and Zone maps
3. DLCD referral response
4. Lane County Transportation Planning referral response
5. Applicant's statement with exhibits, 139 pages

### **C. Materials to be Part of the Record**

1. Staff Report
2. Applicant's statement with all exhibits
3. File PA 07-5485
4. Lane Code Chapter 14 and sections 16.252, 16.400, 16.290, and 16.291
5. Property files for 17-12-15-00-3900, 4000, 4100, 4200, & 4300







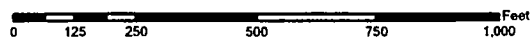
SUBJECT PROPERTIES  
• TRS 101, 106, 1101, 1102, 1103, 1105, 1106  
• TAX LOTS 2400, 2500, 2601, 2602, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600, 3700, 3701, 3800, 4000, 4100, 4200, 4300

EXISTING:  
2300 RURAL COMMERCIAL (RC)

PROPOSED:  
RURAL RESIDENTIAL  
(RR-5)

The information on this map was derived from digital databases on the Lane County regional geographic system. Care was taken in the creation of this map, but is provided "as is". Lane County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for the specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

### ZONE MAP





# Oregon

Theodore R. Kulongoski, Governor

REC'D JUN 18 2008

**Department of Land Conservation and Development  
Oregon Coastal Management Program Field Office**

PO Box 451

Waldport, Oregon 97394-0451

(541) 270-3279

Web Address: <http://www.oregon.gov/LCD>

June 17, 2008

Rafael Sebba  
Lane County Land Mgt  
125 E. 8<sup>th</sup> Ave.  
Eugene, OR 97401

Re: PA 07-5485, Oregon Land LLC

Rafael:

We have reviewed the above referenced plan amendment proposal that would amend the plan and zoning district designations from rural commercial to rural residential. The subject property is located on Surf View Lane, five miles north of Florence. The site is five acres in size and is comprised of five, discrete one-acre subdivision lots. The applicant intends to construct a residence on each lot.

The property is part of a larger exception area acknowledged by the Land Conservation and Development Commission (LCDC) in the early 1980's. At that time, the parcel included frontage on Highway 101 and a small general store. The balance of the tract contained three residences. Today, the commercial frontage has been sold and only one of the five lots in the ownership subject to this proposal contains a residence. This proposal would change the zoning to reflect the past physical development of the five lots and the future objectives of the land owner.

OAR 660-04-018 (1) provides that, "*Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.*" To comply with OAR 660-04-018, the County will need find that the proposed amendment essentially allows continuation of existing types of development in the exception area. An amendment that would provide for changes in existing types of uses, densities or services would require a new Goal exception (see Attachment A).

The applicant's statement and rationale for the proposed change is reasonable. The property was largely in residential use at the time of acknowledgement, and yet the County planned and zoned the land for commercial use, owing to the retail use on the highway frontage. Today, the remaining tract subject to this proposal no longer supports a commercial use and is part of a

residential subdivision. To ensure compliance with OAR 660-04-018, the County should find that the proposed amendment will facilitate only rural uses, densities, and public facilities and services that maintain the land as rural. Additionally, the County should find that the change would authorize rural uses, densities, and public facilities and services that are compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses.

Thank you for the opportunity to comment on this proposed amendment to the Lane County Comprehensive Plan and land use regulations. Please enter this letter into your record. If you have questions or if I may be of assistance, please call or send e-mail to [dave.perry@state.or.us](mailto:dave.perry@state.or.us).

Sincerely,



Dave Perry  
South Coast Regional Representative

Cc: DLCD Staff (DN; DW; BB)

**OAR 660-004-0018. Planning and Zoning for Exception Areas**

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or

(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

## SEBBA Rafael

---

**From:** BAJRACHARYA Shashi  
**Sent:** Monday, July 07, 2008 10:25 AM  
**To:** SEBBA Rafael  
**Cc:** THORPE Joseph P; BAJRACHARYA Shashi; FIELDS Phil; LEMHOUSE Brad; PETSCH John S  
**Subject:** PA 07-5485, Plan Amendment Zone Change, Oregon LLC, Hwy101

**TP File No.:** 9485  
**LMD File No.:** PA 07-5485  
**Applicant:** Oregon Land LLC  
**Agent:** Land Planning Consultants  
**Location:** Approx 5 mile north of Florence UGB  
**TRS:** 17-12-15  
**Tax Lot:** 3900,4000,4100,4200 and 4300

**Proposal:** Plan amendment and zone change from Commercial Zone to Residential Zone

### Comments from Lane County Transportation Planning

The subject property is part of Kamrin Court Subdivision, recorded with the County in February 2006. Lot 6,7, and 8 of the subdivision abuts on Hwy 101, a state highway. The remaining lots, the subject property, do not have frontage on Hwy 101 or a County Road. Access to the subject property is provided through a private access easement road traversing across lot 6 which intersects with Hwy 101. All lots within the subdivision are currently zoned Commercial.

The applicant is proposing to change lots 1,2,3,4, and 5 from Rural Commercial to Rural Residential zone. LC 15.697(1)(c) requires a Traffic Impact Analysis as part of plan change or zone change proposal unless waived by Transportation Planning. The purpose of the TIA is to supplement findings in statewide goal 12 findings. The applicant has provided goal 12 findings with trip comparisons for various land uses allowed under commercial and residential zone. Considering the trip comparisons and the scale and size of the proposal, the impact to the County Road System or state highway system is anticipated to be insignificant. Hence the TIA requirement is waived pursuant to LC15.697 (2)(b).

The property is served by a 36 feet wide private access easement road. The access easement right-of-way width and road standards do not appear to meet Lane Code Chapter 15 requirements. The access road was improved and approved under the subdivision process in December 2003, before the current code was adopted in 2004. Transportation Planning considered the lots as having legal access, safe and useable vehicular access pursuant to LC 15.135(1) and 15.135(2)(a).

Transportation Planning finds no traffic issues to address in this proposal. Thanks for providing the opportunity to comment on this proposal.

*Shashi Bajracharya, P.E.*

Sr. Engineering Associate  
Transportation Planning Division  
Lane County PWD,  
3040 North Delta Highway  
Eugene, OR 97408  
(541) 682 6932



LAND MANAGEMENT DIVISION

GENERAL LAND USE APPLICATION

PUBLIC WORKS DEPARTMENT 125 E 8<sup>th</sup> AVENUE, EUGENE OR 97401 PLANNING: 682-3807

For Office Use Only: FILE #

CODE:

FEE:

Applicant (print name): Oregon Land LLC

Mailing address: 92601 Pioch Lane, Springfield, Oregon 97478

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant Signature: Pam Carls

Agent (print name): Land Planning Consultants

Mailing address: 1071 Harlow Road, Springfield, Oregon 97477

Phone: 541-726-8523 Email: \_\_\_\_\_

Agent Signature: \_\_\_\_\_

Land Owner (print name): Same as Applicant

Mailing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Land Owner Signature: \_\_\_\_\_

LOCATION

17                      12                      15                      3900, 4000, 4100, 4200, 4300  
Township                      Range                      Section                      Taxlot

Site address

PROPOSAL. In one sentence, identify what you are proposing.

This application is for a minor amendment to the Rural Comprehensive Plan to change the Rural Comprehensive Plan designation of the subject property from Rural Commercial to Rural Residential.

**ADJOINING OWNERSHIP** Is any adjacent property under the same ownership as the subject property? List the map and tax lot(s).

No.

**SITE PLAN** A site plan must be included. Refer to the handout entitled "How to prepare your plot plan". Identify nearby driveways. Driveways spacing standards are contained in Lane Code 15.138.

**ACREAGE:** 5 acres

**DESCRIBE THE ACCESS TO THE PROPERTY (circle the answer):**

State Hwy

County Rd

Public Rd

Private Easement

**GENERAL ACCESS REQUIREMENTS**

Access to the site must comply with Lane Code Chapter 15. All lots, parcels, or building sites shall have reasonably safe and usable vehicular access either directly to a Public Road, County Road, State Road or an approved Private Access Easement. The access to the site must pass a two part test. First, the site must have legal access. Second, that access must be reasonably safe and useable.

**First:** A lot or parcel shall be considered as having legal access for the purposes of development when the lot or parcel: (check the one that applies)

YES (A) Was created in an approved and recorded land division; or

\_\_\_\_ (B) Is part of an unrecorded subdivision filed with the County as a survey recorded prior to January 1, 1955, and the roads in the unrecorded subdivision were dedicated to the County but may not have been accepted as Public Roads as defined in LC 15.010(35); or

\_\_\_\_ (C) Is adjacent to a Public Road or County Road, and meets the frontage requirements of LC 15.120; or

\_\_\_\_ (D) Is served by a Private Access Easement meeting the requirements of LC 15.055; or

\_\_\_\_ (E) Is adjacent to a state road and meets any applicable state access and permit requirements.

**Second:** A lot or parcel shall be considered as having reasonably safe and usable vehicular access for purposes of development if the road providing access to the lot or parcel is: (check the one that applies)

\_\_\_\_ (A) a County-maintained road or State-maintained road; or

YES (B) a Public Road, Local Access Road, or Private Access Easement physically constructed and maintained to the requirements specified in this chapter; and any applicable dedication and improvement requirements of this chapter are met.

**EXISTING IMPROVEMENTS** Does the property contain any roads, structures, etc.?

Surf View Lane and one mobile home.

**PHYSICAL FEATURES:** Describe the site. Identify any steep slopes, water bodies (creeks, ponds, etc.) or other significant features. Include additional pages if necessary.

See the property description in the attached Findings.

### **APPROVAL CRITERIA**

**What criteria are applicable to this application?** List the Chapter, Sections(s) and Subsection(s) from the Lane Code. For example: F2 (Impacted Forest) LC 16.211.

Base Zone:

Approval Criteria: LC 16.252

Combining Zone(s): **None.**

### **WRITTEN STATEMENT**

Explain your proposal. Attach additional pages if necessary.

See the attached application statement.



## LAND MANAGEMENT DIVISION

# GENERAL LAND USE APPLICATION

PUBLIC WORKS DEPARTMENT 125 E 8<sup>th</sup> AVENUE, EUGENE OR 97401 PLANNING: 682-3807

For Office Use Only: FILE #

CODE:

FEE:

**Applicant (print name): Oregon Land LLC**

**Mailing address: 92601 Pioch Lane, Springfield, Oregon 97478**

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant Signature: \_\_\_\_\_

**Agent (print name): Land Planning Consultants**

**Mailing address: 1071 Harlow Road, Springfield, Oregon 97477**

Phone: 541-726-8523 Email: \_\_\_\_\_

Agent Signature: \_\_\_\_\_

**Land Owner (print name): Same as Applicant**

**Mailing address:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Land Owner Signature: \_\_\_\_\_

### LOCATION

|          |       |         |                              |
|----------|-------|---------|------------------------------|
| 17       | 12    | 15      | 3900, 4000, 4100, 4200, 4300 |
| Township | Range | Section | Taxlot                       |

Site address

**PROPOSAL.** In one sentence, identify what you are proposing.

**This application is for a zone change from Rural Commercial, RC to Rural Residential, RR5.**

**ADJOINING OWNERSHIP** Is any adjacent property under the same ownership as the subject property? List the map and tax lot(s).

No.

**SITE PLAN** A site plan must be included. Refer to the handout entitled "How to prepare your plot plan". Identify nearby driveways. Driveways spacing standards are contained in Lane Code 15.138.

**ACREAGE:** 5 acres

**DESCRIBE THE ACCESS TO THE PROPERTY (circle the answer):**

State Hwy

County Rd

Public Rd

Private Easement

### GENERAL ACCESS REQUIREMENTS

Access to the site must comply with Lane Code Chapter 15. All lots, parcels, or building sites shall have reasonably safe and usable vehicular access either directly to a Public Road, County Road, State Road or an approved Private Access Easement. The access to the site must pass a two part test. First, the site must have legal access. Second, that access must be reasonably safe and useable.

**First:** A lot or parcel shall be considered as having legal access for the purposes of development when the lot or parcel: (check the one that applies)

YES (A) Was created in an approved and recorded land division; or

\_\_\_\_ (B) Is part of an unrecorded subdivision filed with the County as a survey recorded prior to January 1, 1955, and the roads in the unrecorded subdivision were dedicated to the County but may not have been accepted as Public Roads as defined in LC 15.010(35); or

\_\_\_\_ (C) Is adjacent to a Public Road or County Road, and meets the frontage requirements of LC 15.120; or

\_\_\_\_ (D) Is served by a Private Access Easement meeting the requirements of LC 15.055; or

\_\_\_\_ (E) Is adjacent to a state road and meets any applicable state access and permit requirements.

**Second:** A lot or parcel shall be considered as having reasonably safe and usable vehicular access for purposes of development if the road providing access to the lot or parcel is: (check the one that applies)

\_\_\_\_ (A) a County-maintained road or State-maintained road; or

YES (B) a Public Road, Local Access Road, or Private Access Easement physically constructed and maintained to the requirements specified in this chapter; and any applicable dedication and improvement requirements of this chapter are met.

**EXISTING IMPROVEMENTS** Does the property contain any roads, structures, etc.?

Surf View Lane and one mobile home.

**PHYSICAL FEATURES:** Describe the site. Identify any steep slopes, water bodies (creeks, ponds, etc.) or other significant features. Include additional pages if necessary.

**See the property description in the attached Findings.**

## **APPROVAL CRITERIA**

**What criteria are applicable to this application?** List the Chapter, Sections(s) and Subsection(s) from the Lane Code. For example: F2 (Impacted Forest) LC 16.211.

Base Zone: **None.**

Approval Criteria: **LC 16.400(6) and (8)**

Combining Zone(s): **None.**

## **WRITTEN STATEMENT**

Explain your proposal. Attach additional pages if necessary.

**See the attached application statement.**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF A  
MINOR PLAN AMENDMENT AND ZONE CHANGE  
F R O M  
RURAL COMMERCIAL (RC, RCP)  
TO  
RURAL RESIDENTIAL (RR-5/RCP)  
FILE NO. PA  
OREGON LAND LLC, OWNER/APPLICANT**

The following findings of fact and conclusions of law support an affirmative decision to approve the proposed plan amendment and concurrent zone change for the herein described "Subject Property".

- I. Summary of Proposal
- II. General Findings Regarding the Subject Property
- III. Lane Code 16.400 Plan Amendment Criteria
- IV. Findings and Conclusions Relating to the Statewide Planning Goals
- V. Findings and Conclusions Relating to the Lane Code 16.252 Zone Change Criteria

**I. SUMMARY OF PROPOSAL**

These combined applications propose to change the Lane County Rural Comprehensive Plan ("RCP") designation from Commercial Lands to Residential Lands and the zoning designation from RC, RCP, to RR-5/RCP, for a five acre tract consisting of five legal lots located on the East side of Hwy. 101, near Lily Lake and approximately 5 miles North of the City of Florence. The applicant seeks to build residences on each of the undeveloped lots.

**II. GENERAL FINDINGS REGARDING THE SUBJECT PROPERTY**

**A. Location, Land Use Designation and Site Description**

**Location:**

The property subject to this application ("Subject Property") is identified as Tax Lots 3900, 4000, 4100, 4200 and 4300 on Assessor's Map No. 17-12-15-00-D001 (Lots 1, through 5 of Kamrin Court Subdivision, County Survey File No. 39668. See Exhibit 2. The Subject Property lies on the East side of Hwy 101 and opposite of Lily Lake, on Surf View Lane, about 5 miles North of the City of Florence. See Exhibits 3 and 4. The committed lands area where the subject property is located (Plot 007 Exception Area 1 – See Exhibit 13) is acknowledged by the Land Conservation and Development Commission.

**Land Use Designation:**

On January 1, 1980 the Lane County Board of Commissioners enacted Ordinance No. 754 (Exhibit 6) which zoned the Subject Property and other contiguous property as Rural Commercial, CA. At that time, the Subject Property was part of a larger ownership which included an operating grocery store on the front portion next to Hwy 101.

On February 29, 1984 the Lane County Board of Commissioners enacted Ordinance No PA 884 (Exhibit 7) which adopted the Rural Comprehensive Plan, designated the Subject Property and other property in the same tract as Rural Commercial, and zoned it as Rural Commercial, CR. This designation and zoning was done consistently with RCP Goal 2 Policy "11.b." which provided, "A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities". As indicated, above, the primary reasons for the CR zoning of the subject property were to recognize the existing store on the front portion of the property and to apply CR zoning to the entire tract or contiguous property in the same ownership even though the property also included three residential structures.

On April 17, 2002, the Lane County Board of Commissioners enacted Ordinance No. PA 1173 (Exhibit 8) which revised several RCP Goal Two policies and the Rural Commercial, CR zoning of rural properties located outside of communities. The zoning of the Subject Property was changed in name from Rural Commercial, CR, to Rural Commercial, RC. Lane County Official Zoning Map Plot 7, incorporated in Ordinance PA 1173, is correct and reflects the current RC zoning of the Subject Property.

#### **Site Description:**

The Subject Property consists of a total of 5 acres which includes five lots in the platted subdivision of Kamrin Court. All lots front Surf View Lane, a private easement road which intersects Hwy. 101 about 270 feet to the west, which is constructed with a gravel travel surface width of 20 feet. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane. See Exhibit 12. All lots have approved sewage disposal site evaluations for residential use. See Exhibit 9. Lot 4 (TL 4200) has a 1974 Gibraltar manufactured dwelling on it. Lots 1-3 and 5 are vacant. See Exhibit 1. Wells exist on Lots 1, 2 and 3. See Exhibit 10.

The Subject Property has three soils types which are shown on the RLID soil map in Exhibit 11 and as described in the RLID property statements in Exhibit 1 as follows: 74B Lint silt loam 0 to 7 percent slopes, 74C Lint silt loam 7 to 12 percent slopes, and 3G Astoria variant silt loam 30 to 60 percent slopes. The predominant soil type is the 3G Astoria soil type with 30 to 60 percent slopes. Detailed descriptions of these soil types from The Soil Survey of Lane County are included in Exhibit 11.

The property slopes upward in an easterly direction from Hwy 101. Vegetation consists of grasses, brush, and mixed conifers and hardwoods.

The Subject Property was originally part of a larger tract which contained a house, duplex and a general store that all fronted Hwy 101 and was zoned for commercial purposes. The portion of the original tract which had the general store, house and

duplex (in Map 17-12-15-00-D001 Tax Lot 4400, 4500, 4600) is now in a different ownership. See Exhibit 1. The Subject Property contains a mobile home and has never been used for commercial purposes but has been used for residential purposes. The owner/applicant seeks a minor plan amendment and zone change to a Residential Lands designation and to RR5 zoning in conformity with the current use of the Subject Property and with most of the surrounding property.

**B. Services**

Tax Code: 09722

Schools: Siuslaw School District 97J, Lane ESD, Lane Community College

Fire: Siuslaw RFPD 1

Police: Lane County Sheriff and Oregon State Police

Sewer: On-site SDS

Water: On-site wells

Access: Surf View Lane

Power: Central Lincoln Peoples Utility District

Phone: US Qwest

Solid Waste: franchised haulers

**III. LANE CODE 16.400 PLAN AMENDMENT CRITERIA**

**A. Planning Commission Review and Recommendation:**

Pursuant to procedures set forth in Lane Code 16.400(6) (a) to (d), the Lane County Planning Commission will review this application and make a recommendation to the Board of Commissioners.

**B. Plan Amendment Criteria at LC 16.400(6) (h) Method of Adoption and Amendment.**

*“(iii) 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.”*

A minor amendment is one that amends only the Plan Diagram. A major amendment is any other Plan amendment. The change sought by this request is a minor amendment to the RCP designation for the Subject Property from Rural Commercial to Rural Residential. This application provides substantial evidence that addresses the applicable requirements of Lane Code, RCP policies, and the Statewide Planning Goals. Specific findings are set forth below.

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

***(i-i) necessary to correct an identified error in the application of the Plan; OR***

RCP Goal Two, Policy 11(a), for residential designations, policy 11(b) requires, in part, ***“A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential designation.”***

For residential designations, Policy 11(a) requires, in part, ***“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:***

- i. existing development pattern and density;***
- ii. on-site sewage disposal suitability, or community sewerage;***
- iii. domestic water supply availability;***
- iv. access;***
- v. public services;***
- vi. lack of natural hazards; and***
- vii. effect on resource lands.”***

As noted above, the Subject Property was once part of a tract which included a general goods store. A commercial designation and zoning was applied to the entire tract in 1980 and again in 1984, because of the existing commercial use on a portion of the tract. The commercial designation and zoning did not reflect the existing residential use of a portion of the tract and the fact that a large portion of the tract was not used for commercial purposes. It would have been more consistent with Goal 2 Policy 11(a) and (b) to have applied two designations to the Subject Property, commercial and residential, in order to reflect the two different, existing uses. However, the County seldom applied a split zoning on a single ownership. Therefore, this request to change the designation and zoning of the Subject Property from commercial to residential is “necessary to correct an identified error in the application of the Plan.” The Subject Property includes an existing residential use and is no longer part of the tract which included the developed commercial use. The requested residential designation and RR5 zoning is a reflection of the existing residential use on the Subject Property and of the residential designations and RR5 zoning of abutting properties to the North, Northwest and South of the Subject Property. See Official Lane County Zoning Map Plot 7 which is included with this application as Exhibit 5.

***“(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR”***

Not applicable.

***“(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR”***

Not applicable.

***“(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR”***

The plan amendment is necessary to recognize the existing rural residential use of the property. See discussion, above, under (i-i).

***“(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.”***

The proposed request is consistent with past and current planning practice: As noted above, the planning and zoning history of the Subject Property has been tied to the historic use of the grocery store located on the property, originally known as the “Alderwood Store” then later as “Wheel in Groceries”. Beginning with the 1980 subarea plan and zoning, the property was designated for commercial use in recognition of the existing store which was consistent with applicable policies for that portion of the property.

The portion of the property that is the subject of this application, however, was never used commercially and is now in separate ownership from the store building. Throughout this history, most of the adjacent and nearby property has remained designated for residential use. Approval of this application would not change the commercial zone and plan designation on the property fronting Highway 101 that contains the store building.

The proposed request will not adversely affect the commercial viability of the area: The commercial zone and plan designation would remain on the property that fronts Highway 101 and contains the original store building. The property proposed for Residential designation and zoning contains a mobile home that is not related to commercial use, has steeper topography and is set back approximately 270 feet from Highway 101. In addition, current provisions in the Rural Residential zone allow home occupations within dwellings that would enable limited commercial activities that would be consistent with the property’s location.

Based on these factors, the inventory of lands available for commercial uses in this area will not change. This area with highway frontage and containing the store building will continue to be zoned Commercial. The Subject Property is not well suited to standard commercial uses because of topography, its existing residential use and lack of highway frontage.

For all of the above reasons, and because most of the surrounding properties are zoned for residential use, it is appropriate to re-designate the subject parcels to residential use.

***“(cc) For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.”***

This plan amendment application is supported by the following RCP policies. No policies have been identified that conflict with this request.

Goal 2, Policy 11(a) states:

***“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:”***

***“i. existing development pattern and density”***

As discussed above, the Subject Property is adjacent to Rural Residential, RR5 zoned properties to the North, South and West across Highway 101. The area of the existing development pattern and density which includes the Subject Property is developed and committed exception area Plot 007, Exception #1. A copy of the “Supplemental Findings in Support of Ordinance No. PA 884” which Lane County adopted in 1988 and 1989 is included with this application as Exhibit 13. According to these findings, the development pattern of Plot 7, Exception area 1 is described as follows:

“The acreage of the exception area is 83.42 acres. The exception area contains 22 parcels with an average parcel size of 3.79 acres and containing 22 residences. The development is clustered in a large group.”

Since the adoption of the above information, in 1988 and 1989, the tract which included the subject property was subdivided into 8 lots by Kamrin Court subdivision. This lowers the average parcel size in the exception area from 3.79 acres to 2.87 acres. The RR5 zoning of the subject property will not allow any divisions of the subject property and will therefore maintain the existing parcel size of the exception area.

Commercial use is normally considered to be a more intensive use of property than residential use. A change in the zoning from commercial to residential will decrease the potential intensity of use on the site and will more accurately reflect the surrounding land uses which are predominantly residential.

***“ii. on-site sewage disposal suitability, or community sewerage”***

The Subject Property includes 5 platted subdivision lots which each have from Lane County an approved sewage disposal site evaluation or existing septic tank: Lot 1 – S.I.#04910, Lot 2 – S.I.#049116, Lot 3 – S.I.#049117, Lot 4 – has an existing septic system with the Gibraltar mobile home, Lot 5 – S.I.#049118. Copies of the approved site investigation reports, mentioned above, are included with this application in Exhibit 9. Adequate sewage disposal is therefore available.

***“iii. domestic water supply availability”***

Each of the five platted lots in the Subject Property will have use of water from an existing well. Lot 1 has an existing well on it which according to State of Oregon

water supply well report L71543 produces 100 gallons per minute. It is the owner's intent to share this well with Lots 4 & 5 if developed independently. Lot 2 has an existing well on it which according to State of Oregon water supply well report L71542 produces 40 gallons per minute. Lot 3 has an existing well on it which according to State of Oregon water supply well report L71541 produces 40 gallons per minute. Copies of these well reports are included with this application in Exhibit 10. The Subject Property is not located within a water quantity or quality limited area as identified by Lane Code 13.010. An adequate domestic water supply is therefore available.

***“iv. access”***

All lots front Surf View Lane, a County approved private easement road which intersects Hwy. 101 about 270 feet to the west, and which is constructed with a gravel travel surface width of 20 feet. See Exhibit 2. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane. See Exhibit 12.

The traffic volumes associated with residential use will be less than if the property were to be developed with commercial uses as allowed under the current Commercial zoning. See Table 1 - Trip Generation by Use on Page 13.

***“v. public services”***

The Subject Property is accessed to Hwy 101 via Surf View Lane and has access to the full range of public services specified for developed and committed areas in RCP Goal 11: Public Facilities and Services, Policy 6.f. See the services description in section II B above. Each of the subject lots has an approved individual septic site as well as an existing source of water supply.

***“vi. lack of natural hazards”***

The Subject Property does not include areas located within a designated flood hazard area. Each of the 5 lots fronts an existing, constructed road and has adequate area for the installation of a septic system, well and construction of a dwelling. There are no apparent hazards at the site.

***“vii. effect on resource lands.”***

The Subject Property lies within developed and committed area 1 of Plot 007. There is resource land adjacent to the Subject Property on the East side which is designated as forest land and zoned F-2. Because the use will change from commercial to residential, the proposed change would likely have no foreseeable adverse effect on the adjacent F2 zoned property. Streams are located near the North and South property boundaries that are not identified as Class I streams.

***“(dd) For Minor Amendments as defined in LC 16.400(8)(a) below, 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.”***

As previously stated, this amendment is consistent with the RCP policies that provide for designating lands for residential use. Approval of this amendment is consistent with unamended portions or elements of the Plan.

**C. Lane Code 16.400(8)**

***“Additional Amendment Provisions. In addition to the general procedures set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components.***

***(a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:***

***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.”***

This application requests a plan amendment and zone change within developed and committed exception area 1 of Plot 007. It only affects the Plan Diagram for the Subject Property. No text change to the RCP is proposed. No exception from the Statewide Planning Goals is required, because, this exception area is already an acknowledged exception area. This amendment is limited to the Plan Diagram and is, therefore, a minor amendment.

***“(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 LC 16.400(6)(h)(iii) above 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 prior portions of these findings. The proposed use of the property is for rural residential purposes consistent with the density and other standards of Lane Code Chapters 13 and 16. The Plan amendment will change the Plan Designation from Rural Commercial to Rural Residential.

***“(ii) An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.”***

The required analysis is provided by previous findings.

***“(iii) An assessment of the probable impacts of implementing the proposed***