BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1366 IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO REDESIGNATE LAND FROM "RURAL RESIDENTIAL" TO "RURAL COMMERCIAL," TO REZONE LAND FROM "RURAL RESIDENTIAL (RR-5)" TO "RURAL COMMERCIAL (RC)," AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (File No. 509-PA17-05144; Applicant: On the Way, Inc.)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. 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 and Lane Code 12.050 set forth procedures to amend 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, on February 13, 2017, application Department File No. 509-PA17-05144 was made for a Minor Amendment to the Rural Comprehensive Plan to redesignate Map 19-01-08, Tax Lot 1400, from "Rural Residential" to "Rural Commercial," with a concurrent request to rezone the property from "Rural Residential, 5-acre minimum (RR-5)" to "Rural Commercial (RC);" and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on August 21, 2018; and

WHEREAS, the Lane County Planning Commission deliberated on October 2, 2018, and forwarded the matter to the Board with a recommendation for approval of the proposed plan amendment and zone change; 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 a public hearing and is now ready to take action;

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

Section 1. The Official Lane County Rural Comprehensive Plan is amended to redesignate Map 19-01-08, Tax Lot 1400 from "Rural Residential" to "Rural Commercial (RC)."
Commercial." This is depicted on the Official Lane County Plan maps and further identified as Exhibit "A" attached and incorporated herein.

Section 2. The Official Lane County Zoning Map is amended to change the zone for Map 19-01-08, Tax Lot 1400 from "Rural Residential, 5-acre minimum (RR-5)" to "Rural Commercial (RC)." This is depicted on the Official Lane County Zone maps and further identified as Exhibit "B" attached and incorporated herein.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings of Fact and Conclusions of Law 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 affect the validity to the remaining portions hereof.

ENACTED this 13th day of March, 2018

Chair
Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
Date 1-3-18
Office of Legal Counsel

Ordinance No. PA 1366 Page 2 of 2
I. PROPOSAL DESCRIPTION

A. Owner/Applicant

<table>
<thead>
<tr>
<th>On the Way, Inc.</th>
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<tbody>
<tr>
<td>83885 Springhill Lane</td>
</tr>
<tr>
<td>Pleasant Hill, OR  97455</td>
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</table>

B. Proposal

This proposal is a request to redesignate 3.65 acres of Residential Land to Commercial Land and rezone the same from Rural Residential, 5-acre minimum (RR-5) to Rural Commercial (RC).

II. SITE AND PLANNING PROFILE

A. Location

Assessor’s Map 19-01-08, Tax Lot 1400, hereafter referred to as the “subject property” or “property” is located north of the intersection of Highway 58 and Wheeler Road between the communities of Trent and Dexter.

B. Zoning

The subject property is currently zoned Rural Residential, 5-acre minimum (RR-5).

C. Site Characteristics/History

The subject property is roughly 3.65 acres in size and is comprised of one tax lot. The property is vacant except for one house and two accessory buildings, located in the southeast corner of the property along Wheeler Road.

The property is in common ownership with a commercially zoned property adjacent to the south (tax lot 1800), which is developed with a gas and service station. The property abuts two residential parcels to the north, and each of those parcels is about one acre in size.
Wheeler Road and Highway 58 border the property to the northeast and southwest respectively.

The subject property is relatively flat. LiDAR imagery shows minimal areas of sloping with no major areas of steep slopes, ravines, or cliffs.

The soils present on the subject property are described in detail in Figure 1 below.

<table>
<thead>
<tr>
<th>Soil Map Unit</th>
<th>Soil Description</th>
<th>% of Property</th>
<th>Agricultural Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>79</td>
<td>McBee Silty Clay Loam</td>
<td>71%</td>
<td>III</td>
</tr>
<tr>
<td>118</td>
<td>Salem Gravelly Silt Loam</td>
<td>27%</td>
<td>II</td>
</tr>
<tr>
<td>26</td>
<td>Chehalis Silty Clay Loam</td>
<td>2%</td>
<td>II</td>
</tr>
</tbody>
</table>

Note: Information Derived from Natural Resource Conservation Service (NRCS) Soil Mapping Data

The property is identified as an area designated as “Impacted Big Game” and does not contain any known unique environmental resources or habitat sites.

D. Surrounding Area

The subject property is part of a Developed and Committed Exception area (Area 517-2), which is predominantly developed with dwellings, except for the existing gas and service station on tax lot 1800. This exception area was acknowledged by LCDC on July 21, 1989, in Acknowledgment Order 89-ACK-569. The property to the northeast across Wheeler Road is a 3.13-acre property zoned RR-5 and contains a single family residence. The property to the southwest across Highway 58 is a 5.33-acre property zoned RR-5 and contains a manufactured home. Across Highway 58 to the southwest is property zoned F-2 (Impacted Forest Land), which is developed and in use by the railroad. Properties to the north and northwest are also zoned RR-5 and contain single family dwellings.

III. APPROVAL CRITERIA/ANALYSIS

A. Introduction

These findings are organized according to the kinds of standards that apply. They address the Statewide Planning Goals, the Rural Comprehensive Plan Policies, the criteria in LC 16.400 for plan changes, and the criteria in LC 16.252 for zone changes. Because the goals provide the most comprehensive set of standards, the evidence and legal argument is presented as comprehensively as possible in connection with the discussion of the goals. Whenever possible, in order to avoid repetition, reference is made back to the goal discussion when addressing the non-goal standards.

It is worth noting that several findings provided herein rely on the applicant’s anticipated use or use that would represent a worst case scenario under the proposed zoning: an expansion of the existing gas station located on the contiguously owned property and/or a truck stop. Lane Code
16.291(3)(h) lists “service stations and auto repair garages” and Lane Code 16.291(3)(b-b) lists “uses and development similar to uses and development allowed by LC16.291(3)(a) through (a-a)” as conditional uses, subject to a Type II Planning Director land use application. Whether or not a gas station expansion and/or truck stop use would be approvable will depend on the nature and scope of the future development proposal and whether the proposal satisfies applicable approval criteria. This determination can only be made at the time of a Type II Planning Director land use application and is not guaranteed approval.

B. Compliance with Statewide Planning Goals

Amendments to local plans and code must comply with the Statewide Planning Goals. ORS 197.175(2)(A). This Section addresses each relevant goal and explains why the proposal complies. This application requires no goal exceptions.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 is a process goal. This proposal complies with Goal 1 because it will be processed as a quasi-judicial application through the County’s acknowledged public process for individual Type IV plan and zone changes. This process includes public hearings before the Planning Commission and the Board of County Commissioners. Notice of the request was sent to the Oregon Department of Land Conservation and Development Department (DLCD) on July 13, 2018. A legal advertisement was published in the Register Guard newspaper, notices were mailed to adjacent property owners and agencies, and notice was posted on the subject property announcing the Lane County Planning Commission (LCPC) public hearing. A public hearing was conducted by the LCPC on August 21, 2018 and the hearing was closed. The written record was held open until September 4, 2018, with an opportunity for written rebuttal by September 11th and final applicant’s rebuttal by September 18th. On October 2, 2018, the Planning Commission deliberated on the matter and unanimously voted to recommend approval by the Board of County Commissioners. Timely notice in accordance with Lane Code Chapter 14 will be provided prior to the Board’s second reading and public hearing. The County has a citizen involvement program, and it has been followed.

Goal 2: Land Use Planning

Part I of Goal 2 requires local governments to establish processes and policies for land use decisions.

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Part II of Goal 2 authorizes exceptions to the goals – land use decisions that are not in compliance
with the goals under certain circumstances. Statutes also describe when exceptions are authorized. See ORS 197.732.

This application complies with Goal 2 because it is being processed under the Rural Comprehensive Plan and Lane Code and no exception to any resource goal is proposed.

**Goal 3: Agricultural Lands**

To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the State's agricultural land use policy expressed in ORS 215.243 and 215.700.

This goal strives to maintain and preserve agricultural lands. The subject property is part of a larger committed and developed exception area and therefore the proposal does not involve any land zoned for agricultural use. The subject property is not adjacent to any lands that are zoned or used for agricultural uses. Accordingly, the proposed plan amendment and zone change will not affect the county’s ability to preserve and maintain agricultural lands, and complies with Goal 3.

**Goal 4: Forest Lands**

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

This goal strives to maintain and preserve forest lands. The subject property is part of a larger committed and developed exception area and therefore the proposal does not involve any land zoned for forest use. The subject property is not adjacent to any lands that are zoned or used for forest uses. Accordingly, the proposed plan amendment and zone change will not affect the county’s ability to preserve and maintain forest lands, and complies with Goal 4.

**Goal 5: Open spaces, scenic and historic areas, and natural resources.**

To conserve open space and protect natural and scenic resources.

1. **What Goal 5 requires.**

Goal 5 requires the County to inventory the locations, quality, and quantity of certain natural resources. Where no conflicting uses are identified, the inventoried resources shall be preserved. Where conflicting uses are identified, the economic, social, environmental, and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.
Goal 5 is implemented through the Goal 5 Rule adopted by the LCDC in 1996. The Rule appears in OAR Chapter 660, Division 23: Procedures and Requirements for Complying with Goal 5. The Rule applies to “post-acknowledgment plan amendments” or “PAPAs,” such as this application. The Division 23 Rule replaces the Division 16 Rule.

When a local government undertakes a PAPA, it is not required to do an entire Goal 5 analysis from scratch. The local government’s obligation to do a Goal 5 analysis, and the scope of the Goal 5 analysis that is required, has been the subject of considerable case law development, which has been distilled into the applicability provisions of the Goal 5 Rule. Particularly relevant are subsections (3) and (4) of OAR 660-023-0250, which state:

“(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

(4) Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, Division 16.”

The italicized language quoted above is relevant to this application. The provisions above reflect case law stating that where a county is amending acknowledged plan and zoning designations, the county must address Goal 5 if any of the area proposed for change encompasses lands included on the county’s inventory of Goal 5 resources. The County need not go through the Goal 5 conflict resolution process for alleged Goal 5 resources that are not on the acknowledged Goal 5 inventory.

The initial Goal 5 question, therefore, is whether the subject property includes any Goal 5 resources inventoried in the acknowledged county plan.
2. Inventoried Goal 5 Resources on the Subject Property.

The paragraphs below address the acknowledged Goal 5 resource inventories.

**Historic Resources:** The acknowledged list of historic resources is listed as “Historic Site or Sites.” The subject property is not on the list.

**Mineral and Aggregate Resources:** Mineral and aggregate sites are listed in several appendices in the *Mineral and Aggregate Working Paper*. The subject property is not listed in any of the appendices.

**Energy:** The subject property is not listed on any county inventory of sites to be protected for energy production.

**Water Resources:** The *Water Resources Working Paper (1982)* inventories the following water resources which include or potentially include the subject property: Watersheds, Surface Waters, and Groundwater.

**Riparian Resources:** The Flora & Fauna Working Paper (1982) and Addendum (1983) inventories Riparian resources. The quantity of riparian areas is inventoried to include all land within 100 feet of the banks of a Class I stream. Addendum at 7. There are no Class I streams on the subject property or within 100 feet.

**Wetland Resources:** As stated in the Flora and Fauna Working Paper Addendum at 6, there are five major wetland areas of sufficient size to warrant County identification including Fern Ridge, the Old Long Tom Channel below Fern Ridge Dam, the North Fork Siuslaw Freshwater Marsh, Maple Creek marsh, and Amazon Canal at its confluence with the waters of Fern Ridge Reservoir. The National Wetlands Inventory (NWI) mapping does not indicate any wetlands on the property. Documents in the record show a wetland area on the property, but that wetland is not a “Goal 5” wetland.

**Sensitive Fish and Waterfowl Areas:** The inventory of these sites appears in the Flora & Fauna Working Paper Addendum at 1-4. The subject property is not included on the inventory.

**Natural Areas:** The inventory of these sites appears in the Flora & Fauna Working Paper at 26-32. The subject property is not included on the inventory.

**Big Game Range:** The plan classifies the entire county into three categories of Big Game Range: Major, Peripheral, and Impacted. *See Flora & Fauna Working Paper* at 23-25, Addendum at 14. The subject property is within an area designated as Impacted Big Game.

3. ESEE Decision Process for Inventoried Goal 5 Resources

The basic requirements for conducting the conflicts analysis and developing a program for inventoried and acknowledged resources is spelled out in OAR 660-023-0040. The introductory
provisions in OAR 660-023-0040(1) explain that there are four steps in the ESEE process, that the county has discretion in how it proceeds through the process so long as it completes each step, and that the analysis need not be lengthy or complex. The result should create a clear understanding of the conflicts and the consequences. The four steps in the ESEE process are:

(a) Identify conflicting uses;

(b) Determine the impact area;

(c) Analyze the ESEE consequences; and

(d) Develop a program to achieve Goal 5

The Goal 5 Rule provides additional instructions on how to conduct each of the four steps listed above. The approach taken here will be to address each of the Goal 5 resources inventoried on the site in the acknowledged plan (Big Game Range and two Water Resources) and conduct the four-step analysis. Big Game Range will be addressed first.

4. ESEE Analysis for Big Game Range

As noted above, the acknowledged Rural Comprehensive Plan inventories Big Game Range as a significant Goal 5 resource. However, the County has not yet completed the Goal 5 process for this resource. The plan documents declined to simplify the issue of conflict identification to a matter of densities for individual development sites, and instead deferred the issue to future work between the county and the ODFW. “The County should continue to work with the ODFW to resolve the issue of Big Game designation and protection in a mutually acceptable manner -- including the involvement of that agency in land use regulation development.” Flora & Fauna Working Paper Addendum at 14. Thus, the County has not yet completed the Goal 5 process for Big Game Habitat. At this point, the County has recognized that the resource is significant, it has recognized that there are several degrees of significance (by mapping the entire county into three alternative zones -- Major, Peripheral, and Impacted), and it has deferred the balance of the Goal 5 analysis to a later date.

The ESEE analysis must be conducted for Big Game Range because this is a post-acknowledgment plan amendment that would allow new uses that could conflict with Big Game Range. OAR 660-023-0250(3)(b).

(a) Identify Conflicting Uses

The approach to identifying conflicting uses is stated in OAR 660-023-0040(2)\(^1\). The existing

\(^1\) OAR 660-023-0040(2) states:

Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local
and potential conflicting uses with Big Game Range must be determined. This generally requires looking at the uses allowed, outright or conditionally, by the proposed RC zoning that could occur or are likely to be developed.

The applicant does not mention Big Game as a Goal 5 resource on the property, but the Rural Comprehensive Plan indicates that the subject property is within an area designated as Impacted Big Game. The document indicates that the County and the Oregon Department of Fish & Wildlife should collaborate on conflict resolution between development and Big Game Habitat areas.

The Rural Comprehensive Plan (RCP) has essentially determined that there is no conflict because Impacted Big Game Range has been “written off” for big game management. The Flora and Fauna Working Paper adopted as a part of the Rural Comprehensive Plan states:

“Impacted Range is the lowest quality habitat of the three categories. It is already developed to an extent that precludes viable management of the species, although populations may still exist there.” (Pg. 23)

With regards to conflict identification for Big Game Habitat, the Working Paper goes on to state: “Impacted Range has essentially been “written off” for big game management.” (Pg. 24).

Given the development of the existing gas and service station on the adjoining property, the impacts of the proposed expansion will not be measurably greater than already exist. Accordingly, based on the level of importance of Impacted Big Game Range, the anticipated uses cannot be considered conflicting uses.

(b) Compliance with Acknowledged Plan and Implementing Regulations

Under the Goal 5 Rule, when no conflicting uses are identified with a significant resource site, compliance with the acknowledged policies and land use regulations is sufficient. “If no uses

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governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0201(1)).
conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site.” OAR 660-023-0040(2)(a). Therefore, no further analysis is needed.

5. ESEE Analysis for Water Resources

The acknowledged county plan identifies groundwater, watersheds, and surface waters as Goal 5 resources. See Water Resources Working Paper (1982).

(a) Groundwater

The plan identifies groundwater as “extremely valuable as a direct resource of drinking water for individuals and communities, a source of irrigation water for livestock and crops, and as a base source of water for lakes and streams.” Id. at 10. It maps the quantity of groundwater available into five general categories which reflect geographic regions. It also notes that groundwater quality is limited by natural and human induced factors.

The ESEE analysis must be conducted for groundwater because the proposed post-acknowledgment plan amendment would allow new uses (e.g., expansion of the existing gas and service station) that could conflict with groundwater. As such, the proposed plan and zone change could be said to require an analysis of groundwater resources.

(1) Identify Conflicting Uses

The county plan identifies two groundwater resource conflicts – development in quantity limited aquifers and in areas of polluted groundwater. Id. at 11. The county plan conducts a full ESEE analysis for development in water quantity and water quality limited aquifers, and it adopts a program that resolves the conflicts and achieves the goal.

With respect to quantity, the plan resolves that residential development and other uses requiring groundwater should be allowed if a showing is made that water will be available for a foreseeable period in the future. The program calls for strengthening the standards in the subdivision ordinance and for formally designating groundwater quantity limited areas. The land division provisions in the zoning code have been amended accordingly. Id. at 12-13. Standards have been adopted in the code for demonstrating adequate quantities of water in connection with rezoning that would create the potential for land division. See LC 13.050(13)(a)-(d). Certain sections in the county have been identified in the Lane Manual as having limited groundwater quantity. The subject property does not fall within a quantity limited area. Accordingly, the proposed plan amendment/zone change is not a conflicting use.

(2) Compliance with Acknowledged Plan and Implementing Regulations

Under the Goal 5 Rule, when no conflicting uses are identified with a significant resource site, compliance with the acknowledged policies and land use regulations is sufficient. “If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be
considered sufficient to protect the resource site.” OAR 660-023-0040(2)(a). Therefore, no further analysis is needed.

(b) Watersheds and Surface Waters

The Water Resources Working Paper states that it is difficult to separate the discussion of watersheds from that of surface water. Hence, the two will be addressed together here.

By “watershed,” the working paper refers to areas of drainage basins that drain to a particular point of use. As defined in the working paper, “the area which drains to a domestic water supply is correctly termed a watershed, even if it is much smaller than a basin.” Id. at 3. The working paper maps drainage basins in the county, but not watersheds, since a watershed is a function of where water is being used. The working paper recognizes that “[t]he entire County is within one or more categories of watersheds, and all ranges of quality may be found.” Id. at 5.

The “quality” discussion in the plan recognizes that watersheds play vital roles in individual and municipal water supplies, fish and wildlife habitat, water quality, flood protection, among others. Id. at 5. The “quantity” discussion in the plan recognizes that a range of uses, such as soil compaction, removal of vegetation, and increase in impervious surfaces, among others, affect the amount of water that is retained in a watershed and the amount that runs off. Id.

Only one conflict is identified by the plan’s ESEE analysis as a watershed conflict, as opposed to a surface water or groundwater conflict: “contamination or possible contamination of surface water supplies used for domestic purposes.” Id. at 5. The plan found two places where that conflict exists. One is from forestry related practices on federal, state and private timber lands. The other is from residential development in the Clear Lake area, which is in the watershed of the Heceta Water District. Id. at 5-6. The plan conducts no ESEE analysis for forestry practices for the reason that the county has so little control over these practices (regulated by Oregon Department of Forestry). And it conducts no ESEE analysis of the Clear Lake situation due to inadequate data. Id. at 5-6.

The working paper recognizes that the quality of surface waters throughout the county is affected adversely by a range of factors, only some of which are under county control. Id. at 7-8. Its discussion of stream water quantity is limited to a description of flow regulation in rivers and streams by federal agencies with storage and flood control responsibilities. Id. at 8-9.

The working paper identifies a number of activities that conflict with water quality in streams, but states that the impacts of these activities are largely beyond county land use control. Examples included in the working paper’s discussion include: water release schedules from federal reservoirs, state water rights regulation that contributes to over appropriation, nonpoint pollution from forest practices regulated by the state, nonpoint pollution from agricultural practices, and urban runoff from cities.
The working paper conducts no ESEE analysis of the problems above. “[T]hese are not considered as conflicts in the Goal 5 sense as they do not result from County planning or zoning actions, and generally cannot be resolved in that manner.” Id. at 10.

(1) Identify Conflicting Uses

The applicants did not conduct an ESEE analysis addressing these Goal 5 resources. Opponents did not contend that one was required, but they did address concerns regarding pollutants from a proposed expansion flowing to and contaminating surface waters. The working paper addresses urban runoff and hazardous materials stored at industrial facilities as a source of possible contamination. The paper concludes that storage of hazardous materials is regulated by the DEQ and is not termed a Goal 5 conflict. Accordingly, the Board concludes that, under the plan, the potential new uses are not conflicting uses, and a full ESEE analysis is not required in any event.

(2) Compliance with Acknowledged Plan and Implementing Regulations

Under the Goal 5 Rule, when no conflicting uses are identified with a significant resource site, compliance with the acknowledged policies and land use regulations is sufficient. “If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site.” OAR 660-023-0040(2)(a). Therefore, no further analysis is needed.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the State.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

Goal 6 protects the quality of land, air and water resources. The focus is on discharges from future development in combination with discharges from existing development. State and federal environmental standards are the benchmark for protection. Where there are state or federal standards for quality in air sheds or river basins, then the carrying capacity, nondegradation, and continued availability of the resources are standards.

The subject property is developed as is the adjacent contiguously owned property. By complying with applicable local, state, and federal laws, future development of the property are not anticipated to have measurable impacts to land, water or air quality.
Goal 7: Areas Subject to Natural Disasters and Hazards.

To protect life and property from natural disasters and hazards. Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural disasters and hazards without appropriate safeguards. Plans shall be based on an inventory of known areas of natural disaster and hazards.

The phrase “areas of natural disasters and hazards” means “areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.” There are no such areas known on the subject property.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

The overriding purpose of Goal 8 is to address all recreational needs, but its primary focus is on siting and developing destination resorts, defined in Goal 8 as "self-contained development[s] providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities."

Goal 8 is not directly applicable to this proposal.

Goal 9: Economic Development

To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Goal 9 is focused on commercial and industrial development. The Goal 9 Rule is explicitly limited to areas within urban growth boundaries. This goal is not directly applicable to this proposal.

Goal 10: Housing

To provide for the housing needs of citizens of the State.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.
Goal 10, like its implementing rule, is geared primarily to housing issues inside urban growth boundaries. The goal’s definition of “buildable lands,” for example, is limited to lands in urban and urbanizable areas. This site is outside any UGB. This goal is not applicable to this proposal.

**Goal 11: Public Facilities and Services**

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan. In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

“Public facilities and services” is defined in the Statewide Planning Goals to include: "[p]rojects, activities and facilities which the planning agency determines to be necessary for the public health, safety and welfare." The Goal 11 Rule defines a “public facility.” “A public facility includes water, sewer, and transportation facilities, but does not include buildings, structures or equipment incidental to the direct operation of those facilities.” OAR 660-011-0005(5).

Goal 11 addresses facilities and services in urban and rural areas. Figure 2 lists the services now available to the subject property.

**Figure 2–Rural Public Facilities, Existing or Proposed**

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</tr>
<tr>
<td>Solid Waste</td>
<td>Private</td>
</tr>
</tbody>
</table>

Goal 11 addresses facilities and services in urban and rural areas. Figure 2 lists the services now available to the subject property.
Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility.

Goal 12 is implemented through the Goal 12 Rule (OAR 660-012) adopted in 1991. The Rule contains a section that specifically addresses proposals such as this one – amendments to acknowledged comprehensive plans and implementing regulations. OAR 660-012-0060(1) provides that any such amendments that “significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.”

The rule spells out clearly what constitutes a “significant affect.” OAR 660-012-0060(2) states:

A plan or land use regulation 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 level of service of the facility below the minimum acceptable level identified in the TSP.

The determination of “significant affect” is relatively scientific and relies on a review of the
“functional classification” of existing and planned transportation facilities. If the proposal does not change the functional classification of an existing or planned transportation facility, or other triggering event, then the TPR does not require or allow any further analysis or mitigation.

The applicant hired a transportation engineer to conduct a study concerning the potential traffic impacts. The study concludes that the applicant’s anticipated use would be the highest reasonable use for the RC zone, and recommends that the south access be widened to accommodate truck movements. The study also recommends that a left turn lane be provided for eastbound traffic on Highway 58 and a westbound right-turn deceleration taper. The transportation study did not follow the TPR analysis in that it failed to make the initial determination under OAR 660-012-0060(1) whether the proposed plan amendment and zone change “would significantly affect an existing or proposed transportation facility.” Rather, it analyzed a hypothetical, potential development scenario (expansion of the existing truck stop) and proposed conditions of approval.

During the open record period, staff received testimony from ODOT concluding that the “zone change will have insignificant impact to existing and future operational performance of the intersections.” This is the only direct evidence addressing the seminal inquiry of “significant affect.” Because there is no evidence to the contrary, expert or otherwise, from the opponents, the Board concludes that the proposed plan amendment and zone change would not significantly affect a transportation facility and that, therefore, Goal 12 and the TPR are complied with.

**Goal 13: Energy Conservation**

To conserve energy.

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.

Goal 13 is primarily directed towards the development of local government land management implementation measures that maximize energy conservation. It is not directly applicable to this application for a site-specific plan and zone change.

**Goal 14: Urbanization**

To provide for an orderly and efficient transition from rural to urban land use.

This goal does not apply.

**Goal 15: Willamette River Greenway**

**Goal 16: Estuarine Resources**

Goal 17: Coastal Shorelands  
Goal 18: Beaches and Dunes  
Goal 19: Ocean Resources

These five goals are not applicable as they deal with resources that are not present on the subject property.

D. Rural Comprehensive Plan Policies

Any plan and zone change must comply with the relevant Rural Comprehensive Plan Policies. This requirement is based in statutes (ORS 197.175(2)), the Rural Comprehensive Plan Policies themselves (see, e.g. Rural Plan Policies at page 6), and the Lane Code (see, e.g., LC 16.400(6)(h)). This section, therefore, addresses the apparently relevant elements of the Rural Plan Policies. It is organized by Goal. Where possible to avoid duplicative discussion, reference is made to the discussion under the Statewide Planning Goals.

Goal Two: Land Use Planning

Policy 11:

Land use designations and densities appropriate for developed and committed areas shall be determined through compliance with other plan policies and the following criteria:

b. 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. The Rural Commercial designation shall encompass all commercial activities in the rural area. The range of limited, medium and medium/heavy commercial zoning shall be applicable in areas with a Community designation until the RCP and zoning for the areas are updated to comply with OAR 660 Division 22, the UC Rule. A single rural commercial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

The appropriate land use designation is to be determined, in part, by compliance with the criteria set forth for determining the appropriate designation for Rural Residential properties. Those criteria are as follows:

i. existing development pattern and density;

The Subject Property is located in the northwest section of the Developed and Committed Exception Area 517-2, nestled between the Middle Fork of the Willamette River to the north and the Southern Pacific Railroad tracks to the south. The exception area includes lands zoned PR, RC, RR5, F2, and E30. According to the County’s historic documentation, the exception area contains 52 parcels totaling 224.6 acres. The average parcel size is 4.3 acres. The relatively
small expansion of the existing gas and service station is consistent with the existing development pattern and density. The proposed change in Plan Designation does not result in an increase in parcelization or housing density.

The Subject Property is zoned RR5 and is surrounded with similarly zoned parcels. The existing gas and service station is buffered from farm use and resource land by the surrounding residential development, as well as Highway 58 and Wheeler Road. Expansion of the commercial use onto the Subject Property would maintain a similar buffering and not impact resource land within the exception area.

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

An individual sewage disposal system exists on the Subject Property and is associated with the single-family residence. Adequate area exists on the Subject Property to allow the expansion or replacement of the system if necessary.

iii. domestic water supply availability;

A well exists on the Subject Property and is associated with the single-family residence. There is also a well located on Tax Lot 1800 that can be used if needed.

iv. access;

Access to the Subject Property is provided by Wheeler Road, a paved and maintained Lane County Road. The road has a functional classification of Rural Local Road with an existing right-of-way width of 20-26 feet. The planned right-of-way width in LC 15.070(1)(c)(i)(gg) for Rural Local Roads is 50 feet. Adequate right-of-way exists for any necessary road improvements associated with the future development of the Subject Property.

v. public services;

A full range of services are available to the Subject Property:
Fire: Dexter R.F.P.D.
Police: County, State
Water: Individual well
Sewer: Existing individual sewage disposal system
School: Pleasant Hill
Power: Emerald People’s Utility District

vi. lack of natural hazards;

No natural hazards have been identified on the Subject Property. There are no steep slopes on the site. The Subject Property is not located within the 100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) Panel 41039C1690F effective date June 2, 1999.
vii. effect on resource lands.

The expansion of the gas and service station is not expected to have any effect on nearby resource lands. All surrounding properties are zoned Rural Residential (RR5). The Subject Property is not located adjacent to any resource lands.

Policy 12:

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

The request for approval of this plan amendment/zone change application demonstrates compliance with this policy.

Policy 24:

Outside of designated ‘Community’ areas, all changes to Plan Diagram designations shall be evaluated through the County’s Plan Amendment procedure (LC 16.400) and approval based upon fulfillment of criteria therein.

The request for approval of this plan amendment/zone change application demonstrates compliance with this policy.

Goal Nine: Economy of the State

Policy 4:

Commercial and service facilities in rural, unincorporated communities shall be supported commensurate with increases in rural population and where necessary to insure continued operation of industrial activity. Such facilities shall be located within rural communities unless justified by appropriate plan amendment and exception to Statewide Planning Goals.

The Subject Property is located within Developed and Committed Area 517-2 which is not part of a rural unincorporated community. The proposal is to amend the plan designation of the Subject Property from Residential to Commercial. The proposal is made to in order to expand, subject to Planning Director approval, an existing commercial facility (gas and service station) to better serve the surrounding rural community as well as traffic traveling along Highway 58.

Policy 8:

Existing industrial and commercial uses shall be designated on the plan diagram. Uses so identified shall be zoned to allow for continued operation and routine expansion commensurate with their character, provided significant conflict with
other land uses (existing and planned) do not result.

A gas and service station operates from the property immediately adjacent to the south of the Subject Property. A routine expansion of the business necessitates the change in Plan designation of the Subject Property to allow the rezoning to Rural Commercial. Significant conflicts with other land uses are not expected as discussed below under LC 16.400(8)(c).

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

The applicant indicates that the most likely development resulting from the proposal is an expansion of an existing gas and service station that not only serves traffic traveling along Highway 58 but also the local, rural community. Further expansion will include a variety of amenities (including electric car charging stations) that will serve tourists in the area and assist the County in its efforts to support and grow tourism as a base industry.

It is expected that tourism based on the mountain biking attractions of the Oakridge area will continue to grow in importance. As this tourism industry expands, so too will the need for electric charging stations and other goods and services located between the Eugene-Springfield metropolitan area and the Oakridge area.

If approved, the expansion will allow trucks to be serviced enhancing the safety along Highway 58. Truck drivers will have a location to stop, refuel, obtain refreshment and rest. Currently, there is no place for trucks to refuel between the Goshen/Springfield/Eugene area and Oakridge.

Goal Five: Opens Spaces, Scenic and Historic Areas and Natural Resources

Flora and Fauna Policy 1:
Implement construction development and other land use activities which significantly alter natural systems only after evaluating the effects on wildlife habitats and other areas.

See Findings under Statewide Planning Goal Five.

Flora and Fauna Policy 12:
If uses are identified (which were not previously identified in the Plan) which would conflict with a Goal 5 resource, an evaluation of the economic, social, environmental and energy consequences shall be used to determine the level of protection necessary for the resource. The procedure outlined in OAR 660-16-000 will be followed.

See Findings under Statewide Planning Goal 5.
Water Resources Policy 3:

Adequacy of water resources, particularly those relying on groundwater sources, shall be a major consideration when reviewing major land use changes. For the purpose of applying this policy, major land use change shall be any application reviewed by the hearings official or planning commission.

According to the definition supplied in this Policy 3, this application qualifies as a “major land use change.” Accordingly, adequacy of water resources is a major consideration. See Findings addressing LC 16.004(4).

E. Lane Code Criteria for Plan Changes

LC 16.400(6)(h) sets out the criteria for amending the county plan designation. Each of the criteria is addressed here. Where a criterion incorporates a Statewide Planning Goal, LCDC Rule, or Rural Plan Policy, reference is made the relevant part of the narrative above so as to avoid repetition.

LC 16.400(6)(h): Method of Plan 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 the applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

This criterion makes general reference to other sources of standards that apply to plan changes. Those other standards are addressed elsewhere in this narrative.

(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

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

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

(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR
otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

Item (iv) allows a plan amendment that is necessary to implement an adopted plan policy or element. Goal 9, Policy 4 provides that commercial and service facilities must be located within rural communities unless justified by exceptions to the Statewide Planning Goals. Goal 9, Policy 8 requires existing industrial and commercial uses to be so designated on the plan diagram and zoned to allow for continued operation and routine expansion. Finally, Goal 9, Policy 9 provides that development of facilities oriented towards tourists is to be given maximum support. The proposal aims to pave the way for expansion of an existing gas station, which if approved would serve not only the local community, but also an anticipated increase in tourism based around mountain biking venues in the nearby Oakridge community. The subject property is already part of a developed and committed exception area, and the Board finds that the proposed plan change is necessary to implement these policies.

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.

Compliance with individual policies in the Rural Comprehensive Plan Policies is discussed thoroughly above.

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 proposed Plan amendment involves a change of the Plan Diagram from Residential to Commercial. It is classified as a Minor Plan amendment below. The request for a plan designation of Commercial and a corresponding zone change to Rural Commercial conforms to the structure of the Plan. Approval of this amendment does not conflict with unamended portions of the Plan and is therefore consistent with the Plan.


Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:

(i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the 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 is a Minor Amendment to the plan which requests a change to the Plan Diagram for the subject property – from Residential to Commercial. An exception is not required in this case because the Subject Property is already a developed and committed exception property. The
Subject Property is located within Developed and Committed Exception Area 517-2.

(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.

This proposal requests an amendment to the Plan Diagram to change the Plan designation from Residential to Commercial to allow the expansion of the existing commercial use located on the south, adjacent property onto the Subject Property. Information provided in the applicant’s submittal includes detailed statements and analysis to demonstrate conformance with applicable Plan policies and Lane Code requirements.

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

The analysis required by LC 16.400(6)(h)(iii) is address above and throughout these findings. The application includes this required analysis.

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

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

See detailed discussion in Section II, above. To summarize, the Subject Property is located northwest of the intersection of Highway 58 and Wheeler Road and in the Developed and Committed Exception Area 517-2. With the exception of the commercial property located south and adjacent to the Subject Property, all other surrounding properties are designated as Residential. The adjacent parcel to the south of the Subject Property is in common ownership with, and is developed with, a gas and service station which proposes to expand onto the Subject Property.

This proposed change in Plan designation continues the existing development pattern in the area. The gas and service station will expand onto the subject property; however, the expansion will not alter the development patterns of the area. For instance, any increase in truck traffic created by the proposed change and expansion will be contained on the Subject Property and will not require trucks to travel onto Wheeler Road or past any of the surrounding residential developments.

(bb) Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply, and sewage;
The public facilities and services available or to be provided to the site are discussed in detail above. Access to the Subject Property is provided by Wheeler Road, a paved and maintained Lane County Road. The road has a functional classification of Rural Local Road with an existing right-of-way width of 20-26 feet. The planned right-of-way width in Lane Code 15.070(1)(c)(i)(gg) for Rural Local Roads is 50 feet. Adequate right-of-way exists for any necessary road improvements associated with the future development of the Subject Property.

A full range of services is available to the Subject Property. Fire protection is provided by Dexter R.F.P.D. The Subject Property is served by an individual well and existing individual sewage disposal system. The Subject Property is within the Pleasant Hill School District and Emerald People’s Utility District. No impact to these services is anticipated by the Plan designation amendment from Residential to Commercial.

(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 Plan does not identify any historic, archaeological, sensitive wildlife habitat, mineral and aggregate sites, wetlands, or riparian resources on or near the Subject Property. No apparent conflict exists with any Goal 5 resources and therefore an ESEE analysis is not applicable to this amendment.

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

As discussed in connection with Goal 7, the subject property neither contains nor is threatened by any natural hazards. The Subject Property is not located within the 100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) 41039C1690F effective June 2, 1999.

(ee) For a proposed amendment to a residential, 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 Subject Property currently contains a house built in 1947. The house and related development is concentrated in the southeast corner of the Subject Property. The remainder of the parcel is undeveloped. Approval of the request will is sought for the expansion of the existing gas and service station onto the Subject Property. To accomplish the expansion, the existing house will need to be removed from the Subject Property. Expansion of the gas and service station is anticipated to increase area employment.

It is anticipated that the proposed commercial use of the Subject Property will increase its assessed value and thereby increase tax revenue. No impact on public services/facility costs is anticipated.
(ff) For a proposed amendment to a residential, nonagricultural or non-forest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdical area of the Plan and located in the general vicinity of the proposed amendment;

Within the Subject Property’s exception area, only two parcels are designated Commercial—(1) Tax Lot 1800 located south and adjacent to the Subject Property, and (2) Tax Lot 2400, a 1.04-acre parcel located approximately 0.4 miles southeast of the Subject Property. Tax lot 2400 has been operated in the past as a restaurant and bar known as “My Place.” Currently, the restaurant and bar do not appear to be operational. No other properties are designated as Commercial in the exception area. Due to its proximity and common ownership, the Subject Property is the most logical location for the existing gas and service station expansion.

(gg) For a proposed amendment to a nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, “Working Paper: Marginal Lands” (Lane County, 1983).

This provision is not applicable.

F. Lane Code Criteria for Zone Changes

This proposal requests a change from RR-5 zoning to RC zoning. LC 16.252 sets out standards for zone changes. The facts relevant to the zone change standards are largely redundant with the facts relevant to plan policies and the Statewide Planning Goals. The LC 16.252 standards are stated here and addressed, with appropriate references to other parts of this narrative.


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 to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures of this section.

1. General purposes of Chapter 16:

LC 16.003 sets forth 14 broadly-worded purpose statements that include a provision to ensure that development is commensurate with the character and physical limitations of the land. LC 16.003(1). Rezoning from RR-5 to RC implements the proposed plan amendment to the Rural

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Commercial plan designation. Determination of conformance with the public interest is best accomplished by the demonstration of conformance with the Plan policies and zoning provisions articulated in the Plan amendment findings above.

2. Purpose of Rural Commercial Zone:

(a) To allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area.
(b) To implement the policies of the Lane County Rural Area Comprehensive Plan
(d) To provide protective measures for riparian vegetation along Class I streams designated as significant in the Rural Area Comprehensive Plan. LC 16.291(1).

The proposal is consistent with the purposes of the Rural Commercial Zone because it will allow the continued operation and expansion of the existing gas and service station consistent with the purpose of the zone by providing good and services needed by nearby local residents as well as a facility for persons traveling through the rural area.

3. Rural Comprehensive Plan Criteria:

The Rural Plan Policies provide the policy basis for comprehensive plan and implementing regulations, provide direction for land use decisions, and fulfill LCDC planning requirements. Compliance with relevant Comprehensive Plan policies is addressed elsewhere in this narrative.

LC 16.004(4):

Prior to any rezoning that will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential water usage, all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.050(13)(a)-(d).

The request is a rezone from RR-5 to RC. The possible expansion of the existing gas and service station, which may be permitted under the new zoning will likely result in intensification of uses beyond normal single-family residential equivalent water usage. The subject property is not within an area identified as a water quantity limited area. While the RC zone does require a minimum lot or parcel size per se, it does require that proposed parcels or lots contain the minimum area sufficient to accommodate any necessary sewerage and potable water concerns. Due to the relatively small size of the subject property (3.65 acres), it is unlikely that the property will be proposed for significant additional parcelization.

LC 13.050(13)(c)(i) requires an aquifer test prior to approval of a proposed partition or subdivision where the subject property falls within a water quantity limited area, as determined by Board order. Board Order No. 83-12-6-2 (December 6, 1983). Lane Manual (LM) 13.010(2)
provides those areas that the Board has determined are water quantity limited. Subsection (2)(b)(i) contains a list of areas that are designated water quantity limited. The subject property does not fall within an identified water quantity limited area. As a result, the aquifer study requirement of LC 13.050(13)(c)(i) does not apply.

LC 13.050(13)(b) provides that when lots are parcels are served by individual water systems (which is the case here), the applicant must demonstrate that each lot or parcel will have an adequate supply of potable water “at the time of development.” The applicant will be required to make this demonstration “at the time of development.” This criterion is satisfied.

IV. CONCLUSION:

The Plan amendment and Zone Change conform to all applicable standards to allow the re-designation from Residential to Commercial. The Subject Property continues to qualify as a committed lands exception in accordance with the Statewide Planning Goals. The expansion of an existing gas and service station conforms to Plan policies to provide for the continued operation and expansion of existing commercial uses.