

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: PA 1353

IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO RE-DESIGNATE A 1.95 ACRE PROPERTY FROM "RESIDENTIAL" (R) TO "INDUSTRIAL" (I), AND TO CHANGE THE ZONING FROM "RURAL RESIDENTIAL" (RR-5) TO "RURAL INDUSTRIAL WITH SITE REVIEW" (RI/SR), IN ACCORDANCE WITH LANE CODE 16.252, LANE CODE 16.400, LANE CODE 12.050, LANE CODE 16.292, LANE CODE 16.257, AND OAR 660-004-0018. (DEPARTMENT FILE 509-PA15-05499; APPLICANT: WALSH)

WHEREAS, Lane Code 16.400 and 12.050 set 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, on July 27, 2015, Department File 509-PA15-05499 was submitted to the Land Management Division requesting a minor amendment to the Rural Comprehensive Plan to re-designate a 1.95 acre property from "Residential" (R) to "Industrial" (I), and to change the zoning from "Rural Residential" (RR-5) to "Rural Industrial with Site Review" (RI/SR); and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on June 7, 2016, and deliberated and forwarded the matter to the Board with formal Planning Commission recommendation of approval on October 4, 2016; 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:


1. The Lane County Rural Comprehensive Plan is hereby amended to re-designate the subject 1.95 acre property from "Residential" (R) to "Industrial" (I). This is depicted on the Official Lane County Plan maps and further identified on the map detail attached as Exhibit "A" and incorporated herein.
2. The Lane County Official Zoning Map is amended to change the zoning of the 1.95 acre subject property from "Rural Residential" (RR-5) to "Rural Industrial with Site Review" (RI/SR). This is depicted on the Official Lane County Zone maps and further identified on the map detail attached as Exhibit "B" and incorporated herein. The exclusive purpose of the Site Review suffix is to require compliance with the four conditions of approval set forth in Section VII of Exhibit "C."

FURTHER, although not a part of this Ordinance except as described above, the Board of County Commissioners adopts Findings and Conclusions as set forth in Exhibit "C" attached and incorporated here by this reference, in support of this action.

The prior designation status and zone authorizations replaced 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 or administrative agency of competent jurisdiction, such portion is deemed a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

ENACTED this 28th day of November, 2017



Pat Farr, Chair
Lane County Board of Commissioners

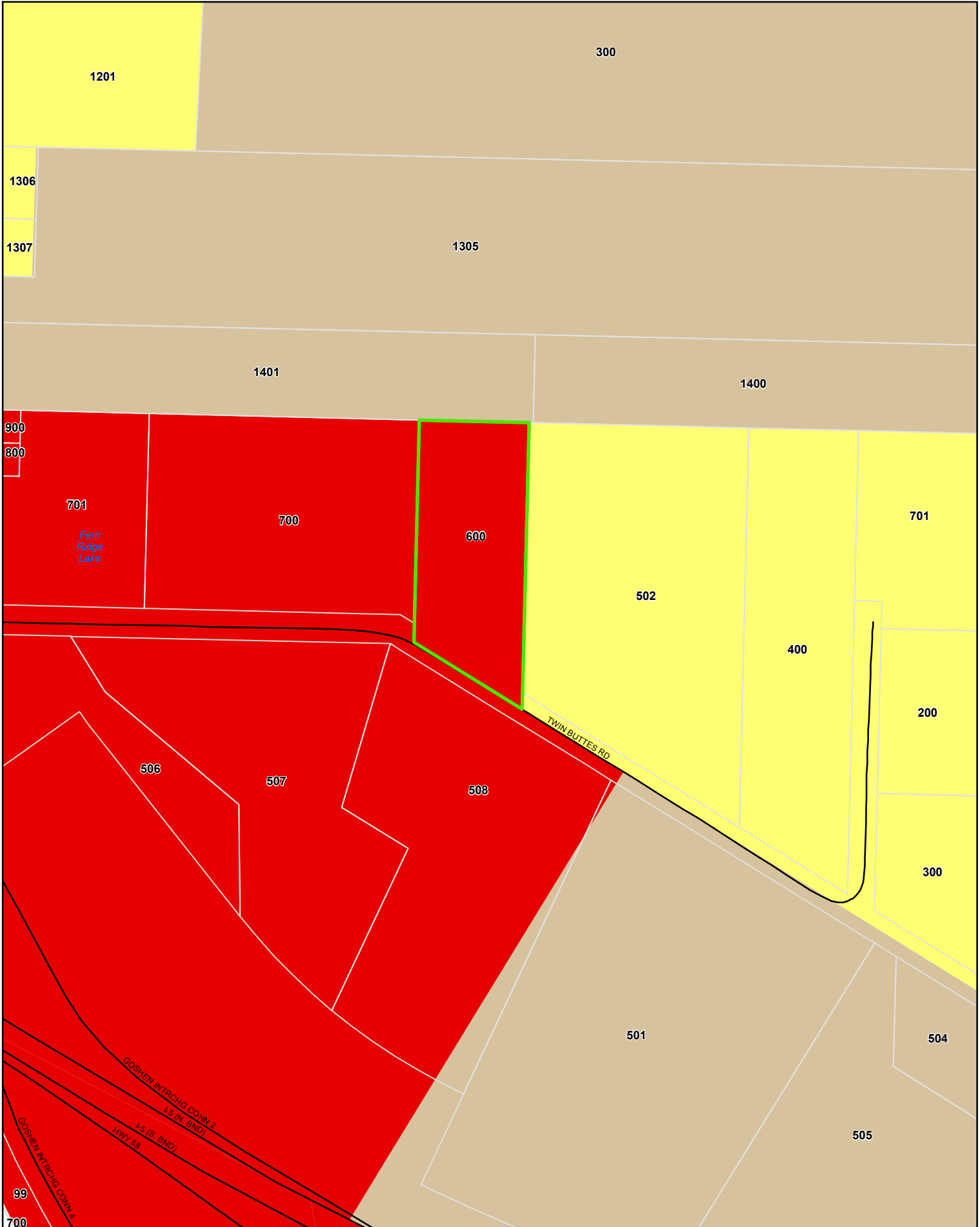


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11/17/17

LANE COUNTY OFFICE OF LEGAL COUNSEL



The information on this map was derived from digital databases in the Lane County regional geographic information 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 practical application in the digital data or the underlying records. Current plan designations, zoning, etc., for 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.

Zoning

- Subject Property
- Taxlot
- A - Agricultural
- I - Industrial
- R - Residential

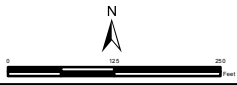
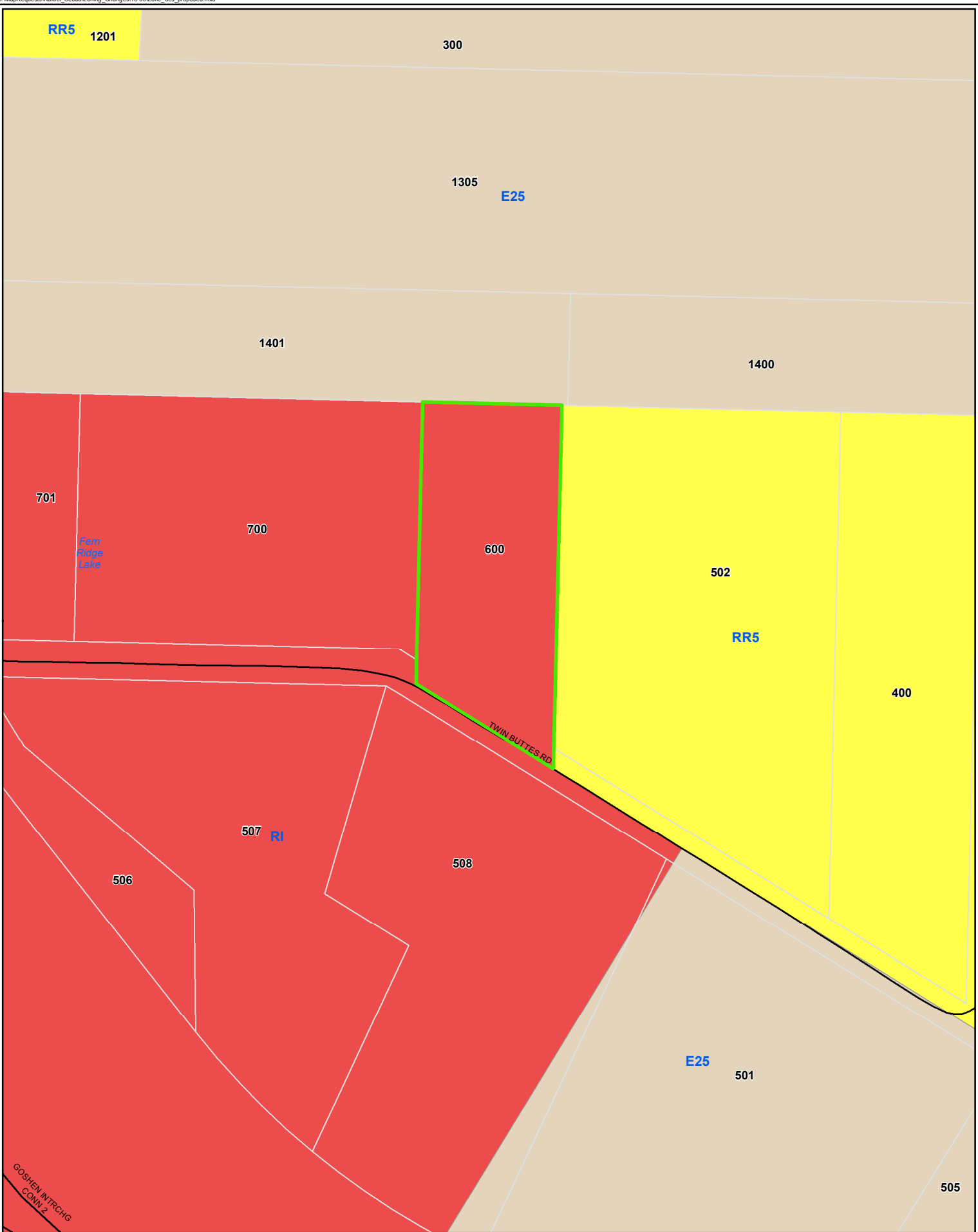


EXHIBIT A
ORDINANCE NO. PA 1353
PROPOSED PLAN DESIGNATION
PLAN MAP DETAIL

Lane County, Oregon

6/15/2017



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Zoning

- Subject_Property
- Taxlot
- E25 - Exclusive Farm Use (25 acre minimum)
- RI - Rural Industrial
- RR5 - Rural Residential (5 acre minimum)

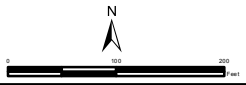


EXHIBIT B
ORDINANCE NO. PA 1353
PROPOSED ZONE DESIGNATION
ZONE MAP DETAIL

Lane County, Oregon 6/15/2017

EXHIBIT C
ORDINANCE NO. PA 1353
FINDINGS OF FACT AND CONCLUSIONS OF LAW
BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON

IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO REDESIGNATE LAND FROM “RESIDENTIAL (R)” TO “INDUSTRIAL (I)” AND REZONE LAND FROM “RURAL RESIDENTIAL” (RR-5) TO “RURAL INDUSTRIAL WITH SITE REVIEW” (RI/SR), AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE NO. 509-PA15-05499; APPLICANT: WALSH HOLDINGS LLC)

I. PROPOSAL

Request for approval of a Minor Plan Amendment to the Rural Comprehensive Plan (RCP) to redesignate 1.95 acres from “Residential” Land to “Industrial” Land, and a zone change from “Rural Residential (RR-5)” to “Rural Industrial with Site Review” (RI/SR). The exclusive purpose of the Site Review suffix is to require compliance with the four conditions of approval set forth in Section VII below. On June 7, 2016, the Lane County Planning Commission conducted a public hearing. On October 4, 2017, The Planning Commission deliberated on the proposal and unanimously recommended the Board of County Commissioners approve the request.

II. SITE AND PLANNING PROFILE

A. Location

The subject property is located on the north side of Twin Buttes Road about 1000 feet east of Franklin Boulevard. The 1.95 acre subject property is comprised of one legal lot identified as tax lot 600 on assessor’s map 18-03-14-40 created in 1951 by the Warranty Deed recorded on Book 445 Page 297. The property is assigned an address of 33935 Twin Buttes Road. The home on the property was removed in 2002. The property is in common ownership with adjacent taxlots 701 and 700. Taxlot 700 is operated as the Walsh Trucking Company southern division terminal, one of a number of similar terminals operating in Oregon and Washington. The operation involves the transport of residual wood products such as chips, saw dust, and hog fuel primarily in Oregon and Washington. Walsh Trucking has operated from the site since 2001. Approval of this request will allow the expansion of the existing trucking terminal onto the subject property.

B. Zoning

The property has a Plan designation of “Residential” within the Rural Comprehensive Plan and zoned Rural Residential (RR-5) consistent with the designation. The property lies within the Developed and Committed Exception Area 413-2.

C. Site Characteristics

The subject property consists of generally level terrain. The soils on the property are entirely comprised of soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. The

soil complex has a Class III agricultural capability rating in the Natural Resource Conservation Service (NRCS) classification system. The soil map unit is not designated as a high value farm soil under Lane Code 16.212(2)(e). The soil has a forest productivity rating estimated by the Oregon Department of Forestry at 45 cu. ft. / acre / year.

D. Surrounding Area

The subject property is situated within a Developed and Committed Area 413-2 comprised of residential and industrial lands.

- Property to the east is a 5.61 acre parcel zoned Rural Residential RR-5 and identified as Map 18-03-14-40 taxlot 502. The property is developed with a single family residence, barn and outbuilding. The property is assigned an address of 33973 Twin Buttes Road. Several small farm animals are maintained on the property. No commercial scale agriculture is apparent on the property.
- Property to the west is a 4 acre parcel zoned Rural Industrial identified as Map 18-03-14-40 taxlot 700. It is owned by the applicant and utilized for a trucking business.
- Twin Buttes Road borders the property on the south side.
- Property across the road to the south is a 5.25 acre parcel zoned Rural Industrial and identified as Map 18-03-14-40 taxlot 508. The parcel is undeveloped.
- Property to the north is a 5 acre parcel zoned Exclusive Farm Use and identified as 18-03-14-10 taxlot 1401. The property is developed with a single family residence and a shop building. The property is assigned an address of 86203 Franklin Boulevard. No resource use is apparent on the property.

E. Services & Resources

Fire:	Goshen R.F.P.D.
Police:	County, State
Water	individual well
Sewer:	existing individual sewage disposal system (to be abandoned)
School:	Springfield School District
Power:	Emerald People's Utility District
Access:	Twin Buttes Rd. (County)
Class I Stream:	None identified on the subject property
Floodplain:	The property is not located within the 100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) Panel 41039C1144F effective June 2, 1999
Historical:	None identified on the subject property
Archaeological:	None identified on the subject property
Sensitive Habitat:	The property is within the Impacted Big Game Range
Water Quantity:	The property is not located within a water quantity limited area per Lane Manual 13.010.
Wetlands:	None have been identified on the subject property

III. PLAN AMENDMENT APPROVAL CRITERIA AND FINDINGS OF FACT

Lane Code 16.400(6)(h)(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.

This application proposes to amend the RCP from Residential Land to Industrial Land. The applicant has provided findings that address the applicable requirements of the Lane Code, Rural Comprehensive Plan policies, Oregon Administrative Rules, and Statewide Planning Goals. This proposal has been submitted in a manner consistent with the requirements and provisions of OAR Division 660.

(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

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

This amendment is consistent with Plan amendment standard (iv-iv) above. As described below, the amendment is necessary to implement RCP Goal 9 policies 7 and 8 providing for the expansion of an existing industrial operation.

(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.

There are two applicable Rural Comprehensive Plan policies that provide support for this application: Goal 9 Policies 7 and 8. The proposal is also consistent with Goal 2 Policy 11 considerations as addressed below.

Goal 9 Policy 7

New industrial development shall normally take place within adopted Urban Growth Boundaries, unless such development:

- a. Is clearly rural oriented (e.g., canneries, logging operations, processing of resource material);**
- b. Is necessary for the continuation of existing industrial operations, including plan or site expansion;**
- c. Will be located in an area either built upon or committed to nonresource use where necessary services can be provided;**
- d. The industrial activity is dependent on a unique site specific resource;**
- e. The use is too hazardous or is incompatible in densely populated areas;**
- f. The industrial activity creates by products which are used to a significant level in resource activities in the immediate area; or**

- g. Where a significant comparative advantage could be gained in locating in a rural area. Any development approved under this policy that requires a plan amendment shall be justified by an exception to applicable Statewide Planning Goals.**

The subject property is located within a Developed and Committed Area (413-2) with all necessary services available. The plan amendment is necessary to allow the expansion of the existing industrial use on the property to the west: Walsh Trucking Company. The operation involves the transport of residual wood products produced by the processing of resource material such as chips, saw dust, and hog fuel primarily in Oregon and Washington. Walsh Trucking has operated from the site since 2001. Approval of the request will allow the expansion of the existing trucking terminal onto the subject property.

Goal 9 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 conflicts with other land uses (existing and planned) do not result.

The Walsh Trucking Company operates from the property immediately adjacent to the west 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 Industrial. Significant conflicts with other land uses are not expected as discussed below under LC 16.400(8)(c). Development of the industrial use on the subject property requires additional review by the Planning Director under Lane Code 16.292(3) and (4) after the change in plan and zone designations to assure compatibility with adjacent properties.

Goal 2 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:

c. A Rural Industrial designation shall be applied to existing uses and to tracts presently zoned for industrial activities addressing the same criteria as listed for the rural residential designation. The range of limited, medium and medium/heavy industrial 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 industrial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

The subject property Taxlot 600 is part of a tract with Taxlot 700, adjacent to the west and zoned Rural Industrial. Taxlot 700 is utilized by the Walsh Trucking Company for transport of residual wood products in Oregon and Washington. This request would apply the Rural Industrial designation to the tract in it's' entirety.

According to Goal 2 Policy 11(c), the appropriate land use designation for the subject property is to be determined, in part, by compliance with the same criteria applied to the Rural Residential designation in Policy 11(a). Policy 11(a) requires that the Rural Industrial plan designation be evaluated by the following criteria:

- i. existing development pattern and density;**

The subject property is located in the southeastern section of the Developed and Committed Exception Area 413-2 adjacent to Twin Buttes Road. The exception area includes lands zoned Rural Industrial along Twin Buttes Road, Franklin Boulevard and the I-5 corridor. It also includes the Alvey Substation located southwest of the I-5 – Highway 58 interchange. Rural Residential lands within the Exception area are on the east side of Franklin Boulevard and north of Twin Buttes Road to the east of the subject property. The exception area contains 33 parcels totaling 160.9 acres. Excluding the one 62-acre parcel containing the substation, the average parcel size is three acres.

Properties to the west and south on both sides of Twin Buttes Road from the intersection with Franklin Boulevard to the subject property are zoned Rural Industrial. The parcel immediately to the west is under common ownership and developed with the Walsh Trucking facility which proposes to expand onto the subject property.

Properties to the east of the subject property on both sides of Twin Buttes Road are zoned Rural Residential and developed with a residences. Properties to the north between the subject property and Seavey Loop Road are larger parcels zoned Exclusive Farm Use. The parcel immediately north of the subject property and the contiguous ownership to the west with the existing trucking facility consists of five acres developed with a residence. No farm use is apparent on the property.

The relatively small expansion of the existing Walsh Trucking facility is generally consistent with the existing development pattern and density. The proposed change in Plan Designation does not result in an increase in parcel or housing density.

Public testimony from nearby property owners and residents raised concerns about impacts from the existing facility and the proposed expansion. Existing and anticipated impacts involve noise, light, hours of operation, operation of the filling station, and stormwater runoff. Vegetation buffers were repeatedly suggested as one means of mitigation. The Applicant has responded that these issues are appropriately addressed through the Special Use Permit process required at Lane Code 16.292(3) and (4) prior to establishing an industrial use on the subject property. The Applicant has demonstrated that it is feasible to address these compatibility issues at that time.

To ensure the proposed industrial designation is appropriate for the Developed and Committed area, a Site Review suffix will be added to the Rural Industrial zone designation. The Site Review suffix is intended to ensure that the transportation and compatibility measures and issues outlined in the four conditions of approval in Section VII below are addressed as a part of the Special Use Permit process prior to expansion of the facility and development of the subject property.

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

An individual sewage disposal system exists on the subject property, formerly associated with a single family residence which has been removed from the property. Adequate area exists on the property to allow the expansion or replacement of the system if necessary. It is not expected that the need for sewage disposal will be necessary to operate the expanded trucking business from the subject property. However, any industrial development of the property would be required to demonstrate adequate septic capacity during the subsequent Director Approval Special Use Permit process of Lane Code 16.292(3) and (4). This would require the submittal and review of evidence that the system is

functioning and that the capacity is adequate to serve the intended use or can be expanded to serve the use.

iii. domestic water supply availability;

A well exists on the subject property, formerly associated with a single family residence which has been removed from the property. It is not expected that the need for domestic water will be necessary to operate the expanded trucking business from the subject property. However, any industrial development of the property, including the proposed trucking facility, is required to demonstrate adequate water supply during the subsequent Director Approval Special Use Permit process of Lane Code 16.292(3) and (4). This would include demonstration that the well is functioning and that the capacity is adequate to serve the intended use.

iv. access;

Access to the subject property is provided by Twin Buttes 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 50 feet. The planned right-of-way in Lane Code 15.070(1)(c)(i)(gg) for this classification of road is 50 feet. Adequate right-of-way exists for any necessary road improvements associated with the future development of the property. During the Planning Commission process, Lane County Transportation Planning staff identified the need for widening Twin Buttes Road to a minimum width of 24 feet from the existing easterly truck terminal access to Franklin Blvd. (approximately 950 feet of roadway). An evaluation of the existing pavement structure was conducted by a registered professional engineer and determined that the existing pavement section is adequate to support the increased traffic anticipated from expansion of the truck facility. The design and construction of the added roadway width shall meet the applicable requirements of Lane Code 15.705. The design shall be approved by the Lane County Engineer or designee during the review and approval of the subsequent Special Use Permit for the project. Compliance with Lane Code 15.705 is required through the Site Review suffix and as a condition of approval.

v. public services;

A full range of services are available to the subject property:

Fire:	Goshen R.F.P.D.
Police:	County, State
Water	individual well
Sewer:	existing individual sewage disposal system
School:	Springfield School District
Power:	Emerald People's Utility District

vi. lack of natural hazards; and

No natural hazards have been identified on the subject property. There are no steep slopes on the site. The property is not located within the 100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) Panel 41039C1144F effective June 2, 1999.

vii. effect on resource lands.

The expansion of the trucking facility is not expected to have any effect on nearby resource lands. Properties to the east are zoned Rural Residential, properties to the west and south are zoned Rural Industrial. The only resource lands adjacent to the subject property are Map 18-03-14-1 Taxlot 1401 located to the north and zoned Exclusive Farm Use. The property is 5 acres in size, developed with a residence at 86203 Franklin Blvd. with no discernible resource use. There is an existing drainage swale and pond separating the subject property from the bulk of the adjacent property.

(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 proposed plan amendment involves a change of the plan diagram from Residential Land to Industrial Land. It is classified as a minor plan amendment below. The request for a Plan designation of Industrial Lands and a corresponding zone change to Rural Industrial conforms to the structure of the Rural Comprehensive Plan. Approval of this amendment does not conflict with unamended portions of the plan and is therefore consistent with the plan.

Lane Code 16.400(8)(a): 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 application requests an amendment to the Plan Diagram only, changing the Plan designation from “Residential” Land to “Industrial” Land. The subject property is within a Developed and Committed Exception Area 413-2 which was acknowledged by LCDC on July 24, 1991, in acknowledgement Order 91-ACK-774. Additional justification for the exception is provided in the section of this application that addresses the Oregon Administrative Rules below. This amendment is classified as a Minor amendment.

Lane Code 16.400(8)(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 Lane Code 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 Rural Comprehensive Plan Diagram to change the Plan designation from “Residential” Land to “Industrial” Land to allow the expansion of the existing industrial use on the adjacent property onto the subject property. Information provided in the 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)(ii)

Lane Code 16.400(6)(h)(ii) requires the amendment to the RCP to be concurrent with an amendment to the RCP plan designations identified in Lane Code 16.400(4)(a)(i). Adoption of this amendment accomplishes the change in Plan designation from “Residential” to “Industrial.”

(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;

The subject property is located in the southeastern section of the Developed and Committed Exception Area 413-2 adjacent to Twin Buttes Road.

All properties to the west and south on both sides of Twin Buttes Road from the intersection with Franklin Boulevard to the subject property are zoned Rural Industrial. The parcel immediately to the west is under common ownership and developed with the Walsh Trucking facility which proposes to expand onto the subject property.

Properties to the east of the subject property on both sides of Twin Buttes Road are zoned Rural Residential with each parcel developed with a residence.

Properties to the north between the subject property and Seavey Loop Road are larger parcels zoned Exclusive Farm Use. The parcel immediately north of the subject property and the contiguous ownership to the west with the existing trucking facility consists of five acres developed with a residence. No farm use is apparent on the property.

This proposed change in Plan designation continues the existing development pattern in the area. Property to the west is currently developed with the Walsh Trucking facility which will expand onto the subject property. The operating characteristics of the use of the subject property will be consistent with the existing operations. Since all access to the subject property is to and from the west on Twin Buttes Road to reach Franklin Boulevard, no truck traffic has the need to travel past the residential properties to the east on Twin Buttes Road. Prior to operation of the facility, review of the compatibility with the residential property to the east is required as part of the subsequent Director Approval Special Use Permit process of Lane Code 16.292(3) and (4).

Public testimony from nearby property owners and residents raised concerns about impacts from the existing facility and the proposed expansion. Existing and anticipated impacts involve noise, light, hours of operation, operation of the filling station, and stormwater runoff. Vegetation buffers were repeatedly suggested as one means of mitigation. The proposed change of Plan designation to Industrial is accompanied by a zone change to Rural Industrial. All future development of the property with a trucking facility will require the review and approval of a Special Use Permit by the Planning Director under Lane Code 16.292.

The Rural Industrial zone requires conformance with Lane Code 16.292(4)(a) that the “*location, design, size, shape and arrangement of the uses and structures shall be sufficient for the proposed intent and compatible with the surrounding vicinity.*” It is feasible to address all of the concerns raised by the adjacent property owner during that application review process. The stormwater from

the proposed facility will be designed by a licensed engineer and incorporated into the existing stormwater system serving the existing facility. All lighting can be designed to be directed away or shielded from the neighbor's property. Light intrusion caused by truck travel on the property can also be shielded by strategically placed fencing. The filling station is already operating on the existing trucking property and will not be relocated. Any noise associated with increased activity at the fueling station can be reviewed during the processing of the Special Use Permit. Night truck traffic can be adjusted operationally to minimize impacts to the neighbor property. In conclusion, it is feasible for the applicant to design and arrange the future use of the property to adequately address all potential impacts to nearby properties during the subsequent required review of the trucking facility development.

To ensure that probable impacts from the plan amendment and zone change are adequately addressed, the Site Review suffix will be added to the Rural Industrial zone designation. The Site Review suffix is intended to ensure that the transportation and compatibility measures and issues outlined in the four conditions of approval in Section VII below are addressed as a part of the Special Use Permit process required at Lane Code 16.292(3) and (4) prior to expansion of the facility and development of the subject property.

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

Access to the subject property is provided by Twin Buttes 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 50 feet. The planned right-of-way in Lane Code 15.070(1)(c)(i)(gg) for this classification of road is 50 feet. Adequate right-of-way exists for any necessary road improvements associated with the future development of the property. During the Planning Commission process, Lane County Transportation Planning staff identified the need for widening Twin Buttes Road to a minimum width of 24 feet from the existing easterly truck terminal access to Franklin Blvd. (approximately 950 feet of roadway). An evaluation of the existing pavement structure was conducted by a registered professional engineer and determined that the existing pavement section is adequate to support the increased traffic anticipated from expansion of the truck facility. The design and construction of the added roadway width shall meet the applicable requirements of Lane Code 15.705. The design shall be approved by the Lane County Engineer or designee during the review and approval of the subsequent Special Use Permit for the project. Compliance with Lane Code 15.705 is required through the Site Review suffix and as a condition of approval.

A full range of services are available to the subject property. Fire protection is provided by the Goshen R.F.P.D. The property is served by an individual well and existing individual sewage disposal system. The property is within the Springfield School District and Emerald People's Utility District. No impacts to the provision of these services are expected with the change in Plan Designation from Residential to Industrial. Control of the possible impacts associated with future industrial use of the property is accomplished by the subsequent Director Approval process of Lane Code 16.292(3) and (4). That process requires the submittal of evidence that there are adequate water supply and sewage disposal facilities to support the proposed use.

(cc) Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 “ESSE” conflict analysis where applicable;

The Rural Comprehensive Plan does not identify any historic, archaeological, sensitive wildlife habitat, mineral and aggregate sites, wetlands, or riparian resources on or near the subject property. The County’s wildlife habitat inventory indicates the property is located within an impacted big game range area. No apparent conflict exists with any Goal 5 resources and therefore an ESEE analysis is not applicable to this amendment. Property to the north is resource land designated as Exclusive Farm Use in the RCP. No resource use of the property that would be impacted is evident. Future development of any industrial use on the subject property is subject to further land use review under Lane Code 16.292(3) and (4) requiring demonstration of compatibility with surrounding lands.

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

No dangerous conditions or natural hazards have been identified on the property. The property is not located within the 100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) Panel 41039C1144F effective June 2, 1999.

(ee) For a proposed amendment to a residential, nonagricultural or non-forest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;

The subject property is currently vacant. Approval of the request will allow the expansion of the existing trucking company facility thereby providing additional opportunities for employment in the area. It is estimated that the expansion of the existing trucking facility will result in the addition of jobs for 20 drivers, two mechanics, and one administrative/dispatch position. No negative tax revenue impacts are expected as no existing structures will be removed from the tax rolls. All public facilities are already available to the subject property. The change in Plan designation is not expected to change the level of public service that is provided to the property.

(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 jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;

There are no reasonable alternative sites zoned Rural Industrial in the general vicinity of the subject property. Nearby industrial lands are located south across Twin Buttes Road, northwest across Franklin Boulevard, and west of the subject property. The industrial properties to the west are fully developed. The industrial lands to the south across Twin Buttes Road are limited in their industrial capability by the many BPA power lines traversing the northern portion of the property to connect to the Alvey Substation across I-5 to the west. They are also sloping upward to such a degree that they are unsuitable for use as a trucking facility. Industrial lands along Franklin Boulevard are fully developed. No other industrial land is available adjacent to the subject property to provide for the expansion of the existing trucking facility in a reasonable manner.

(gg) For a proposed amendment to a Non-resource 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 standard is inapplicable to this request to change the Plan designation of the property from "Residential" to "Industrial".

IV. STATEWIDE PLANNING GOALS

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

GOAL 1 Citizen Involvement

Requires citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Notification of scheduled public hearings in the form of mailed public notice is sent by Lane County to affected agencies, including the Oregon Department of Land Conservation and Development, and to owners of record within 750 feet of the subject property. The Lane County Planning Commission, the designated Citizen Involvement Program Committee, will a public hearing on the proposal and provide a recommendation to the Lane County Board of Commissioners.

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 the development of an adequate factual base to support these decisions. A minor change is one that does not have significant effect beyond its immediate area, and is based on special studies or information. The justification for the particular change must be established.

Lane County has adopted a comprehensive land use plan amendment process, including specific standards that must be addressed to justify a minor change. In addition, Oregon Administrative Rules have been promulgated for the Exception Process. Substantial compliance with LC 16.400, RCP Amendments and the OAR provisions addressed above and below in this report constitute compliance with applicable provisions of Goal 2.

GOAL 3 Agricultural Lands

Goal 3 strives to preserve and maintain agricultural lands. In western Oregon, agricultural land consists of predominantly Class I through IV soils as identified by the National Resources Conservation Service (NRCS), and other lands which are suitable for farm use, taking into consideration soil fertility, grazing suitability, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, required technological and energy

inputs, or accepted farming practices. Lands in other soil classes will be included as agricultural lands if they are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

The soils on the property are entirely comprised of soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. The soil complex has a Class III agricultural capability rating in the Natural Resource Conservation Service (NRCS) classification system. The soil map unit is not designated as a high value farm soil under Lane Code 16.212(2)(e).

The 1.95-acre subject property is within a Developed and Committed Exception Area 413-2 which was acknowledged by LCDC on July 24, 1991 in acknowledgement Order 91-ACK-774. Additional documentation addressing the Goal 2 OAR Exception requirements is found below to demonstrate that Goal 3 is not applicable.

GOAL 4 Forest Lands

Goal 4 requires the preservation and conservation of forest land and forest uses. Forest land is defined by Statewide Planning Goal 4 as:

- 1) *lands composed of existing and potential forest lands which are suitable for commercial forest uses;*
- 2) *other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;*
- 3) *lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use;*
- 4) *other forested lands in urban and agricultural areas which provide urban buffers, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.*

The subject property is not forested. The NRCS Soil Survey of Lane County as contained within the Regional Land Information Database (RLID) maintained by the Lane Council of Governments identifies 100% of the subject property as soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. This soil map unit has a forest productivity rating in the Lane County Soil Ratings for Forestry and Agriculture August 2011 Update estimated by the Oregon Department of Forestry at only 45 cu. ft. / acre / year. Lane County has defined commercial forest soils as those with a forest productivity rating greater than 50 cu.ft./acre/year in Board Order 84-9-12-3 and Exhibit “C” of Ordinance No. PA 889. The property does not contain any commercial forest soils suitable to accommodate commercial forest uses of the property.

The 1.95-acre subject property is within a Developed and Committed Exception Area 413-2 which was acknowledged by LCDC on July 24, 1991, in acknowledgement Order 91-ACK-774. Additional documentation addressing the Goal 2 OAR Exception requirements is found below to demonstrate that Goal 4 is not applicable.

GOAL 5 Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 5 requires the conservation of open space and the protection of numerous natural, cultural, historic and scenic resources. The goal applies to the following resources: riparian corridors, water and riparian areas and fish habitat, wetlands, wildlife habitat, mineral and aggregate resources, energy

sources, natural areas, scenic views and sites, open space, groundwater resources, wilderness areas, historic resources, cultural areas, Oregon recreational trails, federal wild and scenic waterways and state scenic waterways. OAR 660-023-0010 and 0020 includes definitions, standards and specific rules applicable to each Goal 5 resource inventoried for conservation under the goal.

The Goal 5 resources listed above have been appropriately considered by a countywide legislative inventory planning process in the Rural Comprehensive Plan. No Goal 5 resources have been identified by the RCP on or near the subject property.

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. This goal is generally implemented during the comprehensive planning process. As it pertains to site-specific development, it requires that adequate protective measures are taken to ensure the maintenance of air, water and land quality.

The vicinity of the subject property is served by adequate on-site water and sanitation facilities. The proposed use of the property does not produce or discharge any product or by-product that would degrade such resources. Stormwater runoff is accommodated by an engineered on-site detention pond system for the existing trucking facility. It is feasible to develop a stormwater system in conjunction with the existing stormwater facility serving the existing trucking facility to limit any increase of stormwater from the property after development of the trucking facility. Review of the proposed system will be required as a part of the required Special Use Permit for establishment of the trucking facility on the subject property. Additional review of any industrial use of the subject property is provided by the provisions of the Rural Industrial Zone Lane Code 16.292(4)(h) and (i). These provisions require review of potential environmental impacts and impacts to the carrying capacity of the soil or existing water supplies prior to establishment of an industrial use on the property.

Public testimony from nearby property owners and residents raised concerns about possible oily leachate discharge onto adjacent properties from the subject property. The Applicant has responded that this issue will be evaluated through the Special Use Permit process required at Lane Code 16.292(3) and (4) prior to establishing an industrial use on the subject property. Therefore, the Special Use Permit application must include an evaluation of possible oily leachate discharge onto adjacent properties and must include mitigation measures, if confirmed. The evaluation must be prepared by a professional with expertise in environmental remediation. The Site Review suffix will be added to the Rural Industrial zone designation to ensure that this issue is addressed as a part of the Special Use Permit process required at Lane Code 16.292(3) and (4) prior to expansion of the facility and development of the subject property.

GOAL 7 Areas Subject to Natural Disasters or Hazards

The purpose of Goal 7 is to protect life and property from natural hazards. There are no known areas subject to natural disasters or hazards on the subject property. The property is not located within the

100-year flood hazard area as determined by Flood Insurance Rate Map (FIRM) Panel 41039C1144F effective June 2, 1999.

GOAL 8 Recreational Needs

Goal 8 addresses the recreational needs of Oregon residents and visitors. Provisions of this goal are appropriately implemented by a legislative process as part of periodic review of the comprehensive plan. The proposed change from Residential Lands to Industrial Lands has no impact on recreational needs.

GOAL 9 Economy of the State

The purpose of Goal 9 is to diversify and improve the economy of the State and is primarily applicable to commercial and industrial development. The expansion of the existing industrial use from the adjacent property will provide additional employment opportunities,

GOAL 10 Housing

Goal 10 directs the maintenance of an adequate supply of housing within the County's urban growth boundaries through the development of a "buildable lands" inventory for each small city. The Oregon Administrative Rule (OAR) 660-015-0000(10) for Goal 10 states:

Goal 10. 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.

Buildable Lands -- refers to lands in urban and urbanizable areas that are suitable, available and necessary for residential use.

Goal 14 (Urbanization) and Goal 10 (Housing) act in coordination to assure that there is a limit on residential development outside of urban growth boundaries (UGB's) to prevent uncoordinated sprawl onto the rural resource lands. The above administrative rule language implementing Goal 10 requires the inventory of "buildable lands" which are defined as "lands in urban and urbanizable areas", not rural lands such as the subject property.

The proposal is consistent with Goal 10 requirements because the subject property is not within an urban growth boundary or an urbanizable area and therefore it is not subject to the Goal 10 inventory requirements for "buildable lands." The rezoning of the property has no effect on the existing buildable lands inventories inside the UGB's of the nearest cities of Eugene and Springfield.

GOAL 11 Public Facilities and Services

The purpose of Goal 11 is to provide for the planning and development of a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. A full range of rural services necessary to serve the subject property exists in the area.

GOAL 12 Transportation

The intent of Goal 12 is implemented through the provisions of the State Transportation Planning Rule (TPR) (OAR 660, Division 12), which was adopted by LCDC in 1991. OAR 660-012-0060(1) requires that Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which 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.

To determine whether the proposed amendments will significantly affect a transportation facility, the TPR lists specific criteria against which the proposed amendments are to be evaluated. The TPR provides that 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 (Transportation System Plan).

The engineering firm of Access Engineering LLC has analyzed the potential traffic impacts associated with the proposal to expand the existing trucking facility onto the subject property. A copy of the full report is attached. It is anticipated that 20 trucks could be parked on the taxlot. The purpose of the study is to document and analyze the expected net change in trips generated by the proposed plan amendment and zone change from residential to industrial for the property located at 33935 Twin Buttes Road north of Goshen in Lane County. The analysis will compare the trips generated by the stipulated development under the proposed zoning to the trips generated by the worst-case development under the existing zoning to determine if the change will significantly impact any existing or planned transportation facility in Lane County's Transportation System Plan.

The study concluded:

- The highest reasonable land use for the existing zoning, RR5, on the 1.95 acre site is one single family dwelling. The existing zoning development will generate one PM peak hour trip.
- The stipulated land use for the proposed zoning, RI, is expansion of the existing truck terminal on the adjacent parcel. The proposed zoning development will generate 13 PM peak hour trips.
- The crash records for the study area did not reveal any collision patterns or frequencies that require further investigation.
- The level-of-service analysis for the year of opening, 2015, and the horizon year, 2024, found that the study area intersections will remain within the ODOT and Lane County mobility standards.
- The queuing analysis for the year of opening, 2015, and the horizon year, 2024, found that all queues can be contained within the lanes' available storage at each study area intersection.
- The proposed access meets all applicable provisions of Lane Code Chapter 15.
- There is sufficient sight distance in both directions to allow the access to function as either one-way inbound or outbound.

Based on this analysis, the study found that the proposed Comprehensive Plan amendment from Residential to Industrial and zone change from RR-5 to RI, will result in no significant impact to the operation of the transportation system following the directives of OAR 660-012-0060(1).

GOAL 13 Energy Conservation

This Goal is more appropriately applied at the comprehensive plan phase, and is therefore not applicable to this application.

GOAL 14 Urbanization

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. The subject property is not located within or adjacent to an urban growth boundary and is therefore not urbanizable. Goal 14 is inapplicable to this application.

GOALS 15 – 19

These Goals are inapplicable to this application as they are geographically oriented and only apply to the Willamette River Greenway and coastal resources.

V. OREGON ADMINISTRATIVE RULES

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 and 660-014-0030 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.

The 1.95-acre subject property is part of a tract within a Developed and Committed Exception Area 413-2 which was re-acknowledged by LCDC on July 24, 1991 in acknowledgement Order 91-ACK-774. The original exception for the property occurred in 1984 under PA 884. At that time, the exception to Goals 3 and 4 for the subject property was based upon the existing industrial use and residential development on the tract. The application is consistent with the provisions of OAR 660-004-0018(2) (a) and (b) as described below.

(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 that satisfy (a) or (b) or (c) and, if applicable, (d):

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

The subject tract is developed with an existing trucking facility. The proposed Rural Industrial redesignation of the residential part of the property will allow expansion of the existing trucking facility. The applicant has no objection to the placement of a limitation of allowed industrial uses to those consistent with the existing industrial use of the property.

(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;

Lane County's Rural Industrial Zone has been reviewed for consistency with the Rural Lands provisions of Goal 14 during the adoptions of Ordinance 6-02 in 2002 and Ordinance 12-04 in 2004, which both received acknowledgement from LCDC.

Lane Code 16.292 for Rural Industrial zoned areas maintains the land as rural in conformance with Goal 14 because the uses allowed by Lane Code 16.292 are primarily "industrial" ones that require a rural location to process rural resources or that must comply with the "small scale industrial" square foot floor area limits in Lane Code 16.292(3)(b). Additionally, a 60,000 and 40,000 square foot limit on industrial development inside unincorporated communities is directed by the Urban Community Rule (UCR), OAR 660-022-030(11), and therefore complies with the UCR for unincorporated community areas. A greater limit of 35,000 square feet of floor area is placed on industrial development outside of communities in order to implement RCP Goal 2 Policy 16 that encourages more intensive development to locate inside unincorporated communities rather than in D&C areas outside unincorporated communities. The 35,000 square foot floor area requirement for industrial development outside of communities prevents large scale industrial developments that might compete with nearby urban industrial uses and therefore complies with Goal 14. The uses allowed in Lane Code 16.292(3) must comply with the site suitability requirements in Lane Code 16.292(4) that insure the uses will have adequate on site services.

No new structures are contemplated with the expansion of the existing trucking facility. No new services or public facilities are necessary for the expansion.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

The proposed expansion of the existing trucking facility does not affect the use of lands zoned for Exclusive Farm Use to the north. The subject property has already been found to be developed and committed lands in a prior exception review. The subject property is situated between other adjacent developed properties in a linear fashion along the road. The property is isolated from the farmlands to the north by the adjacent block of developed properties. No additional services or public facilities are needed across the resource lands to the north because of their availability within the existing road right-of-way. The proposed use does not rely upon the creation of a sewer system or public water system.

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

The proposed use is the expansion of the existing trucking facility. No increase in density or the need for additional public facilities or services is necessary for this expansion. Property to the north is resource land designated as Exclusive Farm Use in the RCP. It is a 5 acre parcel zoned Exclusive Farm Use and identified as 18-03-14-10 taxlot 1401. The property is developed with a single family residence and a shop building in the western portion of the parcel. The property currently lies immediately adjacent to the existing industrial uses of the subject property for almost its' entire length. Only the small portion adjacent to the subject taxlot is not adjacent to the existing industrial use. No resource use is apparent on the property.

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22; and

The subject tract is not within an unincorporated community.

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur 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.

Not applicable to this request. No new buildings are proposed in the current request. Any subsequent accessory structures would comply with the limitation on building size found in Lane Code 16.292.

660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses

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

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.

c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

The Administrative Rules addressed in this application have been adopted to implement:

ORS 197.732(2)b): "The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable

goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable”; and

Goal II Part II(b): (b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

The area proposed for the exception is limited to the portion of the subject tract that is zoned residential. It is located on the north side of Twin Buttes Road about 1000 feet east of Franklin Boulevard. The 1.95 acre subject property is assigned an address of 33935 Twin Buttes Road from the prior development of a single family residence. The property is in common ownership with adjacent taxlots 701 and 700. Taxlot 700 is operated as the Walsh Trucking Company southern division terminal, one of a number of similar terminals operating in Oregon and Washington. The operation involves the transport of residual wood products such as chips, saw dust, and hog fuel primarily in Oregon and Washington. Walsh Trucking has operated from the site since 2001.

The property has a Plan designation of “Residential” within the Rural Comprehensive Plan and zoned Rural Residential (RR-5) consistent with the designation. The property lies within the Developed and Committed Exception Area 413-2.

The subject property consists of generally level terrain. The soils on the property are entirely comprised of soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. The soil complex has a Class III agricultural capability rating in the Natural Resource Conservation Service (NRCS) classification system. The soil map unit is not designated as a high value farm soil under Lane Code 16.212(2)(e). The soil has a forest productivity rating estimated by the Oregon Department of Forestry at 45 cu. ft. / acre / year.

(b) The characteristics of the adjacent lands;

The subject property is located in the southeastern section of the Developed and Committed Exception Area 413-2 adjacent to Twin Buttes Road.

All properties to the west and south on both sides of Twin Buttes Road from the intersection with Franklin Boulevard to the subject property are zoned Rural Industrial. The parcel immediately to the west is under common ownership and developed with the Walsh Trucking facility which proposes to expand onto the subject property.

Properties to the east of the subject property on both sides of Twin Buttes Road are zoned Rural Residential with each parcel developed with a residence.

Properties to the north between the subject property and Seavey Loop Road are larger parcels zoned Exclusive Farm Use. The parcel immediately north of the subject property and the contiguous ownership to the west with the existing trucking facility consists of five acres developed with a residence. No farm use is apparent on the property.

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

This proposed change in Plan designation continues the existing development pattern in the area. The portion of the subject tract to the west is currently developed with the Walsh Trucking facility which will expand onto the subject property. The operating characteristics of the use of the subject property will be consistent with the existing operations. The subject property is situated between other adjacent developed properties in a linear fashion along the road. The property is isolated from the farmlands to the north by the adjacent block of developed properties. Since all access to the subject property is to and from the west on Twin Buttes Road to reach Franklin Boulevard, no increased traffic is in proximity to the farmlands to the north. Lands zoned for resource use are located only on the north side of the subject property.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

See below.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The subject property consists of generally level terrain. The soils on the property are entirely comprised of soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. The soil complex has a Class III agricultural capability rating in the Natural Resource Conservation Service (NRCS) classification system. The soil map unit is not designated as a high value farm soil under Lane Code 16.212(2)(e). The soil has a forest productivity rating estimated by the Oregon Department of Forestry at 45 cu. ft. / acre / year. The Developed and Committed Lands 1989 Addendum found that parcels with dwellings on two adjoining sides are impracticable for farm management if 15 acres or less, and impracticable for forest management if 20 acres or less. Parcels with a dwelling on one adjoining side are impracticable for farm management if five acres or less and

impracticable for forest management if 15 acres or less. The 1.93 acre subject property is adjacent to one dwelling on the east and an industrial use on the west.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

The property is not suitable for forest management. The soils on the property are entirely comprised of soil map unit #43C Dixonville-Philomath-Hazelair Complex 3 – 12% slopes. The soil has a forest productivity rating estimated by the Oregon Department of Forestry at 45 cu. ft. / acre / year. This level of productivity is less than the 50 cu. ft./ year/ acre threshold established for the identification of commercial forest lands in Board Order 84-9-12-3. The Developed and Committed Lands 1989 Addendum found that parcels with dwellings on two adjoining sides are impracticable for forest management if 20 acres or less. Parcels with a dwelling on one adjoining side are impracticable for forest management if 15 acres or less. The 1.93 acre subject property is adjacent to one dwelling on the east and an industrial use on the west.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

The conduct of forest operations or forest practices is impracticable on the 1.93 acre parcel. The soils are incapable of commercial levels of timber production and there are no forestry operations in proximity to the subject property.

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

The information provided in this report contains the necessary facts and reasons to support the necessary conclusions that the subject property is irrevocably committed to uses other than those allowed by Goals 3 and 4.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.

The proposed findings and statement of reasons in this report have focused solely on the subject property because of the apparent necessity to rejustify the previous exception taken when the land was zoned residential in 1984.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Property to the east is a 5.61 acre parcel zoned Rural Residential RR-5 and identified as Map 18-03-14-40 taxlot 502. The property is developed with a single family residence, barn and outbuilding.

The property is assigned an address of 33973 Twin Buttes Road. Several small farm animals are maintained on the property. No commercial scale agriculture is apparent on the property.

Property to the west is a 4 acre parcel zoned Rural Industrial identified as Map 18-03-14-40 taxlot 700. It is owned by the applicant and utilized for a trucking business.

Twin Buttes Road borders the property on the south side.

Property across the road to the south is a 5.25 acre parcel zoned Rural Industrial and identified as Map 18-03-14-40 taxlot 508. The parcel is undeveloped.

Property to the north is a five acre parcel zoned Exclusive Farm Use and identified as 18-03-14-10 taxlot 1401. The property is developed with a single family residence and a shop building. The property is assigned an address of 86203 Franklin Boulevard. No resource use is apparent on the property.

(b) Existing public facilities and services (water and sewer lines, etc.);

The subject property is served by a County Road. The property is not served by public water or sewer facilities.

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

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and Nonresource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.

The subject property is in the southern portion of Exception Area 413-2. It is adjacent to a series of small parcels along Twin Buttes Road that are zoned for residential use to the east of it: Map 18-03-14-40 Taxlots 200, 300, 301, 400, and 502. They were all created prior to 1963 prior to application of the Statewide Planning Goals and average 4.2 acres in size. Each is developed with a residence.

Lands to the west are in common ownership zoned industrial. The lands were part of a developed and committed lands exception area 413-2 adopted in 1984 based upon the existing industrial development of the ownership that extends to Franklin Boulevard. It is developed with the Walsh

Trucking facility. Lands across Twin Buttes Road are zoned Rural Industrial as part of the D&C Exception Area 413-2.

The adjacent parcel to the north is zoned for Exclusive Farm Use and is 5 acres in size. The property was formerly in current ownership with the five acres to the east of it, taxlot 1400. The property was rezoned to Exclusive Farm Use under Ordinance No. PA 992 in 1990. Taxlot 1400 is used for hay production but is not contiguous to the subject property.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;

The subject property is clustered with the other small residential parcels along Twin Buttes Road and the industrial parcels to the west developed with the trucking facility.

(d) Neighborhood and regional characteristics;

The neighborhood along Twin Buttes Road is industrial and residential in character, with the industrial lands within proximity to Franklin Boulevard. Property to the east of the subject property and north of Twin Buttes Road are all zoned residential and developed with a residence. Properties across the road and to the west of the subject property are zoned industrial.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

There is a natural pond located immediately to the north of the subject property that isolates it from the farm lands to the north.

(f) Physical development according to OAR 660-004-0025; and

The only physical development on the subject property is the individual sewage disposal system and well that served the former residence on the property.

(g) Other relevant factors.

No other relevant factors have been identified.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

This application contains several exhibits that include a current map and recent aerial photograph of the subject property. Documentation of the prior developed and committed exception is also included in the submittal.

VI. ZONE CHANGE APPROVAL CRITERIA AND FINDINGS OF FACT

Lane Code 16.252(2): Criteria. Zoning, rezoning 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, zoning and rezoning 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.

A. Consistency with the general purposes of Chapter 16 of the Lane Code.

Lane Code 16.003 Purpose.

This chapter is designed to provide and coordinate regulations in Lane County governing the development and use of lands to implement the Lane County Rural Comprehensive Plan. To these ends, it is the purpose of this chapter to:

- (1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.**
- (2) Protect and diversify the economy of the County.**
- (3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.**
- (4) Conserve farm and forest lands for the production of crops, livestock and timber products.**
- (5) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.**
- (6) Conserve all forms of energy through sound economical use of land and land uses developed on the land.**
- (7) Provide for the orderly and efficient transition from rural to urban land use.**
- (8) Provide for the ultimate development and arrangement of efficient public services and facilities within the County.**

- (9) Provide for and encourage a safe, convenient and economic transportation system within the County.**
- (10) Protect the quality of the air, water and land resources of the County.**
- (11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.**
- (12) Provide for the recreational needs of residents of Lane County and visitors to the County.**
- (13) Conserve open space and protect historic, cultural, natural and scenic resources.**
- (14) Protect, maintain, and where appropriate, develop and restore the estuaries, coastal shorelands, coastal beach and dune area and to conserve the nearshore ocean and continental shelf of Lane County. (Revised by Ordinance No. 7-87, Effective 6.17.87)**

The purpose of Chapter 16 of the Lane Code is to provide and coordinate regulations concerning development in the county, and to implement the Lane County Rural Comprehensive Plan. Lane Code 16.003 sets forth 14 broadly worded purpose statements that include a provision to insure development is commensurate with the character and physical limitations of the land. In this instance, the expansion of the existing trucking facility onto the subject property conforms to the character of the existing development pattern and provides for the growth of an existing industrial enterprise. Prior to expansion of the facility, a separate land use approval is required from the Planning Director to assure the development is commensurate with the character and physical limitations of the land consistent with subsection (1) of the purpose statement of Lane Code 16.003 above. This is required through the Site Review suffix and compliance with the four conditions of approval in Section VII below.

Public testimony suggested that the proposal is not consistent with subsections (4), (5), (7), and (10) of Lane Code 16.003. Lane Code 16.003(4) relates to designated resource land. The subject property is within a Developed and Committed Lands Exception Area whereby it was previously determined not to be farm or forest land. Lane Code 16.003(5) is applicable to zone changes or subdivisions that allow additional housing development in the County. Lane Code 16.003(7) relates to changing land from rural to urban uses. The proposed plan amendment and zone change will not convert the property to an urban use because the Rural Industrial zone is a rural land use zone that conforms to Goal 14 requirements. Lastly, consistency with Lane Code 16.003(10), as well as (1), will be established through application of the Site Review suffix, which will ensure that the Applicant completes the Special Use Permit process required at Lane Code 16.292(3) and (4), prior to expansion of the facility and development of the subject property.

B. Not be contrary to the public interest.

Determination of conformance with the public interest is best accomplished by the demonstration of conformance with the Rural Comprehensive Plan policies and zoning provisions articulated in the Plan Amendment findings above.

C. Consistent with specific purpose of Rural Industrial Zone (Section 16.292 of the Lane Code).

Lane Code 16.292 Rural Industrial Zone (RI, RCP).

(1) Purpose. The purposes of the Rural Industrial Zone (RI, RCP) are: to implement the policies of the Lane County Rural Comprehensive Plan (RCP); to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries; and to provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP. LC 16.292 is not retroactive. The Director has no authority to initiate compliance with LC 16.292 for lawfully (per LC Chapter 16) existing uses.

The proposed change in zoning from RR-5 to Rural Industrial will allow the continued operation and expansion of the existing Walsh Trucking facility consistent with the purpose of the zone.

D. Lane Code 16.257 Site Review

(1) Purpose. It is the purpose of this section to establish a Site Review Permit procedure for specified uses or applications requiring comprehensive review of proposed site development in order to encourage the most appropriate development of the site compatible with the neighborhood, to prevent undue traffic and pedestrian hazards or congestion, to reduce adverse impacts upon public facilities and services, and to provide a healthful, stable, efficient and pleasant on-site environment.

(2) Site Review Permits Required. A Site Review Permit shall be required when:

(c) Incidental to any Zoning or Rezoning Application approval when it is determined by the Board, Planning Commission or Hearings Official that a Site Review Permit would be necessary to ensure that such approval would be consistent with the intent and purposes of this chapter.

Any properties requiring a Site Review Permit pursuant to LC 16.257(2)(c) above shall be designated "SR" in the amending ordinance or order, on a map attached as an exhibit to the ordinance or order, and on the Zoning Map, as applicable.

The Site Review suffix (/SR) is necessary to ensure that the proposed plan amendment, zone change, and expansion and development of the property is commensurate with the character and physical limitations of the land, and to promote and protect the public health, safety, convenience and welfare, in accordance with subsection (1) of the purpose statement of Lane Code Chapter 16 at Lane Code 16.003. Specifically, the Site Review suffix is intended to ensure that the transportation and compatibility measures and issues identified in the four conditions of approval are addressed as a part of the Special Use Permit process required at Lane Code 16.292(3) and (4), prior to expansion of the facility and development of the subject property. Because a Special Use Permit is required at Lane Code 16.292, a separate Site Review Permit is not be required, pursuant to Lane Code 16.257(3)(b).

E. Applicable Rural Comprehensive Plan Component

The policies of the RCP serve as the basis of the County Plan, provide direction for land use decisions, and fulfill the mandate of the LCDC Statewide Goals. The zoning designation of the

property as Rural Industrial conforms to the proposed Rural Comprehensive Plan designation of Industrial.

Lane Code 16.004(4) Prior to the zoning or rezoning of land under this chapter, which will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential equivalent 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 proposed expansion of the existing trucking facility does result in the potential for additional parcelization or intensification of water demands. However, any industrial development of the property, including the proposed trucking facility, is required to demonstrate adequate water supply during the subsequent Director Approval Special Use Permit process of Lane Code 16.292(3) and (4). This would include demonstration that the well is functioning and that the capacity is adequate to serve the intended use.

VII. CONCLUSION

The Board of County Commissioners finds that the application to re-designate 1.95 acres from Residential Land to Industrial Land with a concurrent rezoning from Rural Residential (RR-5) to Rural Industrial with Site Review (RI/SR) meets the applicable approval criteria and addresses with substantial evidence the statutory standards of Oregon Revised Statutes, Rural Comprehensive Plan Policies, Lane Code requirements, and the Statewide Planning Goals. The exclusive purpose of the Site Review suffix is to require compliance with the four conditions of approval below. The Lane County Planning Commission unanimously recommended approval of the request. Additionally, the Planning Director finds the applicable approval criteria have been met and recommends approval.

Therefore, based upon the evidence in the record and these findings of fact and conclusions of law, the Board of County Commissioners approves the application contained in Department File 509-PA15-05499 subject to the Site Review suffix, which is intended to ensure compliance with the following four conditions of approval:

Ordinance No. PA 1353 Conditions of Approval

1. Prior to the expansion of the trucking operation onto tax lot 18-03-14-40-00600, the applicant must widen Twin Buttes Road to a minimum width of 24 feet from the existing easterly truck terminal access to Franklin Blvd. (approximately 950 feet of roadway). The applicant shall design and construct the roadway to meet the applicable requirements of LC 15.705, the said design shall be approved by the Lane County Engineer or designee.
2. Pursuant to Lane Code 15.205(1), A Facility Permit shall be required for placement of facilities and development within the right-of-way of a County Road. Facilities and development includes, but is not limited to, road improvements, sidewalks, new or reconstructed driveway or road approach intersections, utility placements, excavation, clearing, grading, culvert placement or replacement, storm water facilities, or any other facility, thing, or appurtenance.

Please contact 541-682-6902 or visit

<http://www.lanecounty.org/Departments/PW/Engr/RightofWay/Pages/rowpermits.aspx> regarding facility permits.

A Facility Permit is required for new development [LC 15.205(3)], this includes any existing approach to Twin Buttes Road in order to verify that the portion of the approach that is within the County right-of-way meets current County standards.

3. Storm water runoff from the subject property shall not be directed to the Lane County road right-of-way or into any Lane County drainage facility, including roadside ditches. Ditches adjacent to County roads are designed solely to accommodate roadway storm water runoff.
4. Prior to development and expansion of the trucking operation on tax lot 18-03-14-40-00600, the applicant must obtain final approval of a Special Use Permit pursuant to Lane Code 16.292(3) and (4). The Special Use Permit application must include an operations plan that addresses the mitigation of impacts on surrounding properties due to noise, light, stormwater, and access. The operations plan must include vegetation buffers along the north and east property lines and a maintenance plan for said vegetation buffers. The Special Use Permit application must include an evaluation of possible oily leachate discharge onto adjacent properties and must include mitigation measures, if confirmed. The evaluation must be prepared by a professional with expertise in environmental remediation.