



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

11/23/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Independence Plan Amendment  
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, December 08, 2011

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 Acknowledgment or 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 above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Shawn Irvine, City of Independence  
Angela Lazarean, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative

Thomas Hogue, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

**DATE STAMP**

**DEPT OF**

**NOV 18 2011**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **City of Independence**

Local file number: **CPA/ZC-01-2011**

Date of Adoption: **11/8/2011**

Date Mailed:

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amended the Comprehensive Plan Map designation from Industrial to Commercial and changed zoning from Light Industrial (IL) to Mixed Use Pedestrian Friendly Commercial (MUPC) on a 3.16 acre parcel within the city of Independence.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: **Industrial**

to: **Commercial**

Zone Map Changed from: **Light Industrial**

to: **Mixed Use Pedestrian Friendly Comm.**

Location: **4770 Independence Hwy., Independence**

Acres Involved: **3**

Specify Density: Previous: **0**

New: **0**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Dept. of Transportation  
Polk County

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Local Contact: **Michael Danko**

Phone: **(503) 838-1212** Extension:

Address: **PO Box 7**

Fax Number: **503-606-3282**

City: **Independence**

Zip: **97351-**

E-mail Address: **danko.michael@ci.independence.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE  
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending the Comprehensive ]  
Plan Designation and Zoning Map for the ]  
Dean Property, Located at 4770 ] COUNCIL BILL #2011-03  
Independence Hwy., Tax Lot No. 8421 B 2000 ]

**ORDINANCE NO. 1498**

**WHEREAS**, the subject property, located at 4770 Independence Hwy., Tax Lot No. 8421 B 2000, is within the city limits of the City of Independence (Property), and

**WHEREAS**, after holding a public hearing and adopting findings at the November 8, 2011 City Council meeting, the City Council approved to amend said Property's Comprehensive Plan designation from Industrial to Commercial, and rezone Property from Light Industrial (IL) to Mixed Use Pedestrian Commercial (MUPC), **NOW, THEREFORE**,

**THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:**

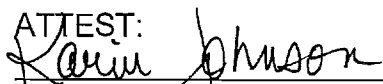
**Section 1. Findings.** The City of Independence hereby adopts the findings of the Staff Report as set forth in Exhibit "A", attached hereto and by this reference incorporated herein.

**Section 2. Property Description.** The Property to be redesignated and rezoned is described in Exhibit "B", attached hereto and by this reference incorporated herein.

**Section 3. Property Rezoned.** The Property's Comprehensive Plan designation of Industrial is hereby amended to Commercial, and is hereby rezoned from Light Industrial (IL) to Mixed Use Pedestrian Commercial (MUPC), as illustrated in Exhibit B. All official maps of the City are hereby amended to conform to the changes made by this ordinance.

READ for the first time: November 8, 2011  
READ for the second time: November 8, 2011  
APPROVED by Council: November 8, 2011  
SIGNED by the Mayor: November 8, 2011  
EFFECTIVE DATE: December 8, 2011

  
\_\_\_\_\_  
JOHN McARDLE, MAYOR

ATTEST:  
  
\_\_\_\_\_  
Karin Johnson, MMC  
City Recorder



## CITY OF INDEPENDENCE

### COMMUNITY DEVELOPMENT DEPARTMENT

#### STAFF REPORT

**TO:** Independence City Council

**FILE:** CPMA/ZC-01-11

**HEARING:** November 8, 2011, 7:30 pm,  
City Council Chambers, 555 S. Main Street

**APPLICANT:** City of Independence  
P.O. Box 7  
Independence, OR 97351

**SUBJECT  
PROPERTY:** Section 21B, Township 8 South, Range 4 West Willamette  
Meridian. Tax Map 8.4.21CA Lot 2000 (located at 4770  
Independence Highway)

**EXHIBITS:** EXHIBIT A Assessor map  
EXHIBIT B Application materials  
EXHIBIT C Site Plan  
EXHIBIT D Aug. 1, 2011 Planning Commission Minutes (draft)

#### REQUEST:

The applicant is requesting approval to amend the Comprehensive Plan designation from Light Industrial (IL) to Mixed Use Pedestrian Friendly Commercial (MUPC) and change the zoning from Light Industrial (IL) to Mixed Use Pedestrian Friendly Commercial (MUPC).

## **PROCEDURE:**

Pursuant to Subchapter 11 of the Independence Development Code (IDC), Comprehensive Plan Map Amendments and Zone Changes are processed as a Type III quasi-judicial application.

Comprehensive Plan Amendments and Zone Changes are processed under Subchapter 12. The application was initiated by Council Resolution No. 10-1274, submitted on June 17, 2011 and the application was determined complete on July 11, 2011. Notice was properly mailed under 11.015.C and 11.025.A to surrounding property owners on July 11, 2011 and published in the Itemizer Observer. Notice was also provided to the Department of Land Conservation and Development, Department of Transportation, Independence Public Works, and Community Development Director.

The City has until **November 11, 2011** (120 days from acceptance of the application) to approve, conditionally approve, or deny the application.

Per 12.015, the Planning Commission held a public hearing on August 1, 2011 and forwarded its recommendation to the City Council that the application be approved. IDC 12.020 states that the City Council must follow the Planning Commission's recommendation unless "a preponderance of the evidence" indicates a different conclusion.

## **APPEAL:**

Appeal of the City Council's final decision is to the Land Use Board of Appeals (LUBA).

## **BACKGROUND:**

The subject property is approximately 2.66 acres in size and is zoned Light Industrial (IL). The property is developed with two industrial buildings and a single family residential home. Properties to the north and south are zoned IL and developed as an excavation company's offices and a truck parts wholesaler. The adjacent property to the west across Highway 51 is zoned Heavy Industrial (IH) and is vacant except for small farm buildings. The adjacent property to the east is zoned Single Family Residential (RS) and Public Service (PS) and is being developed for recreational use.

The applicant is requesting approval to rezone the subject property from Light Industrial (IL) to Mixed-Use Pedestrian Friendly Commercial (MUPC). The subject property would be adjacent to the location of an access road which would serve the new boat ramp, ballfields and residential and commercial developments proposed on the property to the east. The property owner has indicated his intent to develop his property for additional commercial use as the property to the east develops, however he has no firm plans at this time. A site plan has been provided by staff under Exhibit C, and a photograph of the site is included as Exhibit D.

The northern portion of the property is vacant and would be the site of any new development. Light industrial uses are permitted in the MUPC Zone outside the downtown overlay, and the property owner would continue the light industrial uses for the foreseeable future. The existing building locations do not allow the property owner to meet the front yard setbacks, or location of parking to the side or rear of the commercial structure as required under the MUPC zone.

However, Independence Development Code (IDC) Section 33.030.A states that, except for new construction or remodels costing more than 60 percent of the existing building's assessed true cash value, the Community Development Director may waive any of the standards demonstrated to be impracticable. In addition, IDC 80.20.A states, existing commercial developments that do not expand by more than 25% or commercial remodels that do not intensify the use of the property by increasing the number of customers or traffic to the site are exempt from Site Development Review.

The proposed zone change is part of an agreement between the City and property owner which allows the City to acquire right of way necessary for access to the planned ballfield development. The City previously rezoned 0.5 acres of the subject property to MUPC, however the agreement specified rezoning of the entire 3.16 acres.

The site has access from Highway 51. Future use of the site is subject to conformance with the City Comprehensive Plan and Municipal Code, including:

**APPLICABLE APPROVAL CRITERIA:**

Independence Development Code, Subchapter 12.025 and 12.030.

**ANALYSIS OF APPLICABLE APPROVAL CRITERIA:**

**Subchapter 12 Zone Changes and Plan Amendments**

**12.025 Standards for Zone Changes**

*No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, at least one of the following standards is met:*

**Findings:** Compliance with the Comprehensive Plan, Transportation System Plan, and statewide land use goals must be met.

**Analysis:** The State of Oregon has adopted statewide land use goals which comprehensive plan map amendment decisions must adhere to. Comprehensive Plan map amendments must comply with the applicable statewide planning goals and implementing regulations. To approve the application, the City Council must find the information shows compliance with the applicable statewide goals. Part of this decision is determining which statewide goals are applicable. Staff believes that, at a minimum, statewide planning Goal 1- Citizen Involvement, Goal 9-Economic Development, and Goal 12-Transportation are applicable to this approval.

Goal 1, Citizen Involvement- The application was received by the City on June 17, 2011 and the application was determined complete on July 11, 2011. Notice was mailed to property owners within 250 feet on July 11, 2011 and published in the Itemizer Observer. Notice was also provided to the Department of Land Conservation and Development, Department of Transportation, Independence Public Works, and Community Development Director. Staff finds this goal has been met.

Goal 9, Economic Development- The subject property is approximately 2.66 acres. The 2005 Buildable Lands Inventory (BLI) and Comprehensive Plan Update identify a Commercial job density of approximately 23 jobs per net acre, contrasted with an industrial job density of 15.1 per net acre. Under the MUPC zone, the subject property is estimated to accommodate 61 jobs – 21 more than would be accommodated by an IL zone. While the proposed zone change would remove 2.66 acres from the industrial land inventory, the BLI identifies that approximately 1/3 of the commercial service land need would be met by industrially-zoned land. The property is already developed with functioning light industrial uses which would also be considered permitted uses in an MUPC zone. Given the flexibility of the MUPC zone and the relatively small size of the property, staff finds that the new zoning would not impact the City's buildable industrial land inventory.

Goal 12, Transportation- The state Transportation Planning Rule (TPR) applies on comprehensive plan amendments or land use regulations that would significantly affect an existing or planned transportation facility. The property does have access from and abuts Highway 51. Notice of the application was provided to the Department of Transportation. According to the Trip Generation Manual (7<sup>th</sup> Edition, Institute of Transportation Engineers), light industrial uses account for 51.1 trips per day per acre, or 135 trips per day to the subject property. The site is developed for light industrial use, which limits the potential future uses of the site. Light industrial would be the highest or most intensive use for the site, generating 135 trips per day. Staff finds this does not account for a significant impact upon Highway 51.

Staff finds consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.

The City has adopted a comprehensive plan which guides the City's decisions for comprehensive plan map amendments. To amend a designation on the comprehensive plan map it must be found that the change is consistent with the applicable goals and policies in the plan. The applicant has not submitted information describing how the application complies with the applicable goals of the plan. To recommend approval to the City Council, the Commission must find that the information the applicant provided shows compliance with the applicable comprehensive plan goals and policies. Part of this decision is determining which goals and policies are applicable in this case. Staff believes that, at a minimum, the goals and policies dealing with the economy of the City, and transportation are applicable to this approval. Given the small size of the site, staff finds the application does not substantially affect the City's goals and policies.

Staff finds the zone change conforms to the Comprehensive Plan.



A. *The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;*

**Findings:** Staff finds this criterion does not apply.

B. *Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;*

**Findings:** Staff finds this criterion does not apply.

C. *There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.*

**Findings:** Staff finds this criterion applies.

When the City recently expanded its UGB and updated its Comprehensive Plan (LA 01-09 adopted January 2009) staff completed a buildable lands analysis to determine how much land the city needed in order to meet future growth demands. The buildable lands analysis indicated a need for additional commercial land to meet future demand. The Council chose to meet this need by expanding the downtown core and moved to rezone approximately 7.9 acres of residential and industrial property to commercial use. However, when the Council moved to adopt the Comprehensive Plan update, they chose not to rezone approximately 3.18 acres of property owned by the J.R. Simplot Co. The identified need for 3.18 acres of commercial went unmet. A previous zone change associated with this property rezoned 0.5 acres to MUPC, addressing a portion of the unmet commercial land need. The proposed zone change for 2.66 acres of property to Mixed-Use Pedestrian-Friendly Commercial (MUPC) would meet the remaining commercial land need identified by the buildable lands analysis.

The proposed North Riverfront recreational development to the east will also create additional demand for certain types of commercial uses. These uses would best be provided in close proximity to the ballfields and boat ramps. The Council has repeatedly indicated their desire for the downtown to be the city's commercial center, and that other commercial developments should not detract from the downtown's commercial vitality. The proposed zone change would create a peripheral commercial zone which would support future development and users of the park and boat ramp. While no development proposal has been submitted to date, the small scale of the potential commercial development would not detract from the downtown's overall precedence as the commercial center of town. Staff finds that the proposed zone change will meet a public need for additional commercial land.

### 12.030 Standards for Plan Amendment

*No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:*

*A. The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;*

*B. Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;*

*C. There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.*

**Findings:** The discussion and finding for 12.025 (A), (B), and (C), above, are hereby incorporated by reference.

### **FINDINGS OF FACT/CONDITIONS OF APPROVAL:**

#### Summary:

- 1) The subject property is: Section 21B, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 2000, Map 8.4.21 B.
- 2) The owner of record is: John J. Dean, 120 Monroe St. Eugene, Oregon.
- 3) The property is currently within city limits and has a current Comprehensive Plan designation and zoning of Light Industrial (IL).
- 4) The application meets the standards for approval found in: Subchapter 12.
- 5) The property is not subject to a Site Development Review application under IDC Section 33 or Section 80.
- 6) The property is subject to approval by City Independence Public Works in regards to Title 13- Public Works of the Independence Municipal Code. See Exhibit E.

### **CONCLUSIONS/RECOMMENDATIONS:**

Based on the findings in this report, staff finds the application (File #CPMA/ZC-01-11) meets the requirements for Comprehensive Plan Map Amendment and Zone Change found in Subchapter 12 of the Independence Development Code. Staff recommends that the City Council **approve** this application (File #CPMA/ZC-01-11) with the conditions of approval outlined above.

**Comprehensive Plan Map Amendment/Zone Change 01-2011**

City Council Action Options:

- A. A motion to approve Comprehensive Plan Map Amendment/Zone Change 01-2011:
  - 1. As recommended by staff; or
  - 2. As further conditioned by the City Council (stating any revisions).
  
- B. Take no action

Shawn Irvine  
Economic Development Director

EXHIBIT A

Beginning at a point on the Easterly right of way line of State Highway 51, said point bears South 89°46' West 129.52 feet and North 0°25' East 156.00 feet and North 0°23'17" East 5.16 feet and North 0°14'35" East 160.01 feet and North 0°32'07" West 117.00 feet and North 1°17'02" West 39.92 feet and South 89°46' West 10.00 feet and North 2°01'58" West 79.60 feet and North 2°48'39" West 30.56 feet and North 4°05'06" West 140.62 feet and North 7°01'37" West 254.69 feet and North 9°14'50" West 44.68 feet and North 9°59" West 85.30 feet from a 4" x 4" concrete post marking the Northeast corner of the E.A. Thorpe Donation Land Claim, Township 8 South, Range 4 West, Willamette Meridian, Polk County, Oregon, and running thence;

Northerly along said Easterly right of way line as follows: along the arc of a spiral 30 feet from the centerline of said State Highway, the long chord bears 11°50'30" West 346.25 feet, and North 12°35'15" West 117.97 feet to a 1/2" iron pipe on the Northerly boundary line of that tract of land described in Volume 217, Page 828, Polk County Records of Deeds:

Thence North 89°34'27" East 317.10 feet along said Northerly boundary line to a 5/8" iron rod with aluminum cap;

Thence Southerly parallel to said Easterly right of way line as follows: South 12°35'15" East 51.15 feet, and along the arc of a spiral, the long chord bears South 11°28'13" East 402.54 feet;

Thence South 87°46'05" West 312.91 feet to the point of beginning.

JOHN J. DEAN  
346 MANSFIELD  
SPRINGFIELD, OR 97477

10/10



# CITY OF INDEPENDENCE

## COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**TO:** Independence City Council

**FILE:** CPMA/ZC-01-11

**HEARING:** November 8, 2011, 7:30 pm,  
City Council Chambers, 555 S. Main Street

**APPLICANT:** City of Independence  
P.O. Box 7  
Independence, OR 97351

**SUBJECT  
PROPERTY:** Section 21B, Township 8 South, Range 4 West Willamette  
Meridian. Tax Map 8.4.21CA Lot 2000 (located at 4770  
Independence Highway)

**EXHIBITS:** EXHIBIT A Assessor map  
EXHIBIT B Application materials  
EXHIBIT C Site Plan  
EXHIBIT D Aug. 1, 2011 Planning Commission Minutes (draft)

### REQUEST:

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Per 12.015, the Planning Commission held a public hearing on August 1, 2011 and forwarded its recommendation to the City Council that the application be approved. IDC 12.020 states that the City Council must follow the Planning Commission's recommendation unless "a preponderance of the evidence" indicates a different conclusion.

## **APPEAL:**

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## **BACKGROUND:**

The subject property is approximately 2.66 acres in size and is zoned Light Industrial (IL). The property is developed with two industrial buildings and a single family residential home. Properties to the north and south are zoned IL and developed as an excavation company's offices and a truck parts wholesaler. The adjacent property to the west across Highway 51 is zoned Heavy Industrial (IH) and is vacant except for small farm buildings. The adjacent property to the east is zoned Single Family Residential (RS) and Public Service (PS) and is being developed for recreational use.

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The northern portion of the property is vacant and would be the site of any new development. Light industrial uses are permitted in the MUPC Zone outside the downtown overlay, and the property owner would continue the light industrial uses for the foreseeable future. The existing building locations do not allow the property owner to meet the front yard setbacks, or location of parking to the side or rear of the commercial structure as required under the MUPC zone.

However, Independence Development Code (IDC) Section 33.030.A states that, except for new construction or remodels costing more than 60 percent of the existing building's assessed true cash value, the Community Development Director may waive any of the standards demonstrated to be impracticable. In addition, IDC 80.20.A states, existing commercial developments that do not expand by more than 25% or commercial remodels that do not intensify the use of the property by increasing the number of customers or traffic to the site are exempt from Site Development Review.

The proposed zone change is part of an agreement between the City and property owner which allows the City to acquire right of way necessary for access to the planned ballfield development. The City previously rezoned 0.5 acres of the subject property to MUPC, however the agreement specified rezoning of the entire 3.16 acres.

The site has access from Highway 51. Future use of the site is subject to conformance with the City Comprehensive Plan and Municipal Code, including:

**APPLICABLE APPROVAL CRITERIA:**

Independence Development Code, Subchapter 12.025 and 12.030.

**ANALYSIS OF APPLICABLE APPROVAL CRITERIA:**

**Subchapter 12 Zone Changes and Plan Amendments**

**12.025 Standards for Zone Changes**

*No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, at least one of the following standards is met:*

**Findings:** Compliance with the Comprehensive Plan, Transportation System Plan, and statewide land use goals must be met.

**Analysis:** The State of Oregon has adopted statewide land use goals which comprehensive plan map amendment decisions must adhere to. Comprehensive Plan map amendments must comply with the applicable statewide planning goals and implementing regulations. To approve the application, the City Council must find the information shows compliance with the applicable statewide goals. Part of this decision is determining which statewide goals are applicable. Staff believes that, at a minimum, statewide planning Goal 1- Citizen Involvement, Goal 9-Economic Development, and Goal 12-Transportation are applicable to this approval.

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The City has adopted a comprehensive plan which guides the City's decisions for comprehensive plan map amendments. To amend a designation on the comprehensive plan map it must be found that the change is consistent with the applicable goals and policies in the plan. The applicant has not submitted information describing how the application complies with the applicable goals of the plan. To recommend approval to the City Council, the Commission must find that the information the applicant provided shows compliance with the applicable comprehensive plan goals and policies. Part of this decision is determining which goals and policies are applicable in this case. Staff believes that, at a minimum, the goals and policies dealing with the economy of the City, and transportation are applicable to this approval. Given the small size of the site, staff finds the application does not substantially affect the City's goals and policies.

Staff finds the zone change conforms to the Comprehensive Plan.



A. *The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;*

**Findings:** Staff finds this criterion does not apply.

B. *Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;*

**Findings:** Staff finds this criterion does not apply.

C. *There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.*

**Findings:** Staff finds this criterion applies.

When the City recently expanded its UGB and updated its Comprehensive Plan (LA 01-09 adopted January 2009) staff completed a buildable lands analysis to determine how much land the city needed in order to meet future growth demands. The buildable lands analysis indicated a need for additional commercial land to meet future demand. The Council chose to meet this need by expanding the downtown core and moved to rezone approximately 7.9 acres of residential and industrial property to commercial use. However, when the Council moved to adopt the Comprehensive Plan update, they chose not to rezone approximately 3.18 acres of property owned by the J.R. Simplot Co. The identified need for 3.18 acres of commercial went unmet. A previous zone change associated with this property rezoned 0.5 acres to MUPC, addressing a portion of the unmet commercial land need. The proposed zone change for 2.66 acres of property to Mixed-Use Pedestrian-Friendly Commercial (MUPC) would meet the remaining commercial land need identified by the buildable lands analysis.

The proposed North Riverfront recreational development to the east will also create additional demand for certain types of commercial uses. These uses would best be provided in close proximity to the ballfields and boat ramps. The Council has repeatedly indicated their desire for the downtown to be the city's commercial center, and that other commercial developments should not detract from the downtown's commercial vitality. The proposed zone change would create a peripheral commercial zone which would support future development and users of the park and boat ramp. While no development proposal has been submitted to date, the small scale of the potential commercial development would not detract from the downtown's overall precedence as the commercial center of town. Staff finds that the proposed zone change will meet a public need for additional commercial land.

### 12.030 Standards for Plan Amendment

No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:

- A. *The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;*
- B. *Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;*
- C. *There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.*

**Findings:** The discussion and finding for 12.025 (A), (B), and (C), above, are hereby incorporated by reference.

#### **FINDINGS OF FACT/CONDITIONS OF APPROVAL:**

##### Summary:

- 1) The subject property is: Section 21B, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 2000, Map 8.4.21 B.
- 2) The owner of record is: John J. Dean, 120 Monroe St. Eugene, Oregon.
- 3) The property is currently within city limits and has a current Comprehensive Plan designation and zoning of Light Industrial (IL).
- 4) The application meets the standards for approval found in: Subchapter 12.
- 5) The property is not subject to a Site Development Review application under IDC Section 33 or Section 80.
- 6) The property is subject to approval by City Independence Public Works in regards to Title 13- Public Works of the Independence Municipal Code. See Exhibit E.

#### **CONCLUSIONS/RECOMMENDATIONS:**

Based on the findings in this report, staff finds the application (File #CPMA/ZC-01-11) meets the requirements for Comprehensive Plan Map Amendment and Zone Change found in Subchapter 12 of the Independence Development Code. Staff recommends that the City Council **approve** this application (File #CPMA/ZC-01-11) with the conditions of approval outlined above.

## **Comprehensive Plan Map Amendment/Zone Change 01-2011**

### City Council Action Options:

- A. A motion to approve Comprehensive Plan Map Amendment/Zone Change 01-2011:
  - 1. As recommended by staff; or
  - 2. As further conditioned by the City Council (stating any revisions).
  
- B. Take no action

Shawn Irvine  
Economic Development Director

# Subject Site Map

City of Independence

taxlot09

Map Taxlot  
8421B0 2000

ACCOUNT\_ID  
305413

Owner  
DEAN JOHN J

Mailing Address  
120 MONROE

City  
EUGENE

State  
OR

Zip  
97402

Primary Situs  
4770 INDEPENDENCE HWY INDEP..

Acres  
3.16

Situs

Taxcode

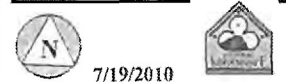
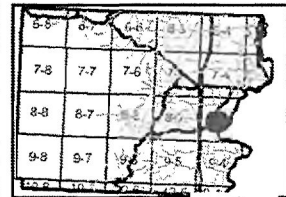
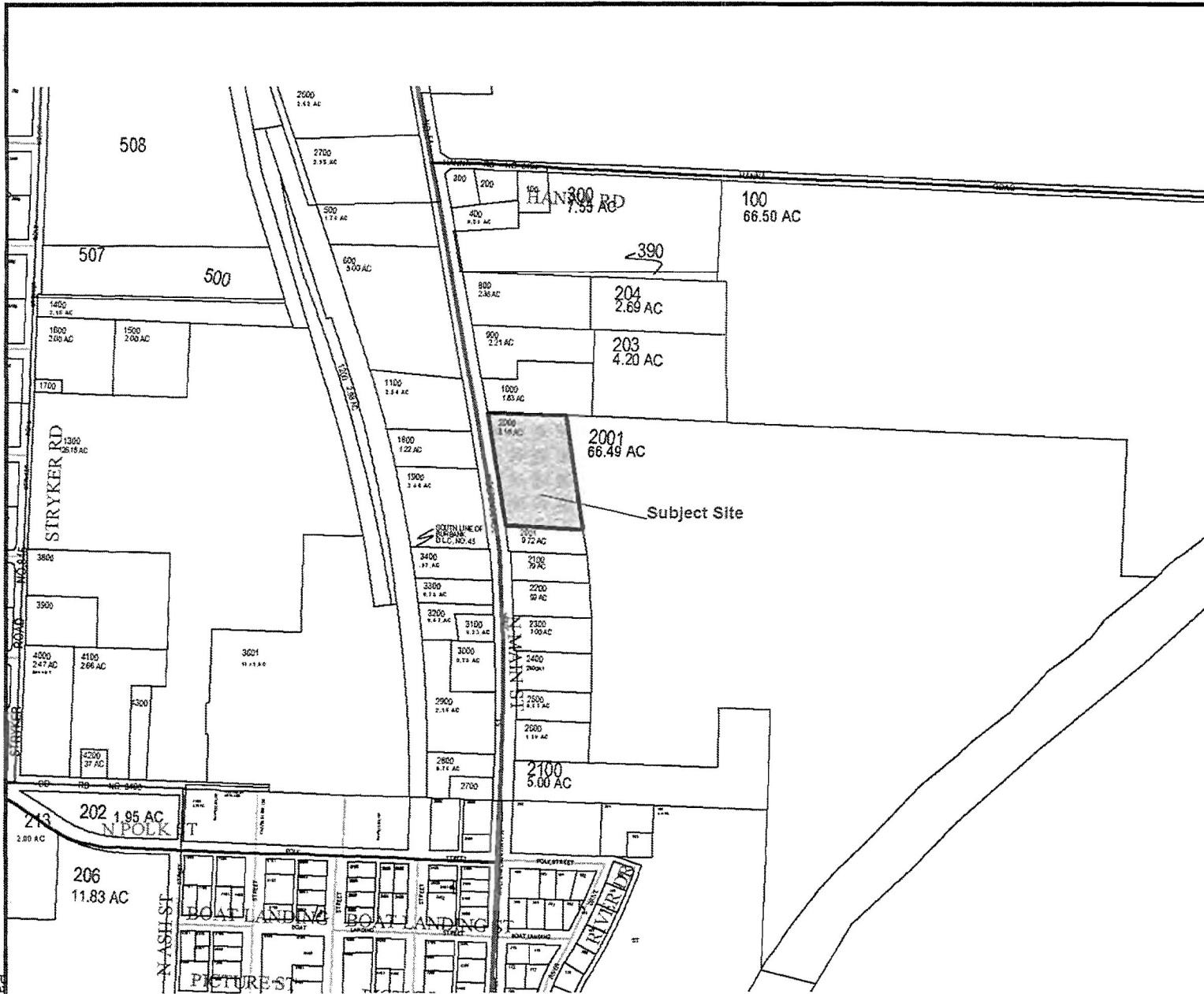
Legal

Lot-Block-Subdivision

Improvements

Special Interest Account

Notations



7/19/2010

1 in. = 551 ft.

Page 30

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STAFF REPORT EXHIBIT A



**CITY OF INDEPENDENCE**  
 Community Development Department  
 240 Monmouth Street  
 Independence, OR 97351  
 503.838.1212

STAFF REPORT/EXHIBIT B  
 File No. 20-01-2011  
 Date Rec'd/Rec. # 6/17/11  
 APPLICATION FEE: \_\_\_\_\_  
 NOTICE FEE: \$ 60.00  
 TOTAL: \_\_\_\_\_

**APPLICATION FOR TYPE III/IV LAND USE ACTION**

Applicant Name: City of Independence

Address: P.O. Box 7

Independence, OR 97351 Phone: 503-838-1212

*If the Applicant is not the owner of record of the subject property, written authorization from the owner to act as his/her agent must be provided.*

SUBJECT PROPERTY DESCRIPTION: 8.4, 21 B 2000  
Assessor's Map No. Tax Lot  
4770 Independence Hwy  
Street Address

PROPERTY OWNER OF RECORD: Name: John A. Dean

Address: 120 Monroe, Eugene, OR 97402

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

**APPLICATION FOR:**

Type III Action:	Fee: (+\$60 Notice Fee)	Type IV Action*:	Fee: (+ \$60 Notice Fee)
<input type="checkbox"/> Annexation <i>Attach annexation petition to this application</i>	\$175; \$500 w/election	<input type="checkbox"/> Comprehensive Plan Amendments/Revisions	\$300
<input type="checkbox"/> Comprehensive Plan Map Amendment	\$300	<input type="checkbox"/> Master Plan Adoptions	
<input checked="" type="checkbox"/> Zone Change	\$500 + \$500 deposit	<input type="checkbox"/> Development Code Amendments	
<input type="checkbox"/> Site Design Review for commercial developments with 40,000+ s.f. floor area	\$500, plus 2% of engineers certified estimate over \$50,000	<i>*Private parties may request a Type IV action; however, it must be initiated by the Planning Commission or City Council.</i>	

Action Requested: *(use additional sheets as needed)* Zone change from IL light industrial to MURC - Mixed Use Commercial

**Required**

**Attachments:** A. Plot plan of subject property - show scale, north arrow, location of all existing and proposed structures, road access to property, names of owners of each property, etc. Plot plans can be submitted on tax assessor's maps, which can be obtained from the tax assessor's office in the Polk County Courthouse, Dallas, OR.

B. Legal description of the property as it appears on the deed (metes and bounds). This can be obtained at the Polk County Clerk's office in the Courthouse.

C. For a Zone Change, Comprehensive Plan Amendment or Urban Growth Boundary change, the names, addresses and zip codes of all the owners of record of the property(ies) to be reclassified, if not shown above.

D. A certified list of names and addresses of each owner of all properties within 250' of the subject property. 2 sets of mailing labels for each property owner shall also be provided. For an additional \$25, the city will provide the list and labels. **CHECK HERE FOR THIS OPTION**  and include \$25 to the total due with your application.

Application for Type III/IV Land Use Action (cont.)

THE APPLICANT(S) SHALL CERTIFY THAT:

A. The above request does not violate any deed restrictions that may be attached to or imposed upon the subject property.

B. If the application is granted, the Applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.

C. All the above statements and the statements in the plot plan, attachments and exhibits transmitted herewith are true. The applicant(s) so acknowledge that any permit issued on this application may be revoked if it be found that any such statements are false.

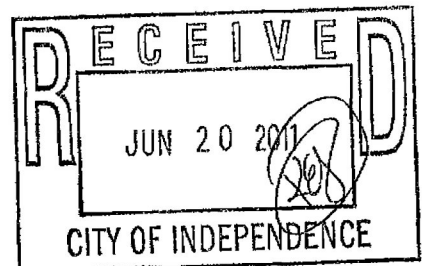
DATED this 16<sup>th</sup> day of June, 2011.

**SIGNATURE(S) OF EACH OWNER:**

(Husband and Wife) or contract purchaser. For a Zone Change, Comprehensive Plan Amendment or Urban Growth Boundary change, the owners to be reclassified:

NAME: \_\_\_\_\_ PROPERTY ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## EXHIBIT A

Beginning at a point on the Easterly right of way line of State Highway 51, said point bears South 89°46' West 129.52 feet and North 0°25' East 156.00 feet and North 0°23'17" East 5.16 feet and North 0°14'35" East 160.01 feet and North 0°32'07" West 117.00 feet and North 1°17'02" West 39.92 feet and South 89°46' West 10.00 feet and North 2°01'58" West 79.60 feet and North 2°48'39" West 30.56 feet and North 4°05'06" West 140.62 feet and North 7°01'37" West 254.69 feet and North 9°14'50" West 44.68 feet and North 9°59' West 55.30 feet from a 4" x 4" concrete post marking the Northeast corner of the E.A. Thorpe Donation Land Claim, Township 8 South, Range 4 West, Willamette Meridian, Polk County, Oregon, and running thence;

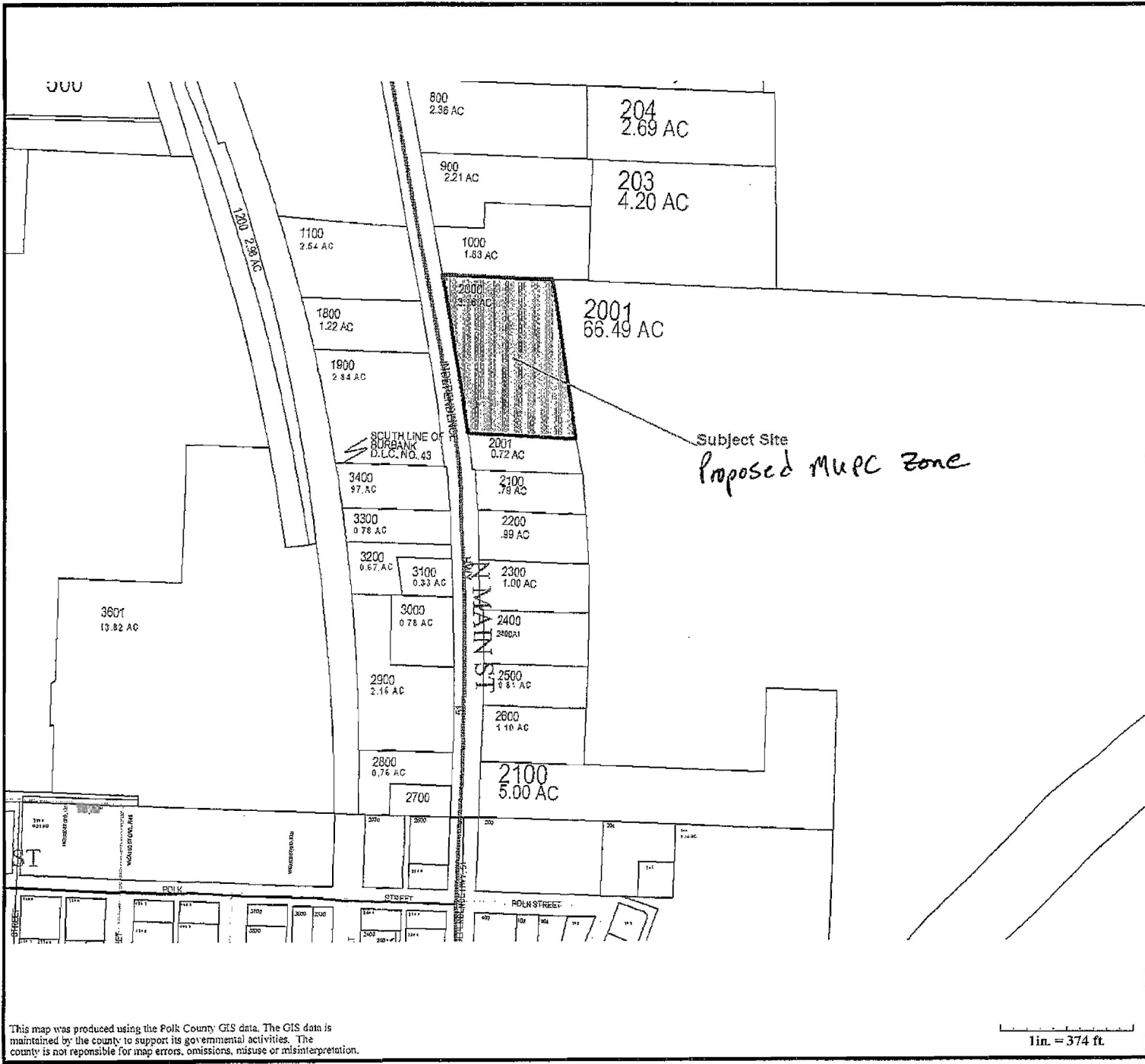
Northerly along said Easterly right of way line as follows: along the arc of a spiral 30 feet from the centerline of said State Highway, the long chord bears 11°50'30" West 346.25 feet, and North 12°35'15" West 117.97 feet to a 1/2" iron pipe on the Northerly boundary line of that tract of land described in Volume 217, Page 528, Polk County Records of Deeds:

Thence North 89°34'27" East 317.10 feet along said Northerly boundary line to a 5/8" iron rod with aluminum cap;

Thence Southerly parallel to said Easterly right of way line as follows: South 12°35'15" East 51.15 feet, and along the arc of a spiral, the long chord bears South 11°28'13" East 402.54 feet;

Thence South 87°46'05" West 312.91 feet to the point of beginning.

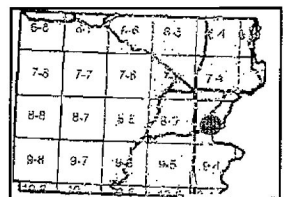
JOHN J. DEAN  
346 MANSFIELD  
SPRINGFIELD, OR 97477



Subject Site  
City of Independence

- Roads
- OTHER
  - STATEHWY
  - PAVED
- Taxlot 09
- Taxlot Arrows 09
  - Taxlot Boundaries 09

Subject Site  
*Proposed MUPC Zone*



1 in. = 374 ft.



4/6/2010



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.



# Map



## ***Polk County Web Maps v. 2.0***

Disclaimer: This map was produced using Polk County GIS data. The GIS data is maintained by the County to support its governmental activities. This map should not be used for survey or engineering purposes. The County is not responsible for map errors, omissions, misuse or misinterpretation.

CITY OF INDEPENDENCE  
PLANNING COMMISSION

MONDAY, AUGUST 1, 2011  
7:00 P.M.

I. CALL TO ORDER. The meeting was called to order at 7:05 p.m. by Chair Corby Chappell.

II. ROLL CALL

Commissioners Present: Corby Chappell, Anna Reynero, Andrew Wynings,  
Lorraine Borchers

Staff: Community Development Director Michael Danko,  
City Recorder Karin Johnson

III. APPROVAL OF MINUTES: January 3, 2011. City Recorder Johnson noted Lorraine Borchers' name was removed from 'Commissioners Present' in the final draft minutes, as Ms. Borchers had not yet been appointed to the commission.

ACTION:

Reynero moved to approve minutes of January 3, 2011 as submitted; Wynings seconded. Motion passed 4-0-0:

AYES: Reynero, Chappell, Wynings, Borchers

NAYS: None

ABSTENTIONS: None

IV. ACTION ITEMS

A. Public Hearing: CPA/ZC-01-2011, Zone Change Request, City of Independence, Applicant.

Public Hearing Opened: by Chair Chappell at 7:12 p.m.

Land Use Hearing Statement, per ORS 197.763: Read for record by Chair Chappell.

Conflict of Interest, Biases, Ex-Parte Contacts: None declared

Site Visits: None declared.

Staff Report: Presented and summarized by Community Development Director Michael Danko, as contained in the agenda packet.

Applicant Testimony: None.

Testimony in Favor: None.

Testimony Opposed: None.

Written Testimony: None.

Hearing Closed.

Commission Deliberation:

Reynero asked about the difference in lot size in the staff report; Mr. Danko noted the references are for two different subjects; one being the site size, the other being the amount of industrial land for the Comprehensive Plan. After further discussion, staff reported that the entire parcel is to be rezoned; a 0.5 portion of the parcel was rezoned in an earlier action.

ACTION:

Commissioner Borchers moved to approve Comprehensive Plan Amendment/Zone Change Request, File No. CPA/ZC-01-2011, adopting findings of fact and with conditions of approval as contained in the staff report and recommend approval to the City Council for zone change of the entire site; Reynero seconded.

AYES: Reynero, Chappell, Wynings, Borchers

NAYS: None

ABSTENTIONS: None

V. INFORMATION ITEMS. None.

VI. ADJOURN.

ACTION:

There being no further business to come before the commission, Reynero moved to adjourn; Borchers seconded. Motion passed 4-0-0:

AYES: Reynero, Chappell, Wynings, Borchers

NAYS: None

ABSTENTIONS: None

Meeting adjourned 7:20 p.m.

Minutes prepared by:  
Karin Johnson, MMC, City Recorder

City of Independence  
PO Box 7  
Independence, OR 97351



**DEPT OF**

**NOV 18 2011**

**LAND CONSERVATION  
AND DEVELOPMENT**

Attention: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE, Su. 150  
Salem OR 97301-2540