Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

January 10, 2007

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jefferson County Plan Amendment
DLCD File Number 001-06 A

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 18, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** **THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Sandy Mathewson, Jefferson County

<paa> ya/

FORM 2

D L C D NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: Jefferson County Local File No.: O-01-07
(If no number, use none)

Date of Adoption: 12-27-06 Date Mailed: 12-28-07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 4-17-06

X Comprehensive Plan Text Amendment
X Comprehensive Plan Map Amendment
___ Land Use Regulation Amendment
___ Zoning Map Amendment
___ New Land Use Regulation
___ Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Repealed 1981 Comprehensive Plan, adopted a revised Comprehensive Plan and Map.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Various minor text changes, destination resort provisions separated out and adopted by separate ordinance (O-03-07). Copy of Plan showing all changes enclosed.

Plan Map Changed from : zoning map to general Comp Plan map.

Zone Map Changed from: — to —

Location: Unincorporated Jefferson County Acres Involved: —

Specify Density: Previous: — New: —

Applicable Statewide Planning Goals: 1-14

Was an Exception Adopted? Yes: ____ No: X

DLCD File No.: 001-06A (15152) [13855]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: X No: ___

If no, do the Statewide Planning Goals apply. Yes: ___ No: ___

If no, did The Emergency Circumstances Require immediate adoption. Yes: ___ No: ___

Affected State or Federal Agencies, Local Governments or Special Districts: ODOT, ODFW, ODF, BLM, USFS, OPRD, Aviation Dept.

Local Contact: Sandy Mathewson Area Code + Phone Number: 541-475-4462

Address: 85 SE 'D' St.

City: Madras Zip Code+4: 97741

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO (2) Copies** of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.

6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR THE COUNTY OF JEFFERSON

IN THE MATTER OF A POST ACKNOWLEDGEMENT AMENDMENT TO THE TEXT AND MAP OF THE COMPREHENSIVE PLAN	))))	**Ordinance No. O-01-07**

WHEREAS, ORS 197.175(2)(a) requires the County to prepare, adopt, amend and revise its Comprehensive Plan in compliance with statewide planning goals; and

WHEREAS, the County adopted a Comprehensive Plan on March 11, 1981, revised the Plan on February 2, 1983 and May 29, 1985 in order to comply with statewide planning goals, and received full acknowledgement of the Plan on November 21, 1985; and

WHEREAS, the Plan has never had a comprehensive review and update since being adopted in 1981, much of the background material is out of date and no longer relevant, many of the Plan's objectives and policies no longer comply with state statutes and administrative rules, and circumstances and public policies in the County have changed, a through revision of the Plan is warranted; and

WHEREAS, the Jefferson County Planning Commission was instrumental in developing a draft of a revised Comprehensive Plan, which was then reviewed by a Citizen Advisory Committee made up of members representing various geographic areas in the County and specific areas of interest; and

WHEREAS, in accordance with ORS 197.610, notice of the proposed revision, along with two copies of the draft Comprehensive Plan, was mailed to the Department of Land Conservation and Development on April 17, 2006, and was sent electronically on the same date; and

WHEREAS, on May 9, 2006 individual written notice, including a schedule of public hearings, was mailed to all property owners in the unincorporated areas of the County outside the boundaries of the Confederated Tribes of the Warm Springs Indian Reservation, in accordance with ORS 215.503; and

WHEREAS, the Jefferson County Planning Commission held public hearings on the proposed Comprehensive Plan revision on June 1, June 17, July 6 and July 22, 2006, and met to deliberate and consider the testimony on August 3, August 17 and August 23, 2006, after which they voted unanimously to recommend that the Board of Commissioners repeal the March, 1981 Jefferson County Comprehensive Plan, as amended, and adopt the draft Comprehensive Plan, subject to a number of changes they suggested as a result of testimony received; and

WHEREAS, the Jefferson County Board of Commissioners accepted testimony on the Comprehensive Plan revisions recommended by the Planning Commission at public hearings on September 6, September 13, September 27, October 4, October 11, November 8 and December 20, 2006; reviewed all written testimony submitted from May 9, 2006 until the close of the hearing on December 20, 2006; and met in work sessions to deliberate on the proposed revisions on October 25, November 29, December 6, December 13, and December 21, 2006; and

WHEREAS, notice of all public hearings and work sessions before the Planning Commission and Board of Commissioners was published in the Madras Pioneer at least ten days prior to each hearing and work session, in accordance with ORS 215.060.

NOW THEREFORE, the Jefferson County Board of Commissioners hereby **ORDAINS** as follows:

1. **Adoption of Findings**

   The Findings of Fact and Conclusions in the attached Exhibit A are hereby adopted and incorporated herein by reference as the basis for the decision to adopt the revised Comprehensive Plan.

2. **Repeal of March, 1981 Comprehensive Plan**

   The March, 1981 Jefferson County Comprehensive Plan, as amended, is hereby repealed.

3. **Repeal of March, 1981 Comprehensive Plan Map**

   The March, 1981 Jefferson County Comprehensive Plan Map, as amended, is hereby repealed.

4. **Appendixes**

   Appendix I of the March, 1981 Jefferson County Comprehensive Plan, Camp Sherman Area Local Advisory Committee Plan Appendix, is hereby repealed.

   Appendix II of the March, 1981 Jefferson County Comprehensive Plan, Exception Statements, shall remain in effect and become part of the 2007 Jefferson County Comprehensive Plan.

   Appendix IV of the March, 1981 Jefferson County Comprehensive Plan, Goal 5 Inventory and Significance Determinations, shall remain in effect and become part of the 2007 Jefferson County Comprehensive Plan, but shall be renumbered as Appendix I.

5. **Adoption of New Comprehensive Plan**

   The 2007 Jefferson County Comprehensive Plan is hereby adopted as shown in Exhibit B, attached hereto and incorporated herein by this reference.

6. **Adoption of New Comprehensive Plan Map**

The 2007 Jefferson County Comprehensive Plan map is hereby adopted as shown in Exhibit C, attached hereto and incorporated herein by this reference.

7. **Severability**

The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or exhibit thereto is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.

8. **Effective Date**

The 2007 Jefferson County Comprehensive Plan and Comprehensive Plan Map shall take effect on January 1, 2007.

Dated this 27th day of December, 2006.

BOARD OF COMMISSIONERS:

Walter Ponsford, Commission Chair

Bill Bellamy, Commissioner

Mary Zemke, Commissioner

Attest:

Approved as to form:

Jacki Haggerty, County Counsel

EXHIBIT A

FINDINGS OF FACT AND CONCLUSIONS

1. The proposed action is a legislative amendment to the Comprehensive Plan text and map. Part V, Administrative Procedures of the 1981 Comprehensive Plan, as amended, contains requirements for legislative revisions, which are defined as *"a policy making change in the text or plan map that will have widespread and significant impact throughout the planning area."* Part V states that the following procedures must be followed:

   1. The County Court or Planning Commission may initiate the proposed change.

   2. The citizen and agency involvement programs shall be utilized to stimulate the public interest and participation in the amendment process.

   3. A public hearing shall be conducted by the Planning commission.

   4. Notice to the public as required by the citizen and agency involvement programs shall be provided.

   5. In order to submit a favorable recommendation for the proposed change to the County Court, the Planning Commission shall establish the compelling reasons and make findings of fact for the proposed change. These include:

      A. The proposed change will be in conformance with statewide planning goals.
      B. There is a demonstrated need for the proposed change.

   6. The County Court, upon receipt of the Planning Commission recommendation, may adopt, reject, or modify the recommendations or may conduct a second public hearing on the proposed change.

   7. In all proposed amendment actions, the County Court must make the final decision to adopt or deny the proposed change.

   A. The Board of Commissioners (previously the County Court) initiated the Comprehensive Plan revision process. The citizen involvement program outlined in the 1981 Plan contains the following policies:

      Policy (1-A-1):The County Planning Commission will continue as the Committee for Citizen Involvement.

      (l-A-2): The Planning Commission will maintain an Advisory Committee, representing geographic areas of the County. The Advisory Committee will assist the Planning Commission at update reviews to insure that the Commission is aware of changes in the several

geographic areas of the County.

(1-A-5): *The County Court may consider and adopt changes in the Citizen Involvement Program for the purpose of increasing communications and cooperation between the public and the County government.*

(1-A-6): *The Planning Commission, with the assistance of the Citizens Advisory Committee, will conduct a thorough review of the Comprehensive Plan and Implementing Ordinances at least as often as directed by the Oregon Department of Land Conservation and Development, in order to satisfy the Periodic Review requirements of ORS 197.640.*

B. After conducting a through review of the 1981 Comprehensive Plan, as amended, the Planning Commission determined that major revisions were needed. The Planning Commission held a visioning session in early December, 2005 to consider potential changes which might occur within the County in the next 20 – 50 years, and in following weeks drafted new Comprehensive Plan policies to guide development in a manner that will attain the vision while complying with statewide planning Goals. Upon completion, the first draft of the revised Comprehensive Plan was forwarded to the Citizen Advisory Committee for review. The Citizen Advisory Committee, which was appointed by the Board of Commissioners to assist and review the draft Plan, was made up of members representing various geographic areas in the County and specific areas of interest.[1] The Advisory Committee held two meetings and suggested changes in the draft Plan to the Planning Commission. The Planning Commission considered the changes suggested by the Advisory Committee before scheduling a series of public hearings to take testimony on the draft revised Plan.

C. Notice of the proposal to revise the Plan was sent to all property owners in the unincorporated area of the county in accordance with the requirements of ORS 215.503, and to the following agencies: Oregon Departments of Transportation, Forestry, Aviation, Fish and Wildlife, State Lands, State Parks and Recreation, and Agriculture; Bureau of Land Management; Crooked River National Grassland; US Forest Service; Federal Emergency Management Agency; and all Fire Districts in the county. The Planning Commission held four public hearings, including Saturday hearings at Crooked River Ranch and Camp Sherman, to take public testimony on the draft Plan. The Board of Commissioners held seven public hearings, including hearings at Crooked River Ranch and Camp Sherman, to take public testimony on the Planning Commission's recommended draft Comprehensive Plan. Notice of all public hearings and work sessions before the Planning Commission and Board of Commissioners was published in the Madras Pioneer at least ten days prior to each hearing and work session, in accordance

[1] The Citizen Advisory Committee included representatives from Camp Sherman, the Three Rivers Recreation Area, Crooked River Ranch, the agricultural community, and the Madras Chamber of Commerce.

with ORS 215.060. The draft Comprehensive Plan was posted on the County website prior to the first Planning Commission hearing, hard copies were placed in the County library, Camp Sherman Post Office and Crooked River Ranch Administration building, and copies were available for purchase.

D. The Planning Commission found that there is a demonstrated need, and compelling reasons for the proposed revisions to the Plan because the 1981 Plan contains such outdated information that it is no longer useful as a planning tool, and because it no longer reflects the County's vision for the future. The Planning Commission also found that the draft Comprehensive Plan complied with all applicable statewide planning goals.

E. ORS 215.110(2) states that if an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest. The Board of Commissioners held a total of seven hearings to accept testimony. After meeting to deliberate on five additional days the Board made a number of changes to the draft of the Comprehensive Plan. While all public testimony was considered, not all changes suggested by the public were made. The final adopted Comprehensive Plan incorporates provisions and regulations that are in the best interest of the County and its citizens.

2. Testimony was received that the public had insufficient time to review and comment on the draft Comprehensive Plan. Notice of the proposed revision was mailed to property owners on May 9, 2006. The final opportunity to provide comments and testimony was December 20, 2006. A total of eleven public hearings were held. Copies of the draft Comprehensive Plan were placed at several public locations throughout the County, copies were available for purchase, and the draft could be reviewed on the County website. The Board finds that there was adequate time and opportunity for all concerned citizens to review the draft and provide written or oral testimony.

3. Testimony was received from Gregory McLaren that there was inadequate time to review the modifications that the Board was considering making to the draft Comprehensive Plan recommended by the Planning Commission prior to the final hearing. The Board met for deliberation during Work Sessions on November 29, December 6 and December 13, 2006, before holding a final public hearing to take testimony on the modifications that had been discussed during the deliberation. All of the Work Sessions were properly noticed and were open to the public. Mr. McLaren attended all three Work Sessions. A hard copy of the modifications that had been discussed during the first two Work Sessions was available on December 13. A copy of the draft Comprehensive Plan showing the modifications being considered by the Board, including the modifications discussed at the December 13 Work Session, was placed on the County website on December 15 and was available for review or purchase in the Community Development Department. Mr. McLaren submitted written testimony concerning the modifications that was entered into the record on December 20. The Board concludes that Mr. McLaren was aware of all of the proposed modifications and had the opportunity to submit testimony. Furthermore, since this is a legislative amendment there is no legal

requirement that the public be allowed to testify on modifications the Board decided to make to the Planning Commission's recommended draft Comprehensive Plan.

4. The procedures that were followed in the drafting, review and consideration of the revised Comprehensive Plan comply with statewide planning Goal 1, which requires the opportunity for citizen involvement in all phases of the planning process.

   A. The citizen involvement program outlined in the Comprehensive Plan authorizes the Planning Commission to be the Committee for Citizen Involvement. Planning Commission members represent different geographic areas of the county as well as different areas of interest, such as the agricultural community. Policy 1.2 of the Plan requires that a separate Citizen Advisory Committee be appointed to assist in future reviews or updates of the Plan. Policies 2 through 2.4 outline procedures for citizen involvement in quasi-judicial land use decisions, which will be implemented through Zoning Ordinance regulations.

   B. Testimony was received that the process followed in amending the Comprehensive Plan was flawed because the Camp Sherman Local Advisory Committee (LAC) was not involved in the preparation of the draft Plan. As stated in Appendix I of the 1981 Comprehensive Plan, Camp Sherman Area Local Advisory Committee Plan Appendix, the role of the LAC is to gather citizen input, act as a coordinator for planning matters in the Camp Sherman area, and function as an official advisory group to the County Planning Commission by reviewing all proposed development in the Camp Sherman area and providing a written report and recommendation to the Planning Commission on development applications. The County interprets the role of the LAC as providing input on quasi-judicial land use applications.

   C. In a section titled "Long Range Plan Rivision [sic]," the Camp Sherman Appendix states that proposals for modification of the appendix and the Jefferson County Comprehensive Plan may be initiated by an individual or by the Local Advisory Committee. (In this respect the document is in error by not recognizing that the Jefferson County Board of Commissioners also has the authority to amend, modify or repeal the Appendix.) No further procedures for legislative amendments are included in the Appendix. Consequently, there is no legal requirement for the LAC to be involved in legislative amendments to the text of the county-wide Comprehensive Plan.

   D. The LAC was provided notice of the proposed revisions, all members were provided a copy of the draft Plan free of charge, and all members, as well as the committee as a whole, had adequate opportunity to provide written and oral testimony on the revised Plan. Although some members provided testimony as individuals, no testimony from the LAC was received. The County Community Development Department scheduled a meeting with the LAC on September 13, 2006 in an attempt to obtain specific input on what information from the Camp Sherman Appendix they felt should be included in the revised Plan. Only one member of the committee attended the meeting. Both the Planning Commission

and Board of Commissioners held public hearings in Camp Sherman, and a significant amount of oral and written testimony was received from full and part-time residents of the area. Even if the Camp Sherman Appendix required greater involvement of the LAC in the preparation of the draft Comprehensive Plan, no person has demonstrated that this lack of involvement prejudiced their substantial rights, or the substantial rights of any other resident of the area.

5. Testimony was received that the amendment process was flawed because the County did not provide a summary of all proposed changes, or an analysis of the impacts the proposed changes might have. There is no legal requirement that either an analysis or summary be provided. Citizens had more than five months to review the proposed changes.

6. Testimony was received asserting that the revised Comprehensive Plan is not an amendment or a revision to the 1981 Plan, but instead is the adoption of a new plan, based on notice language indicating that the County was considering repealing the existing Plan and adopting a new Plan. The County asserts that this is merely a matter of semantics. Several portions of the 1981 Plan, including all Goal 5 inventories, inventories of farm and forest lands, and two appendixes, were retained and carried forward into the revised Plan. Since the format of the revised Plan is different than the 1981 Plan, and much of the language was updated and revised, the County found it to be more feasible and logical to repeal the 1981 Plan rather than trying to show all of the proposed revisions in the standard method of striking out language to be deleted and underlining new language.

7. Goal 2 requires that the county have an established planning process so that land use decisions will be based on an adequate factual base, and allows for the revision of the Plan when public needs and desires change or when development occurs at a different rate than contemplated by the plan. The County followed established procedures in considering the Comprehensive Plan revisions. The revised Plan identifies and updates information on agricultural, forest and urban lands, population, and existing development in the County. It carries forward without revision the inventories of Goal 5 resources and the exception statements for nonresource lands from the previous Plan. Each applicable statewide planning Goal is addressed, and policies have been formulated to indicate how the County intends to comply with the Goal. Regulations to implement the Plan policies are contained in the County Zoning Ordinance, Transportation System Plan and County Code, as well as building code and DEQ sanitation regulations.

8. No lands have been rezoned as part of the Comprehensive Plan revision. The previous Comprehensive Plan Map was essentially a zoning map, which had not been amended since 1983. A new, generalized Comprehensive Plan map is being adopted in conjunction with the revised Plan. It shows exclusive farm use land, range land, forest land, rural land, urban and urbanizable land and unincorporated community boundaries, but does not distinguish between different individual zones, several of which may be included within a specific Comprehensive Plan Map designation. For instance, the exclusive farm use Plan designation includes both the Exclusive Farm Use A-1 and Exclusive Farm Use A-2 zones.

9. Testimony was received suggesting that many of the revised Comprehensive Plan policies should be mandatory requirements. The County has chosen to make the policies general guidelines that are not mandatory approval criteria which must be applied in the consideration of applications for development. The Plan policies will be implemented through other more specific County regulations, such as the Zoning Ordinance. This format complies with ORS 197.010(1)(b) and (c), which indicate that comprehensive plans are expressions of public policy that are the basis for more specific rules and land use regulations which implement the policies expressed in the plan; ORS 197.015(6), which indicates that a comprehensive plan is a generalized land use map and policy statement; and Goal 2, which indicates that plans shall be the basis for specific implementation measures such as ordinances, regulations and permits for construction.

10. Goal 3 requires preservation and maintenance of agricultural lands. The County identified and mapped its agricultural and range land as part of the 1981 Comprehensive Plan process. The 1981 Plan was acknowledged in 1985 after several amendments were made to comply with LCDC and Court of Appeals requirements. The revised Plan does not remove any agricultural or range lands from protection under Goal 3.

    Under the previous Comprehensive Plan and Zoning Ordinance, the County chose to be more restrictive than state statute in order to provide greater protection to agricultural land. Although some uses not allowed by the previous Comprehensive Plan and Zoning Ordinance will be allowed under the revised Plan and Zoning Ordinance, the County continues to be more restrictive than ORS 215 in some areas. For instance, lot of record dwellings will be allowed for the first time in all agricultural zones, but nonfarm dwellings will continue to be prohibited in the Exclusive Farm Use A-1 zone, since that is the best farm land in the County. The revised regulations comply with or are more restrictive than ORS 215. There is no legal requirement for the County to continue to be more restrictive than state statute and administrative rules governing uses on agricultural lands.

11. Goal 4 requires conservation of forest lands. The County identified and mapped its forest land as part of the 1981 Comprehensive Plan process. The 1981 Plan was acknowledged in 1985 with no changes to the forest land inventory. The revised Plan does not remove any forest lands from protection under Goal 4.

    Testimony was received that policy 1.2 under Goal 4 of the revised Plan is not consistent with statewide planning Goal 4 because it specifies that forest lands include lands capable of producing 20 cubic feet or more per acre per year of industrial wood. OAR 629-600-0100(26) defines "forest land" as land which is used for the growing and harvesting of forest tree species. Land that is not capable of producing 20 cf/ac/yr has such low productivity that it cannot produce timber at a commercial scale. Land that cannot produce 20 cf/ac/yr is not subject to reforestation requirements under the Oregon Forest Practices Act, OAR 629-610-0010. The USDA Forest Service and USDI Bureau of Land Management do not manage land for timber unless it exceeds a productivity of 20 cf/ac/yr. In *Wetherell v. Douglas County* (LUBA No. 2005-045) LUBA indicated that some measurement of productivity is needed to determine that land is suitable for

commercial forest uses under Goal 4. In *Oregon Shores Conservation Coalition v. Coos County* (LUBA No. 2005-087) there is discussion that both DLCD and the Oregon Department of Forestry recognize that 20 cf/ac/yr is an appropriate measurement of land that is capable of producing timber at a commercial scale. Policy 1.2 also states that other interspersed or adjacent areas which are necessary to permit forest operations or practices, or to maintain soil, air, water and fish and wildlife resources should be included as forest land. This complies with Goal 4.

12. Goal 5 requires protection of natural resources, scenic and historic areas and open spaces. The County completed inventories of Goal 5 resources as part of the 1981 Comprehensive Plan. The inventories of riparian corridors, wetland areas, federal wild and scenic rivers, state scenic waterways and bird habitat were updated in 1997 as part of Periodic Review. Both the 1981 and 1997 inventory work was acknowledged. The revised Comprehensive Plan recognizes that the Goal 5 inventories for several resources, particularly those that have not been revisited since 1981, should be reviewed and updated. However, the County has chosen to delay that work until no later than the next Periodic Review. The County will continue to consider applications for Post Acknowledgement Plan Amendments to add a Goal 5 resource to the Plan inventory when new, site-specific information is available.

A number of persons testified that the County could not amend the Comprehensive Plan without first updating the Goal 5 inventories. The County disagrees. Since the inventories have been acknowledged and have not been altered in the revised Plan, they are in compliance with Goal 5 as a matter of law [see *Urquhart v. Lane Council of Governments,* 80 Or App 176, 721 P2d 870 (1986); *Waugh v. Coos County,* 26 Or LUBA 300, 310 (1983)]. There is no legal requirement to re-inventory any Goal 5 resource as part of the current revision to the Plan, which is a Post Acknowledgement Plan Amendment (PAPA). OAR 660-023-0250(4)[2] states that consideration of a PAPA does not require a local government to revise acknowledged inventories for the resource site or for other Goal 5 sites that are not affected by the PAPA, regardless of whether the inventories or implementing measures were acknowledged under OAR 660-023 or the earlier OAR 660-016. Subsections of OAR 660-023[3] that apply to specific Goal 5 resources either specify that local governments are only required to amend acknowledged Plans to inventory Goal 5 resources at the time of Periodic Review, or refer to OAR 660-023-0250(5), which states that local governments are required to amend acknowledged plan or land use regulations at periodic review to address Goal 5 only when specified conditions apply. Jefferson County is not in Periodic Review, so is not required to update its Goal 5 resource inventories.

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[2] OAR 660-023-0250(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 affecting by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, Division 16."

[3] See OAR 660-023-0090(2), 660-023-0100(2), 660-023-0120(1), 660-023-0130(1), 660-023-0140(2), 660-023-0160(2), 660-023-0170(3), and 660-023-0180(2).

13. OAR 660-023-0250(3)[4] states that in adopting a PAPA, a local government is required to apply Goal 5 only if the PAPA affects a Goal 5 resource. A Goal 5 resource is affected if it 1) "creates or amends a resource list"; 2) creates or amends "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"; or 3) "allows new uses that could be conflicting uses with a particular significant Goal 5 resource site."

A. Regarding 3), the revised Plan does not allow new uses. Uses are specifically authorized in the Zoning Ordinance, which also contains the County's land use regulations to protect significant Goal 5 resources. Compliance of the Zoning Ordinance with Goal 5 is not at issue in the amendment of the Comprehensive Plan.

B. Regarding 1), the only amendments to the resource inventories from the previous Plan are as follows:

- Squaw Creek on the list of streams was changed to Whychus Creek to reflect a change in names made by the state last year.
- Dolly Varden was changed to Bull Trout in the list of fish species to reflect a change in the name of the species.
- The Mineral and Aggregate Inventory was updated to reflect sites that have been added through PAPA applications.
- The Inventory of Historic Resources was added to the revised Plan. Historic resources had been inventoried under Goal 5 in 1981 and had been included in Appendix IV of the 1981 Plan, but had not been included in the main body of the Plan.
- One new Goal 5 resource list was created to recognize the hydroelectric facilities at Round Butte dam, Pelton dam and the Warm Springs reregulating dam as significant Goal 5 resources, as required by OAR 660-023-0190(1)(a), because the facilities were approved by the Federal Energy Regulatory Commission (FERC). Since the regulatory area has not been approved yet by FERC, the County is unable to complete the Goal 5 process of conducting an ESEE analysis and developing a program to meet Goal 5.

These changes are minor and do not trigger the application of Goal 5.

C. Regarding 2), whether the PAPA creates or amends a portion of the previous Plan that was adopted to protect a Goal 5 resource or to address specific requirements

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[4] OAR 660-023-0250(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."

of Goal 5, the following analysis explains how the revised Plan either complies with Goal 5, or does not affect a Goal 5 resource because it does not amend a previous Plan provision that was adopted to protect a resource.

Riparian Corridors and Fish Habitat

Inventories of streams, lakes and other impoundments are unchanged. The 1981 Plan contained a single policy related to protection of fish habitat. Policy (5-H-1) required the Department of Fish and Wildlife to be consulted when proposed land use actions may affect fish habitat. The revised Plan policy 2.1 states that appropriate state and federal agencies and other groups should be notified and given the opportunity to provide comments during the review of development proposals which might affect fish habitat. This will be an expansion of the potential amount of input received from experts and interested groups, which will allow the County to make a more knowledgeable decision on land use applications when fish habitat may be affected.

The 1981 Plan contained a general policy (5-I-6) to protect riparian areas through the establishment of a Riparian Corridor Boundary which shall contain minimum set back requirements. The revised Plan policy 2.2 states that riparian corridor boundaries should be established, with set backs and riparian vegetation protection areas in accordance with the safe harbor provisions of OAR 660-023-0090. The safe harbor provisions will be implemented through Zoning Ordinance regulations. OAR 660-023-0090(8) states that safe harbors may be used in lieu of following the ESEE process requirements of OAR 660-023-0040 and 660-023-0050. Consequently, the County is complying with the Goal 5 requirements for riparian corridors and fish habitat.

Wetlands

The County has not inventoried wetlands. OAR 660-023-0100(6) states that for areas outside urban growth boundaries (UGB), local governments are not required to amend acknowledged plans in order to determine significant wetlands or complete the Goal 5 process. However, OAR 660-023-0100(5) states that the statewide wetland inventory (SWI) or a current version shall be adopted as part of the comprehensive plan or as a land use regulation for purposes of providing notice to the Department of State Lands (DSL) concerning applications for development or land uses affecting wetlands on the inventory. According to DSL, the SWI consists of the National Wetland Inventory (NWI) and local wetland inventories developed by cities. The revised Plan states that the County will rely on the NWI maps. Policy 3 states that DSL should be notified prior to authorization of development within or near a wetland shown on the NWI map. This policy is implemented through Zoning Ordinance regulations in accordance with ORS 215.418. This complies with Goal 5 for areas outside the UGB. For areas inside UGBs, OAR 660-023-0100(2) and (3) require local governments to conduct a local wetlands inventory and complete the Goal 5 process at or prior to the next periodic review. To date, neither the County nor any cities in the County have conducted a local wetlands inventory. Since the County is not in Periodic

Review, it is not required to conduct a local wetlands inventory as part of the Comprehensive Plan revision.

Wildlife Habitat – big game

The revised Plan contains a map of big game winter range areas, which matches the Wildlife Area Overlay zone. The map was generated from Oregon Department of Fish and Wildlife (ODFW) maps. It was adopted in 1993 as an amendment to a big game habitat map that was in the original 1981 Plan.

The previous Plan contained a policy (5-H-1) to establish land use categories which preserve the integrity of wildlife habitat. This policy was implemented with the adoption of Zoning Ordinance regulations for the Wildlife Area Overlay zone. Previous Plan policy (5-H-2) requires ODFW to be consulted with proposed land use actions may affect wildlife habitat. This policy is carried forward in revised Plan policy 4.2, which states that appropriate state and federal agencies, the Confederated Tribes of the Warms Springs Reservation and other groups with an interest in protection of wildlife habitat should be notified and given the opportunity to comment on proposed land use actions that may affect designated wildlife habitat.

Previous Plan policy (5-H-3) requires that fencing not be constructed so as to obstruct migration patterns in areas of deer and elk migration routes such as the Metolius Deer Winter Range. Testimony was received that the County is amending its Goal 5 program because this policy was not carried forward into the revised Plan. The County has not specifically identified or mapped big game migration corridors. However, the Zoning Ordinance does contain standards for fencing in the Wildlife Area Overlay zone. The standards are clear and objective, as required by OAR 660-023-0050(2). Since no migration corridors have been identified or designated as a significant Goal 5 resource, the County has chosen to apply the fencing standards only to the designated big game winter range areas, which are administered through the Wildlife Area Overlay zone. Similarly, previous Plan policy (5-H-4) requires that non-agricultural residential development be limited to specific areas which do not disrupt wildlife migration routes or substantially affect important wildlife values. This policy also is not carried forward to the revised Plan, but is implemented through the Zoning Ordinance regulations for all residential development in the Wildlife Area Overlay zone.

Previous Plan policy (5-H-5) states that no lot size smaller than 160 acres shall be allowed in any big game winter range area. The minimum lot size is a regulation rather than a policy. It is implemented through the Zoning Ordinance, so policy (5-H-5) has not been carried forward to the revised Plan. The Zoning Ordinance was amended to add the Wildlife Area Overlay zone in 1993. The zone required minimum lot sizes of 80 acres in deer winter range areas, 160 acres in elk winter range areas, and 320 acres in the antelope (pronghorn) winter range. These standards were acknowledged at the time, and have remained in effect. Any challenge to whether an 80-acre minimum lot size is appropriate in a deer winter

range area should have been made in 1993. The revised Plan policy 4.1 states that the Wildlife Area Overlay zone should be used to protect the integrity of big game winter range areas.

Wildlife Habitat – bird sites

The inventory of eagle and prairie falcon nesting sites was added to the previous Comprehensive Plan in 1997 as part of Periodic Review. The inventory is carried over into the revised Plan without changes. The previous Plan contained a policy (5-H-7) listing time periods when development is not allowed in order to protect nesting birds. Policy 5.2 in the revised Plan contains the same time periods. The revised Plan contains an additional policy 5.1 requiring that the Program to meet Goal 5 that developed during the Goal 5 process be followed in order to protect the bird nesting areas. This complies with Goal 5.

Federal Wild and Scenic Rivers

The inventory of Federal Wild and Scenic Rivers was carried forward from the previous Plan to the revised Plan, and lists all river segments in the County that have been so designated. OAR 660-023-0120(3) and (4), when read together, state that a local government may delay completion of the ESEE process and program to achieve Goal 5 until prior to or at the first periodic review following adoption of a management plan for the river by the federal government, but shall notify the federal government of proposed development and changes of land use within the river corridor. The County is not in Periodic Review, so may delay completion of the Goal 5 process for wild and scenic rivers in the County. Revised Plan policy 6.2 states the Bureau of Land Management, who is the managing agency for wild and scenic rivers in the County, should be notified of proposed uses within ½ mile of a designated river. This policy is implemented through Zoning Ordinance regulations. This complies with the requirements of OAR 660-023-0120.

State Scenic Waterways

The inventory of State Scenic Waterways was carried forward from the previous Plan to the revised Plan, and lists all river segments in the County that have been so designated. OAR 660-023-0130(3) and (4), when read together, state that a local government may delay completion of the ESEE process and program to achieve Goal 5 until prior to or at the first periodic review following adoption of a management plan for the river by the Oregon Parks and Recreation Commission, but shall notify the Oregon Parks and Recreation Department of proposed development and changes of land use within the river corridor. The County is not in Periodic Review, so may delay completion of the Goal 5 process for state scenic waterways in the County. Revised Plan policy 7.1 requires notification and approval from the Parks and Recreation Department State Scenic Waterways Program prior to issuance of building permits for development within a designated scenic river. This policy is implemented through Zoning Ordinance regulations. This complies with the requirements of OAR 660-023-0130.

Groundwater Resources

OAR 660-023-0140 states that significant groundwater resources are limited to critical groundwater areas and restrictively classified areas designated by the Oregon Water Resources Commission, and wellhead protection areas. There are no significant groundwater resources in the County. Goal 5 does not apply to other groundwater areas, so the County is not required to apply any Goal 5 requirements to groundwater resources as part of this PAPA.

Recreation Trails

OAR 660-023-0150(1) states that "recreation trail" means an Oregon Recreation Trail designated by rule adopted by the Oregon Parks and Recreation Commission (OPRC). The two designated trails in the County are listed on the inventory in both the previous Plan and the revised Plan. The previous Plan contains only a general policy (5-K-1) recognizing the existence of the recreation trail system as a benefit to the public and stating that land use categories established by the plan protect that system. The revised Plan policy 9 also recognizes the importance of established trails, and policy 9.1 states that potential adverse impacts that proposed development would have on recreational trails should be considered in the land use approval process. OAR 660-023-0150(3) states that local governments are not required to amend plans in order to supplement OPRC protection of recreation trails, but if they choose to supplement that protection, the Goal 5 process must be followed. Policy 9.1 is a general policy that is not implemented through any specific regulations in the Zoning Ordinance. Since it only requires consideration of potential impacts, it does not supplement OPRC protection, and the County is not required to follow the Goal 5 process to develop a program to achieve the Goal.

Natural Areas

The Natural Area Inventory was carried forward from the previous Plan to the revised Plan. The inventory was based on the Oregon Natural Areas Data Summary, published in April, 1978. OAR 660-023-0160(1) states that for purposes of Goal 5 "natural areas" are areas listed in the Oregon State Register of Natural Heritage Resources. None of the areas listed in the County inventory are on the state register. Thus the County is not required to apply Goal 5 to the areas listed on the County inventory. The revised Plan also refers to several potential ecologically and scientifically significant areas, such as the Upper Metolius and Suttle Lake areas. Testimony was received that the revised Plan should include these areas, along with other areas in the western quarter of the County, in the Goal 5 inventory, or should complete the Goal 5 process for the sites prior to revising the Plan. None of these areas is listed in the Oregon State Register of Natural Heritage Resources, so no further Goal 5 analysis is required prior to adopting the revised Plan.

Wilderness Areas

There are portions of two wilderness areas in the County, only one of which is listed in the previous Plan. The previous Plan contains policies (5-A-3) supporting continued preservation of the Mt. Jefferson Wilderness, but not

supporting the creation of additional wilderness areas (5-A-4). The revised Plan lists the Mt. Hood Wilderness in addition to the Mt. Jefferson Wilderness as a significant Goal 5 resource. OAR 660-023-0170(4) states that local governments need not complete the Goal 5 process for wilderness areas unless it chooses to provide additional protection. Since the County does not have jurisdiction over these areas, and all land adjoining the wilderness areas is either part of the Warm Springs Reservation or is Deschutes National Forest Land, the County has chosen not to provide any additional protection and the revised Plan does not contain any policies regarding these resources.

Mineral and Aggregate Resources

The Mineral and Aggregate Inventory has been carried forward from the previous Plan, with the addition of the sites that have been added to the inventory through individual PAPA applications. The previous Plan contains a policy (5-B-2) requiring mining operations to comply with DOGAMI regulations. This policy has been implemented through a Zoning Ordinance regulation, so has not been carried forward as a policy in the revised Plan.

Sites #1 - 38 on the Mineral and Aggregate Inventory were designated prior to the adoption of OAR 660-023-0180 and OAR 660-016-030. The Goal 5 process in effect in 1981 was followed, and the inventory was acknowledged as being in compliance with Goal 5. The County found that there were no conflicting uses for any of these sites, and designated them "2-A."[5] The only provision the County adopted to ensure preservation of the sites was previous Plan policy (5-B-1), which stated that the County shall institute land use categories which protect mineral and aggregate sites from encroachment by residential development in order to allow development of these resources. This policy was implemented in 1981 when the County did not zone lands adjacent or near mineral and aggregate sites for residential uses.

OAR 660-023-0180(5)(e) requires that, where mining is allowed, any additional land use review shall not exceed the minimum review necessary to assure compliance with clear and objective requirements to minimize conflicts, shall not provide opportunities to deny mining for unrelated reasons, or attach additional approval requirements. Revised Plan policy 11.2 states that proposals to allow mining at sites that have been found to be significant under OAR 660-023-0180(3) and (5) should be reviewed only for compliance with clear and objective standards.

OAR 660-023-0180(9) states that the procedures and requirements of the rule shall be directly applied to consideration of a PAPA concerning mining authorization unless plan regulations adopted and acknowledged subsequent to

[5] The early Goal 5 procedures used a number and letter system. The first step required a determination of whether there was sufficient information to determine that the site was important based on the location, quantity and quality of the resource. If so, the site was designated 1-C, and an analysis of conflicting uses was required. If no conflicting uses were identified, the site was designated 2-A, and the local government was required to adopt policies and ordinance provisions to ensure preservation of the resource site.

1989 contain specific criteria for consideration of a PAPA proposing to add a site to the list of significant aggregate sites. The previous Plan does not contain any criteria for adding a site to the inventory. The revised Plan also does not contain specific criteria, but policy 11.3 states that the procedures and requirements of OAR 660-023-0180 shall be directly applied.

Energy Sources

The previous Plan does not include an inventory of energy sources. The revised Plan states that the hydroelectric facilities at Round Butte dam, Pelton dam and the Warm Springs reregulating dam are significant Goal 5 resources because they were approved by the Federal Energy Regulatory Commission (FERC). This is required by OAR 660-023-0190(1)(a). However, the management plan and the regulatory boundary for the protection area have not been finalized, so the County is unable to complete the Goal 5 process for the sites.

Historic Resources

The revised Plan carries forward a list of Historic Sites of Special Local Interest from the previous Plan, and also includes an inventory of Historic Resources that had been reviewed under the Goal 5 process as part of the original 1981 Plan. The Goal 5 review sheets for these sites had been included in Appendix IV of that plan, but an actual inventory list had not been incorporated into the main body of the previous Plan. Pursuant to OAR 660-023-0200(7) and (8), the County is not required to apply the ESEE process in order to determine a program to protect historic resources, but should adopt regulations regarding the demolition, removal, or major exterior alteration of all designated historic resources, and must protect all historic resources of statewide significance. These requirements are implemented through Zoning Ordinance regulations.

Open Space

Neither the previous Plan nor the revised Plan contain an inventory of open space, but instead refer to the 450,800 acres, or 39 percent, of the County that is owned by the federal government or other public agencies that is likely to remain as undeveloped open space. Since the revised Plan does not create a resource list for open space or amend a portion of the plan to protect open space resources, it is in compliance with Goal 5.

Scenic Views and Sites

The main body of previous Plan did not include an inventory of scenic views and sites, although Appendix IV of that plan included Goal 5 review sheets for outstanding scenic sites. All of the sites had been determined to be "2-A", with no conflicting uses identified. The revised Plan includes these sites as an inventory of Outstanding Scenic Sites deemed to be significant under Goal 5. The previous Plan contained policies (5-G-1) requiring implementing ordinances to prescribe a canyon rim setback for residential construction, and (5-G-2) prescribing a visual standard for exterior design and surfacing for residential construction within one-half mile of the major rivers in the County. These policies have been implemented through Zoning Ordinance regulations.

The above analysis of each Goal 5 resource shows that the County is either complying with the OAR 660-023 requirements, or is not required to apply Goal 5 to the Plan revision because the PAPA is not creating or amending a resource list or a portion of the previously acknowledged plan provisions for the resource.

14. Testimony was received that the revised Comprehensive Plan decreases protection of Goal 5 resources, particularly in the Metolius Basin. That assertion is incorrect. No designated Goal 5 resources have been removed from the Comprehensive Plan inventories. The Zoning Ordinance will continue to contain regulations to protect Goal 5 resources, in accordance with requirements of OAR 660-023.

The previous Comprehensive Plan contained mandatory policies regarding fencing, minimum lot size and the location of non-agricultural residential development in wildlife habitat areas. Policies in the revised Comprehensive Plan are specifically not mandatory. Land use regulations in the Zoning Ordinance are the means the County will use to comply with Plan policies. Testimony was received that removing the mandatory policies related to wildlife habitat from the previous Plan amends the County's Goal 5 program and cannot be done without an ESEE analysis. Placing the regulations in the Zoning Ordinance rather than leaving them in the Plan does not violate Goal 5 or require and ESEE analysis.

15. Goal 6 aims to maintain and improve the quality of air, water and land resources. The revised Comprehensive Plan complies with the Goal based on policies that require compliance with DEQ air, noise, water and sanitation regulations, and consideration of impacts to surrounding lands when an application to rezone property is submitted.

Testimony was received suggesting that the revised Plan should contain language indicating the obligation to comply with federal and state law related to water quality and the need to adopt regulations relating to Total Maximum Daily Loads for streams in the Deschutes basin that are listed as water quality limited under Section 303(d) of the Federal Clean Water Act. DEQ has not completed the Total Maximum Daily Loads for any county waterway. The County can revise the Comprehensive Plan at a later date if needed to comply with any DEQ requirements related to statewide planning goals, but has no legal requirement as part of the current Plan revision to adopt policies in regards to unknown future requirements of a state agency.

16. Goal 7 is to protect people and property from natural hazards. Applicable natural hazards in Jefferson County for purposes of Goal 7 are floods, landslides, earthquakes and wildfires. The 1981 Comprehensive Plan, as amended, contained policies indicating that the County would adopt a flood hazard protection ordinance, would review proposals for development in areas subject to forest fires to mitigate the hazard, and would require setbacks from canyon rims. The revised Comprehensive Plan contains more specific policies regarding natural hazards, which will be implemented through Zoning Ordinance regulations. For instance, revised Plan policy 2.2 specifies that development should not be permitted in the floodway; policy 2.3 specifies that residences should be elevated at least one foot above the base flood elevation; and policy 4.2 specifies that resource land

should not be rezoned to a rural residential or other nonresource zone unless structural fire protection can be provided. These policies, in combination with regulations in the revised Zoning Ordinance, are intended to provide greater protection from natural hazards than the previous Plan policies and Zoning Ordinance requirements.

Testimony was received that the County should also consider the hazard from volcanoes. This is not a requirement under Goal 7. The County does not have the technical expertise to determine what areas may be at risk from a volcano, and no evidence was submitted to indicate the extent or location of at-risk areas. Conceivably a volcanic eruption could lead to landslides, which are one of the natural hazards recognized by Goal 7. ORS 195.260(4) states that the Department of Geology and Mineral Industries (DOGAMI), in coordination with the Department of Forestry (ODF), shall identify and map areas where further site specific review should occur prior to development being allowed because the area could reasonably be expected to include sites that experience rapidly moving landslides. No such areas have been identified in Jefferson County. ORS 195.260(6)[6] states that the County cannot adopt regulations related to rapidly moving landslides unless it applies to land identified for further review by DOGAMI or ODF.

Goal 7 contains procedures for DLCD to review new hazard information provided by federal and state agencies, after which DLCD will notify the local government if the new information requires a local response. The local government must respond to the new information by amending its comprehensive plan and implementing measures, if warranted, within 36 months of being notified by DLCD of the new information. Jefferson County has not been notified by DLCD that there is any new information available on natural hazards.

17. Goal 8 is to satisfy the recreational needs of citizens and visitors and, where appropriate, to provide for the siting of necessary recreational facilities. The Goal requires the County to meet its recreational needs "(1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quantity, quality and locations as is consistent with the availability of the resources to meet such requirements." The revised Comprehensive Plan describes existing recreational facilities in the County, most of which are on state and federal lands because that is where available resources such as forest land and lakes are located. The revised Plan does not eliminate any recreational resources that were listed or protected under the previous Plan. Policies 1.1 and 2.2 recognize that private recreational development should be permitted when it will not conflict with or have an adverse impact on surrounding lands. This complies with Goal 8 requirements to provide for the siting of recreational facilities.

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[6] ORS 195.260(6): "No state or local agency may adopt or enact any rule or ordinance for the purpose of reducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of land that is in addition to land identified as a further review area by the State Department of Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this section."

ORS 195.250(1): "'Further review area" means an area of land within which further site specific review should occur before land management or building activities begin because either the State Department of Geology and Mineral Industries or the State Forestry Department determines that the area reasonably could be expected to include sites that experience rapidly moving landslides as a result of excessive rainfall.'

18. Goal 9 requires the provision of adequate opportunities for a variety of economic activities, but primarily applies to urban areas.[7] Goal 9 is in part implemented through OAR 660-009. However, revision and amendment of the Plan to comply with OAR 660-009 is only required at the time of Periodic Review unless lands in excess of two acres are being redesignated to or from commercial or industrial.[8] Since Jefferson County is not in Periodic Review, and the revised Comprehensive Plan does not redesignate any land currently planned or zoned for commercial or industrial use to nonindustrial or noncommercial use, it is not subject to the economic opportunities analysis required by Division 9.

    A. Currently there is only one parcel in the County that is zoned for industrial uses. The revised Comprehensive Plan recognizes that additional land may need to be rezoned for industry, and contains policies regarding the appropriate location and measures to mitigate the potential impacts from industrial uses, in accordance with Goal 9 planning guidelines.

    B. There are several areas of the County that allow commercial uses. The revised Comprehensive Plan recognizes that commercial zoning should continue to be allowed in areas that support recreation, or where needed to serve the needs of local residents. The revised Zoning Ordinance contains regulations to ensure that commercial uses remain at a rural scale.

19. Goal 10 requires that sufficient land be provided to meet the housing needs of citizens of the state. However, the goal and administrative rules only require that such lands be provided inside urban growth boundaries and not in unincorporated areas. The revised Comprehensive Plan contains an updated population forecast which was coordinated with and approved by each of the incorporated cities in the County.[9] The forecast is the first step in calculating the amount of buildable land that is needed to meet housing needs, and must be incorporated into the Plan.

20. The Goal 10 section of the revised Plan also contains policy statements of factors which should be considered when proposals are made to rezone lands for rural residential use. Testimony was received that Policy 1 under Goal 10 does not comply with statewide planning goals because it would lead to increased development outside urban areas. Policy 1 states: "Sufficient rural residential land should be provided to meet the need to accommodate population growth and the demand for rural home sites outside city limits."

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[7] "OAR Chapter 660, Division 9 applies only to comprehensive plans for areas within urban growth boundaries.. Additional planning for industrial and commercial development outside urban growth boundaries is not required or restricted by this rule...."

[8] OAR 660-009-0010(2): "Comprehensive plans and land use regulations must be reviewed and amended as necessary to comply with this rule at the time of each periodic review of the plan (ORS 197.712(3))...."
OAR 660-009-0010(4): "Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660-Division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements..."

[9] The population forecast was adopted through a post acknowledgement plan amendment to the 1981 Comprehensive Plan on October 11, 2006. That decision is under appeal (LUBA No. 2006-198).

Policy 1 is similar to Objective (10-B) of the 1981 Comprehensive Plan, which states: "Provide land in residential categories which is adequate to meet the need presented by increasing population." Since Objective (10-B) was acknowledged, carrying it forward into the revised Plan does not violate Goal 10. Additionally, as LUBA indicated in *DLCD vs. Klamath County, [LUBA No. 2002-036],* the Oregon land use planning scheme contemplates that some rural land will be available for homesites.[10] Policy 1 does not mandate that additional lands be rezoned, but recognizes that there is a need for rural residential lots to accommodate population growth in the unincorporated area of the County. Policies 1.2, 2.1, 2.2 and 2.3[11] indicate where such development should occur in order to have the least impact on the agricultural land base and public services. Any proposal to rezone lands for rural residential use will have to comply with all statutory and administrative rule requirements for taking an exception, or show that the land is not subject to Goals 3 and 4. It is unreasonable to assume that applications to rezone land for rural residential use will not be submitted, and the County does not choose to have a no growth policy. Rather, the County recognizes that a segment of the population prefers to live in a rural rather than an urban setting, and the policies under Goal 10 of the revised Plan aim to direct rural residential development to the most appropriate areas.

21. Goal 11 requires planning and development of public facilities and services to serve urban and rural development. The revised Comprehensive Plan describes the various utilities and public services that are available throughout the County, and specifies that in the unincorporated areas of the County facilities and services should remain at levels appropriate for rural rather than urban uses. This complies with Goal 11.

22. Goal 12 requires the provision of a safe, convenient and economic transportation system. The revised Comprehensive Plan gives a brief overview of transportation facilities in the County, but the primary means of complying with Goal 12 will be through the Transportation System Plan. The Transportation System Plan, along with implementing measures in the revised Zoning Ordinance and Jefferson County Code, are being adopted separately. The draft Transportation Plan is currently being reviewed at public hearings, and should be adopted in the first part of 2007.

23. Goal 13 is to conserve energy by managing and controlling land and development so as to maximize the conservation of all forms of energy. The revised Comprehensive Plan

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[10] See e.g., Goals 3, 4, and 10; the definition of "Rural Lands" in the statewide Planning Goals; ORS 215.284; ORS 215.705; OAR 660-033-0130; OAR 660-004-0040.

[11] Policy 1.2: Sufficient rural residential land should be provided to meet the need to accommodate population growth and the demand for rural home sites outside city limits.

Policy 2.1: Whenever possible, irrigated farm land should not be rezoned for rural residential development. Nonirrigated farm land or range land is more appropriate for rezoning, provided there will be no significant impact to nearby farming operations.

Policy 2.2: Whenever possible, areas proposed to be rezoned for rural residential development should be located near or adjacent to existing rural residential development, but should not be in a location where a city is likely to expand unless the minimum lot size will be ten acres or larger. Divisions of rural residential land near a city should include a shadow plat to show how the land can be efficiently redeveloped at an urban scale if annexed.

Policy 2.3: Areas proposed to be rezoned for rural residential development should have adequate water, road access, law enforcement, fire protection and schools.

contains policies to consider the conservation of energy when an application is submitted to rezone property, primarily by reducing energy used in transportation. This complies with Goal 13.

24. Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries (UGBs), to ensure efficient use of land, and to provide for livable communities. The revised Comprehensive Plan contains policies limiting urban uses to areas inside UGBs, provides maps showing existing UGBs, and describes the process and requirements for expanding the UGB. The revised Plan also contains a discussion and policies related to the unincorporated communities within the County.

25. Testimony was received that Camp Sherman, which is an unincorporated community classified in the revised Plan as a "resort community", should instead be classified as a "rural community." OAR 660-022-0010(6) defines "resort community" as "an unincorporated community that was established primarily for and continues to be used primarily for recreation or resort purposes, and (a) includes residential and commercial uses; and (b) provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations." OAR 660-022-0010(7) defines "rural community" as "an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area." Camp Sherman was established when Sherman County farmers came to the area to vacation, camp and fish in the fall. It contains a variety of overnight accommodations such as lodges, RV parks, cabins on US Forest Service land and campgrounds on land zoned Camp Sherman Vacation Rentals; contains commercial uses including a general store and restaurant on land zoned Camp Sherman Rural Center; and includes residential areas zoned Camp Sherman Rural Residential. Most of the dwellings were originally used as vacation cabins or second homes. Although the number of permanent residents has increased over the years, the area continues to be used primarily for recreation and resort purposes rather than consisting "primarily of permanent residential dwellings." In order to verify this, an analysis was done to determine the number of permanent residences versus the number of vacation residences. Based on Assessor's data, there are approximately 300 tax lots in the Camp Sherman Rural Residential zones. 189 of these lots contain residential improvements. 67, or 35 percent, of the developed lots have a property owner whose mailing address for receiving tax statements is in Camp Sherman. It is reasonable to assume that most property owners reside at the mailing address where they receive tax statements. Since the majority of the property owners do not receive tax statements at a Camp Sherman mailing analysis, this indicates that the majority of the residences in Camp Sherman are vacation homes rather than permanent residences. Taken together with the amount of land in the Vacation Rentals and Rural Center zones that is developed for recreational and resort purposes, Camp Sherman should continue to be classified as a "resort community."

Testimony was received that all or part of Crooked River Ranch, which is an unincorporated community classified in the revised Plan as a "rural community" should

be designated an "urban unincorporated community." OAR 660-022-0010(9)[12] specifies that an urban unincorporated community must include areas served by a community sewer system. There is no community sewer system at Crooked River Ranch, so the designation should remain "rural community."

26. Appendix 1, Camp Sherman Area Local Advisory Committee Plan Appendix, from the 1981 Plan was repealed and not included in the revised Comprehensive Plan. Testimony was received that the appendix should not be repealed. The appendix had not been amended since being adopted as part of the 1981 Comprehensive Plan, so contained very dated information. It contained a history and description of the Camp Sherman area, but much of the information was not relevant to land use planning in the 21st century. In addition, the appendix incorporated procedures for the review of development applications, which the County feels should be in the Zoning Ordinance rather than the Plan.

The County has chosen to have a general comprehensive plan with goals and policies to govern the entire county, rather than have individual plans for different geographic areas. The uniqueness of different areas of the county, and the different values and desires of residents regarding development in each area, are recognized by the use of different zones with different land use regulations for each area. Crooked River Ranch, the Three Rivers Recreation Area and Camp Sherman each have unique zones that allow different uses and contain different regulatory requirements than the other zones. The County carefully reviewed the appendix, and incorporated all relevant information into the revised Comprehensive Plan.

27. Testimony was received asserting that the revised Comprehensive Plan must include an economic analysis of the costs of growth, and address how the County will budget for and fund public and emergency services for new development. The County is unaware of any legal requirement to complete such an analysis.

CONCLUSIONS

1. The Comprehensive Plan needs to be revised because it is outdated and no longer reflects the County's vision for the future.

2. Substantial opportunity for citizen input on the proposed revision to the Plan was provided both through the Citizen Advisory Committee and public hearings.

3. The revised Comprehensive Plan complies with statewide planning Goals 1 through 14, state statutes and Administrative Rules.

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[12] OAR 660-022-0010(9): "'Urban Unincorporated Community" is an unincorporated community which has the following characteristics:
- (a) Include at least 150 permanent residential dwelling units;
- (b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;
- (c) Includes areas served by a community sewer system; and
- (d) Includes areas served by a community water system.