



**Oregon**

Theodore R. Kubongski, 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**

2/1/2010

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of Medford Plan Amendment  
DLCD File Number 026-09

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. 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:** Friday, February 12, 2010

This amendment was submitted to DLCD for review prior to adoption 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Desmond McGeough, City of Medford  
Gloria Gardiner, DLCD Urban Planning Specialist  
John Renz, DLCD Regional Representative  
Thomas Hogue, DLCD Regional Representative  
Bill Holmstrom, DLCD Regional Representative

<paa> YA

FORM 2

# DLCD

## 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

In person  electronic  mailed

DATE  
STAMP

**DEPT OF**  
**JAN 25 2010**  
**LAND CONSERVATION AND DEVELOPMENT**  
For DLCD Use Only

Jurisdiction: **City of Medford**

Local file number: **ZC-09-076**

Date of Adoption: **1/14/2010**

Date Mailed: **1/21/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/2/2009

- |  |   |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment     | <input checked="" type="checkbox"/> Zoning Map Amendment  |
| <input type="checkbox"/> New Land Use Regulation           | <input type="checkbox"/> Other:                           |

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

Consideration of a request for change of zone from Light Industrial (I-L) to Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from: **I-L**

to: **CC C-SP**

Location: **west side of Lear Way, N & S of Delta Waters Rd**

Acres Involved: **12.04**

Specify Density: Previous: **N/A**

New: **N/A**

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 type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input 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 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. 026-09 (17854) [15951]

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

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

Rogue Valley Transportation District  
Medford School District 549C

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Local Contact: **Desmond McGeough**

Phone: (541) 774-2380 Extension: 2391

Address: **200 S. Ivy St.**

Fax Number: **541-774-2564**

City: **Medford** Zip: **97501-**  
**desmondmcgeough@cityofmedford.org**

E-mail Address:

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### **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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not 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 now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax



**CITY OF MEDFORD**  
**PLANNING DEPARTMENT**

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January 19, 2010

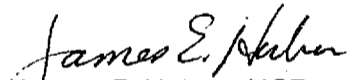
Elron Enterprises LLC  
Stuart E. Foster, Registered Agent  
PO Box 1667  
Medford, OR 97504

RE: FILE NO.: ZC-09-076

The Medford Planning Commission at its regular meeting of January 14, 2010, approved the Final Order containing Findings of Fact relating to the approval of the following request: Changing the zoning from Light Industrial (I-L) to Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Deita Waters Road.

This request was granted as per Staff Report dated December 3, 2009.

The final date for filing an appeal is 21 days from the date of the decision. The written appeal and filing fee must be received by the City Recorder no later than 5:00 p.m. on February 4, 2010. Appeals must be filed in the form prescribed, and will be decided based upon Medford Code Sections 10.051-10.056 (copies available).

  
James E. Huber, AICP  
Planning Director

kg  
Enclosure: Staff Report/Final Order/Legal Description

cc: Maize & Associates, PO Box 628, Medford, OR 97501  
Delta Center II, LLC, PO Box 1667, Medford, OR 97504  
Burrill Resources, Inc., PO Box 220, Medford, OR 97501  
Burrill Resources, Debra Note, 436 Murphy Road, Medford, OR 97504  
Burrill Investments, Inc., PO Box 1312, Medford, OR 97501  
Burrill Development Company, LLC, Micheal E. Burrill, PO Box 220, Medford, OR 97501  
Burrill Development Company, LLC, Curtis N. Burrill, PO Box 220, Medford, OR 97501  
Burrill Development Company, LLC, Jonathon Burrill, PO Box 220, Medford, OR 97501  
Burrill Development Company, LLC, Alicia Moore, PO Box 220, Medford, OR 97501  
JCTN Family Offices, LLC, Rory Wold, 2019 Aero Way #101, Medford, OR 97504  
Troy Wold, 193 Perrydale, Medford, OR 97501  
Affected Agency  
Interested Parties

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Lausmann Annex ☉ 200 South Ivy Street ☉ Medford OR 97501  
Phone (541)774-2380 ☉ fax (541)774-2564  
[www.ci.medford.or.us](http://www.ci.medford.or.us)

**BEFORE THE MEDFORD PLANNING COMMISSION**

**STATE OF OREGON, CITY OF MEDFORD**

IN THE MATTER OF PLANNING COMMISSION FILE ZC-09-076 APPLICATION )  
FOR A ZONE CHANGE SUBMITTED BY ELRON ENTERPRISES, LLC, ) **ORDER**  
DELTA CENTER II, LLC, BURRILL RESOURCES, INC., )  
BURRILL INVESTMENTS, INC., BURRILL DEVELOPMENT COMPANY, LLC )

ORDER granting approval of a request for changing the zoning from Light Industrial (I-L) to Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road.

WHEREAS, the City Planning Commission in the public interest has given consideration to changing the zoning of real property described below from Light Industrial (I-L) to Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road; and

WHEREAS, the City Planning Commission has given notice of, and held, a public hearing, and after considering all the evidence presented hereby adopts the Staff Report dated December 3, 2009 and Legal Description – Exhibit “B” attached hereto and hereby incorporated by reference; and

WHEREAS, the City Planning Commission, after considering all the evidence presented hereby adopts Applicant’s Findings – Exhibit “A,” attached hereto and hereby incorporated by reference, except findings pertaining to adequacy of the transportation system, in which the Commission finds no significant impact posed to the transportation system by the Zone Change based upon findings represented within Exhibit “C” of the staff report, now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MEDFORD, OREGON, that:

The zoning of the following described area within the City of Medford, Oregon:

37 1W 07AC Tax Lot 2500, and  
37 1W 07D Tax Lots 300, 306, 307, 308, 309, 311, 312, 314, 316, 317, 318, and 319

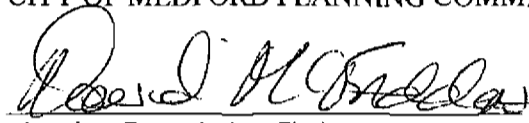
is hereby changed from Light Industrial (I-L) to Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) zoning district on three parcels totaling 4.47 acres.

Final Order

Zone Change ZC-09-076

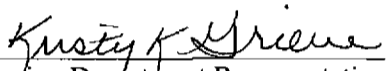
Accepted and approved this 14th day of January, 2010.

CITY OF MEDFORD PLANNING COMMISSION



Planning Commission Chair

ATTEST:

  
Planning Department Representative



**CITY OF MEDFORD**  
**PLANNING DEPARTMENT**

**STAFF REPORT**

Date: December 3, 2009  
To: Planning Commission  
Reviewed By: Suzanne Myers, AICP, Principal Planner *SM*  
By: Desmond McGeough, Planner II *DM*  
Subject: FB Group Zone Change (ZC-09-076)  
Elron Enterprises, LLC, Delta Center II, LLC, Burrill Resources, Inc,  
Burrill Investments, Inc., Burrill Development Company, LLC (Maize and  
Associates, Agent)

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**BACKGROUND**

Proposal

Consideration of a request for change of zone from Light Industrial (I-L) Service Commercial and Professional Office (C-S/P) on ten parcels totaling 7.57 acres, and changing the designation from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road. The applicant concurrently submitted an application for a Minor General Land Use Plan (GLUP) Map Amendment (CP-09-075) requesting a change of designation on the subject property from GI (General Industrial) to SC (Service Commercial) and CM (Commercial). The GLUP Map change was approved by the City Council on November 19, 2009, subject to conditions.

General Land Use Plan (GLUP)/Zoning/ Existing Uses

The subject property received approval of a minor amendment to the City of Medford Comprehensive Plan GLUP Map (Ordinance # 09-252), which changed the land use designation from General Industrial (GI) to Service Commercial (SC) on ten parcels totaling 7.57 acres, and changed the designation from General Industrial (GI) to Commercial (CM) on three parcels totaling 4.47 acres on November 19, 2009 by a unanimous vote of the City Council.

All 13 of the parcels are currently zoned I-L (Light Industrial). Two of the three parcels located south of Delta Waters Road are currently vacant. The parcel located on the southwest corner of Delta Waters Road and Lear Way presently contains a 13,000 square foot building. The ten parcels located on the north side of Delta Waters Road

currently have a total of seven buildings, which encompass approximately 55,200 square feet of professional office space. Three of those parcels are currently vacant.

To the north and south of the proposed zone change, the subject area consists of property with a General Industrial (GI) land use designation. The property located to the east consists of property with a Commercial (CM) land use designation. The property on the west side of the amendment area is identified by the GLUP map as having an Airport (A) land use designation.

Tax Lot	Current Use	Proposed Zoning	Acreage
319	Vacant	C-S/P	0.88
306	Office	C-S/P	1.99
309	Office	C-S/P	0.64
312	Physical Therapy / Office	C-S/P	1.14
311	Vacant	C-S/P	0.53
314	Office / Resource Center	C-S/P	0.47
316	Office	C-S/P	0.47
318	Office	C-S/P	0.51
317	Office	C-S/P	0.62
2500	Vacant	C-S/P	0.32
300	Vacant	C-C	1.87
307	Vacant	C-C	1.07
308	Restaurant / Office / Bank	C-C	1.53

Surrounding Property Zoning, GLUP Map Designation, and Uses

- North: Zone I-L (Light Industrial)  
Use Existing professional office buildings and fitness gym
- South: Zone I-L PUD (Light Industrial – Planned Unit Development)  
Use Vacant, Sportsman’s Warehouse
- East: Zone C-R (Regional Commercial)  
Use Lowe’s Home Improvement, Wal-Mart
- West: Zone I-L (Light Industrial), (A) Airport  
Use Existing professional offices, Rogue Valley Airport



Applicant Corporate Names

The Oregon Secretary of State Business Registry lists the following as the registered agents of each corporation:

Elron Enterprises, LLC	Stuart E. Foster,	Registered Agent
Delta Center II, LLC	Stuart E. Foster,	Registered Agent
Burrill Resources, Inc.	Michael E. Burrill,	Registered Agent
		President
Burrill Investments, Inc.	Michael E. Burrill,	Registered Agent
Burrill Development Company, LLC	Michael E. Burrill,	Registered Agent
JCTN Family Offices, LLC	Rory Wold,	Registered Agent

Applicable Criteria

Section 10.227 of the Land Development Code (Exhibit "B")

**ISSUES / ANALYSIS**

Purpose and Intent of Proposal

The applicant's Findings of Fact and Conclusions of Law for the proposed zone change (Exhibit "D"), provide a summary of the proposed request for the change from I-L to C-C and C-S/P. The proposal also provides detailed supporting evidence demonstrating compliance with the Zone Change Criteria of the Medford Land Development Code provided in Section 10.227 of the *Medford Land Development Code (MLDC)*.

Staff has reviewed the zone change request and has found that it meets the approval criteria listed in *MLDC* Section 10.227 (1)(c) for locational standards. Additionally, the Findings of Fact and Conclusions of Law (Exhibit "D") demonstrate that the site is fully served with water, sanitary sewer and storm drainage facilities. Approval of the proposed zone change would not require any additional public facility improvements to adequately serve the subject property.

Circulation System Adequacy

The applicant has provided a Trip Generation Analysis (Exhibit "D", Page 25-36) for the subject property. The trip generation analysis summarizes that the proposed changes will not result in a significant effect to the local road system if a trip cap, as provided within the findings, is included. The letter also concludes that a shopping center use on the requested Commercial land use property (tax lots 300, 307, 308) would produce a lesser impact on the road system than what would occur under "worst case scenario" of combined permitted uses allowed within the I-L zone.

Zone Change approval criteria listed in Section 10.227(1) requires consistency with the City of Medford Transportation System Plan (TSP). According to the 2003 adopted TSP, the intersection of Delta Waters Road and Highway 62 is currently failing both City and State transportation standards. Without the submittal of a more complete Traffic Impact Analysis (TIA), Public Works concluded that the true impact of the proposal on the

subject intersection cannot be determined. Therefore, in lieu of the stipulated trip cap provided in the Applicant's Findings of Fact (Exhibit "D", Page 23), both ODOT and the Public Works Department prepared an alternative trip cap to be applied to assure compliance with the Transportation Planning Rule and the City of Medford TSP.

The Public Works Department report (Exhibit "E") indicates that any change of zoning to C-C or C-S/P be stipulated to a trip cap of no more than 300 average daily trips per acre. The Oregon Department of Transportation (ODOT) submitted a letter, dated November 16, 2009, (Exhibit "F"), expressing that the City adopt measures to ensure that future commercial traffic generation associated with vacant Tax Lots 300 and 307 does not further degrade the intersection of OR 62 (Crater Lake Highway) and Delta Waters Road. ODOT states, as per their previous recommendation regarding the GLUP map amendment, that future development exceeding 300 average daily trips per acre or 7000 sq. ft. on vacant parcels be required to submit a traffic impact analysis and mitigate traffic impacts that further degrade the intersection. Without the benefit of the recommended trip cap, a "significant effect" as defined by the Transportation Planning Rule may occur.

However, in the approval of the GLUP Map Amendment, City Council found that not requiring the staff recommended trip cap on the three Commercial parcels south of Delta Waters Road would not result in a substantial effect, or significantly impact the Delta Waters and Highway 62 intersection under the Medford Code or state Transportation Planning Rule. It was determined that the future development of Excel Drive through the subject area will alleviate vehicle trips from the failing intersection, therefore negating potential impact of increased trip generation associated with the Commercial land use designation. Thus, for this reason, the Council concluded that a transportation impact analysis was not required for the application.

The City Council approved the Comprehensive Plan Amendment with a trip cap limiting the ten SC (Service Commercial) parcels to 300 average daily trips per acre. A condition of approval regarding the specified trip cap, based on the Council findings and as provided by Ordinance #2009-252 (Exhibit "C"), is included in the Conditions of Approval (Exhibit "A") of this Zone Change application.

If a future improvement is made to the facility lacking adequacy that mitigates substandard performance, or if a level of service standard is changed so that the facility is determined to be adequate in the future, the applicant may submit a letter to the Planning Department requesting that the trip cap be removed. A Condition of Approval (Exhibit "A") has been included specifying that the trip cap may be removed subject to the procedures provided in Section 10.228, 10.460, 10.461 and 10.462 of the *Medford Land Development Code*.

#### **FINDINGS**

Staff concurs with the applicant's Findings (Exhibit "D") pertaining to compliance with required locational criteria and adequacy water, sanitary sewer and storm drainage facilities. City Council has found that future development of Excel Drive through the subject property will alleviate vehicle trips on the intersection of Delta Waters Road and

Highway 62, thus effectively negating potential additional trips caused by a change of zone on the three parcels (4.47 ac.) to Community Commercial (CC).

**RECOMMENDED ACTION**

Direct staff to prepare a Final Order for approval of ZC-09-076 per the Staff Report dated December 3, 2009, including Exhibits A through F, subject to the conditions of approval identified within Exhibit "A".

**Exhibits**

- A Conditions of Approval, dated December 3, 2009;
- B Approval Criteria;
- C Ordinance No. 2009-252, approved November 19, 2009;
- D Applicant's Findings of Fact and Conclusions of Law, received July 22, 2009, including:
  - Trip Generation Impact Analysis dated July 15, 2008, by JRH Transportation Engineering;
  - Legal Description;
  - Jackson County Assessor's Map showing subject parcels;
  - General Land Use Plan Map showing subject parcels;
  - Medford Zoning Map showing subject parcels;
  - Medford Street Functional Classification Plan;
  - North Medford Circulation Plan;
  - Agreement between Applicant Property Owners and City of Medford dated May 21, 2009;
  - Map from Agreement showing Excel Drive Extension.
- E Public Works Memorandum-Engineering Division, dated November 5, 2009; and
- F ODOT Recommendation Letter, dated November 16, 2009.  
Vicinity Map



**CITY OF MEDFORD**  
**PLANNING DEPARTMENT**

**EXHIBIT "A"**

ZC-09-076  
Conditions of Approval  
December 3, 2009

**CONDITION**

1. A trip cap of no more than 300 daily trips per acre on the C-S/P (Service and Professional Office Commercial) zoned property (Tax Lots 306, 309, 312, 311, 314, 316, 317, 318 & 319) has been specified by Ordinance # 2009-252 (Exhibit "C") approving the General Land Use Plan Map Amendment on the subject property. Applicant shall comply with specified trip cap, which shall only be removed subject to procedures provided in Section 10.228, 10.460, 10.461 and 10.462 of the Medford Land Development Code.
2. The applicant shall record the restrictive covenant identified by Ordinance # 2009-252 condition # 2 within thirty (30) days of the City Council approval of the Comprehensive Plan Amendment or this zone change shall be void. The zone change shall be effective upon the City receiving evidence of the recordation of the covenant.
3. Future structures abutting Medco Haul Road shall be setback at least 20 feet from the right-of-way line to allow for future road widening. (Tax Lots 300,306 & 319)



**CITY OF MEDFORD**  
**PLANNING DEPARTMENT**

**EXHIBIT "B"**

ZC-09-076  
ZONE CHANGE APPROVAL CRITERIA  
December 3, 2009

The zone change criteria that are not relevant to this particular application are hereby omitted from the following citation. Section 10.227 (A) of the Land Development Code states the following:

"The approving authority (Planning Commission) shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:

- (1) *The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford's Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), and (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.*

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- c) *For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:*

\*\*\*

- (ii) *The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.*

\*\*\*

- (2) *It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning,*

*except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan "Public Facilities Element."*

- (a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.*
- (b) Adequate streets and street capacity must be provided in one of the following ways:
  - (i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity;**

*\*\*\**

- (c) In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request.*

ORDINANCE NO 2009-252

AN ORDINANCE approving a minor amendment to the General Land Use Plan Map of the Medford Comprehensive Plan, subject to conditions, changing the land use designation from General Industrial (GI) to Service Commercial (SC) on ten (10) parcels totaling 7.57 acres, and changing the designation from General Industrial (GI) to Commercial (CM) on three (3) parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road

THE CITY OF MEDFORD ORDAINS AS FOLLOWS

Section 1 A minor amendment to the City of Medford General Land Use Plan Map of the Medford Comprehensive Plan changing the land use designation from General Industrial (GI) to Service Commercial (SC) on ten (10) parcels totaling 7.57 acres, and changing the designation from General Industrial (GI) to Commercial (CM) on three (3) parcels totaling 4.47 acres, located generally on the west side of Lear Way and on the north and south sides of Delta Waters Road, is approved. We decline to amend the application to include properties owned by Laz Ayala because those properties were not included in the application and they were not included in the public hearing notice.

Section 2 The approval is based upon the Conditions of Approval stated below and the Findings of Fact and Conclusions of Law contained in the Staff Report dated November 6, 2009, attached as Exhibit A and incorporated herein, modified as follows: That not requiring a trip cap on the three Commercial lots does not result in a substantial impact and does not significantly impact Delta Waters and Highway 62 intersection under the Medford Code or state Transportation Planning Rule because the extension of Excel Drive from Delta Waters to the existing Delta Center PUD will alleviate trips from that intersection to negate any impact from the proposed plan designation on those lots. For this reason, a transportation impact analysis is not required on the application.

Condition #1 Any change of zoning to zones permitted within the Commercial (CM) and Service Commercial (SC) GLUP Map designations shall be stipulated to a trip cap pursuant to Revised Exhibit A. The conditioned trip cap shall only be removed subject to conditions and procedures provided by in Section 10.228, 10.460, 10.461 and 10.462 of the Medford Land Development Code.

Condition #2 The applicant shall produce a restrictive covenant, in a form acceptable to the City Attorney, to be placed on the subject property, which specifies the conditions on this approval.

Condition #3 The applicant shall record the restrictive covenant identified in condition #2 above within thirty (30) days of the City Council approval of this application or this amendment shall be void. This Comprehensive Plan Amendment shall be effective upon the City receiving evidence of the recordation of the covenant.

Condition #4 Future structures abutting Medco Haul Road shall be setback at least 20 feet from the right-of-way line to allow for future road widening.

PASSED by the Council and signed by me in authentication of its passage this 19 day of November, 2009.

ATTEST Alenda Owens  
City Recorder

APPROVED November 19, 2009

Ordinance No 2009-252

[Signature]  
Mayor  
[Signature]  
Mayor

CITY OF MEDFORD  
EXHIBIT A "C"  
File # 24-09-075  
1 of 2

Approve the submitted Comprehensive Plan Amendment (File: CP-09-75) with the following conditions

*(strike-through language indicates changes proposed by the applicant)*

- 1 Any change of zoning to zones permitted within the ~~Commercial (CM)~~ and Service Commercial (SC) GLUP Map designations shall be stipulated to a trip cap of no more than 300 Average Daily Trips per acre. The conditioned trip cap shall only be removed subject to conditions and procedures provided by in Section 10 228, 10 460, 10 461, and 10 462 of the Land Development Code
- 2 The applicant shall produce a restrictive covenant, in a form acceptable to the City Attorney, to be placed on the subject property, which specifies the conditions on this approval
- 3 The applicant shall record the restrictive covenant identified in condition #2 above within thirty (30) days of the City Council approval of this application or this amendment shall be void. This Comprehensive Plan Amendment shall be effective upon the City receiving evidence of the recordation of the covenant
- 4 Future structures abutting Medco Haul Road shall be setback at least 20 feet from the right-of-way line to allow for future road widening

CITY OF MEDFORD  
EXHIBIT # "C"  
File # 20-09-076  
2062

Revised Exh A



**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
BEFORE THE CITY OF MEDFORD  
PLANNING COMMISSION**

**IN THE MATTER OF AN APPLICATION FOR A )  
CHANGE OF ZONE FROM LIGHT INDUSTRIAL )  
(I-L) TO SERVICE COMMERCIAL AND )  
PROFESSIONAL OFFICE (C-S/P), AND TO )  
COMMUNITY COMMERCIAL (C-C) ZONING )  
DISTRICTS )**

**APPLICANT'S  
EXHIBIT 1**

**APPLICATION:** Request for a change of zone from I-L (Light Industrial) to C-S/P (Service Commercial and Professional Office) on ten parcels totaling 7.57 acres, and a change of zone from I-L (Light Industrial) to C-C (Community Commercial) on three parcels totaling approximately 4.47 acres, located generally on the west side of Lear Way, and on the north and south sides of Delta Waters Road.

**APPLICANTS/  
OWNERS:** Elron Enterprises, LLC  
Delta Center II, LLC  
Burrill Resources, Inc.  
Burrill Investments, Inc.  
Burrill Development Company, LLC  
JCTN Family Offices, LLC

**RECEIVED**

JUL 22 2009

PLANNING DEPT

**AGENT:** Maize & Associates, Inc.  
P.O. Box 628  
Medford, OR 97501

**A. BACKGROUND INFORMATION**

The subject properties are identified on Tables 1 and 2 below and also depicted on the Jackson County Assessor's Map, as Exhibit "4". The City Council, is reviewing an application to amend Medford's General Land Use Plan Map by changing the land use designations on the subject parcels from General Industrial to Commercial and Service Commercial, as also shown on Tables 1 and 2 and on Medford's GLUP and Zoning maps (Exhibits "3" and "6").

The tables show the existing development on each of those parcels.

CITY OF MEDFORD  
EXHIBIT # "D"  
File # 20-09-076  
LOS 51

①

**Table 1**

**PARCELS BEING REZONED TO  
SERVICE COMMERCIAL AND PROFESSIONAL OFFICE (C-S/P)**

Parcel No.	Map/Tax Lot	Acres	Current Use	Owner
	<b>371W7D</b>			
4	319	0.88	Vacant Parcel	Burrill
9, 10, 11	306	1.99	SSA / Country Ins. / Sisul Engineering / Vacant Office Space	Burrill
15	309	0.64	Mission Ins. / Integra Telecom / Wells Fargo	Burrill
16, 18	312	1.14	Impact Physical Therapy / Vacant Office Space	Burrill
17	311	0.53	Vacant parcel / Proposed Office Building	Burrill
20	314	0.47	Rory Wold Ins. / AFLAC Ins. / RV Pregnancy Resource Center	JCTN
22	316	0.47	Ashland Partners / Farmer's Insurance Claims	Burrill
23	318	0.51	Burrill Real Estate / Pearson Professional Centers	Burrill
24	317	0.62	Upwind Solutions	Burrill
	<b>371W7AC</b>			
3	2500	0.32	Vacant Parcel	Burrill
<b>Total</b>		<b>7.57</b>		

**Table 2**

**PARCELS BEING REZONED TO  
COMMUNITY COMMERCIAL (C-C)**

Parcel No.	Map / Tax Lot	Acres	Current Use	Owner
	<b>371W7D</b>			
12	300	1.87	Vacant Parcel	Burrill
13	307	1.07	Vacant Parcel / Building Permit existing	Delta Center II
14	308	1.53	Quiznos Restaurant / Allstate Ins. / Washington Fed. Savings / Vacant Office Space	Elron
<b>Total</b>		<b>4.47</b>		

On May 21, 2009, the City Council entered into an agreement with the property owners of the subject parcels that will facilitate the extension of Excel Drive south of Delta Waters Road to the newly developed Delta Center PUD. The submittal of this application was part of the terms of the Agreement between the applicant property owners and the City of Medford. Currently that 25-acre development has one access point on both Lear Way and Crater Lake Highway, with right turning movements only allowed in and out at both of those driveways. Drivers wanting to travel north from the Delta Center must cross 3 or 4 lanes of traffic and a center bicycle lane within a distance as short as 200 feet to make a left turn and be able to travel north on Crater Lake Highway to the signal at

Cardinal Avenue, where another left turn allows vehicles to reach Lear Way. In addition to being a lengthy and circuitous route, it presents a dangerous situation.

**B. SCOPE AND PURPOSE OF THE APPLICATION**

The applicants propose to rezone the subject parcels in accordance with the Land Development Code and the Medford Comprehensive Plan, to allow the property for be used for employment purposes recognized in the recent update to Medford's Economic Element. The submitted Findings of Fact and Conclusions of Law support the zone change from its present Light Industrial zoning to Service Commercial and Professional Office, and Community Commercial zoning.

**C. APPLICANT'S SUBMITTALS**

- Exhibit 1 Findings of Fact and Conclusions of Law dated July 21, 2009;
- Exhibit 2 Trip Generation Impact Analysis dated July 15, 2008, by JRH Transportation Engineering;
- Exhibit 3 Legal Description of Subject Area;
- Exhibit 4 Assessor's Map showing Subject Area;
- Exhibit 5 General Land Use Plan Map showing Subject Area;
- Exhibit 6 City of Medford Zoning Map;
- Exhibit 7 Map showing Excel Drive Extension;
- Exhibit 8 Medford Street Functional Classification Plan;
- Exhibit 9 North Medford Circulation Plan;
- Exhibit 10 Agreement between Applicant Property Owners and City of Medford dated May 21, 2009;

**D. RELEVANT APPROVAL CRITERIA**

Section 10.227 of the Land Development Code states that the Planning Commission shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) of that section. The Oregon Transportation Planning Rule (OAR 660-012-0060) also contains criteria, which apply to approval of a zone change application. Both sets of criteria are listed below. Provisions, which do not apply, have been omitted, and are indicated by "\*\*\*". The findings also address the provisions of ORS 197.625(3b) that deals with approval of a land use decision that is subject to an unacknowledged amendment to a comprehensive plan.

MEDFORD LAND DEVELOPMENT CODE

ZONE CHANGE CRITERIA – SECTION 10.227

1. *The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford's Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.*

\*\*\*\*

- c. *For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:*
  - i. *The overall area of the C-N zoning district shall be three (3) acres or less in size and within, or abutting on at least one (1) boundary, residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.*
  - ii. *The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.*
  - iii. *The overall area of the C-R zoning district shall be over three (3) acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.*
  - iv. *The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential and I-H zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.*

\*\*\*\*

- e. *For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one or more of the following criteria: (i) The subject property has been sited on the General Land Use Plan*

*Map with a GLUP Map designation that allows for only one zone; (ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above; (iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or (iv) Notwithstanding the definition of "abutting" in MLDC 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.*

2. *It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan "Public Facilities Element."*
  - a. *Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.*
  - b. *Adequate streets and street capacity must be provided in one of the following ways:*
    - i. *Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or*
    - ii. *Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or*
    - iii. *If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:*
      - a. *the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or*
      - b. *when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional*

*engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits. (iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.*

- c. In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:*
  - i. Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,*
  - ii. Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule,*
  - (iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.*

## OREGON ADMINISTRATIVE RULES

### OREGON TRANSPORTATION PLANNING RULE SECTION 660-012-0060

- 1. Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
  - a. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

- b. *Change standards implementing a functional classification system; or*
  - c. *As measured at the end of the planning period identified in the adopted transportation system plan:*
    - (A) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
    - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
    - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
2. *Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:*
- a. *Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
  - b. *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
  - c. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
  - d. *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
  - e. *Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.*
3. *Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:*

- a. *The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;*
  - b. *In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;*
  - c. *Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;*
  - d. *The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and*
  - e. *For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.*
4. *Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.*
- a. *In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.*
  - b. *Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:*
    - (A) *Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.*
    - (B) *Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation*



*facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.*

*(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.*

*(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.*

*(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.*

*c. Within interstate interchange areas, the improvements included in (b)(A)-(C) are considered planned facilities, improvements and services, except where:*

*(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or*

*(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.*

*d. As used in this section and section (3):*

*(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;*

*(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and*

*(C) Interstate interchange area means:*

*(i) Property within one-half mile of an existing or planned interchange on an Interstate Highway as measured from the center point of the interchange; or*

(ii) *The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.*

e. *For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).*

#### OREGON REVISED STATUTES

#### WHEN AMENDMENT OR NEW REGULATION CONSIDERED ACKNOWLEDGED; APPLICATION PRIOR TO ACKNOWLEDGMENT ORS 197.625

(3) (a) *Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land use regulation or an amendment to a comprehensive plan or land use regulation is effective at the time specified by local government charter or ordinance and is applicable to land use decisions, expedited land divisions and limited land use decisions if the amendment was adopted in substantial compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.*

(b) *Any approval of a land use decision, expedited land division or limited land use decision subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall include findings of compliance with those land use goals applicable to the amendment.*

(c) *The issuance of a permit under an effective but unacknowledged comprehensive plan or land use regulation shall not be relied upon to justify retention of improvements so permitted if the comprehensive plan provision or land use regulation does not gain acknowledgment.*

(d) *The provisions of this subsection apply to applications for land use decisions, expedited land divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive plan and land use regulation amendments adopted:*

#### **E. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### ZONE CHANGE CRITERIA – SECTION 10.227

The Planning Commission has considered the following facts to be pertinent to the application and to the Commission's approval of that application:

Findings of Fact and Conclusions of Law  
Zone Change from I-L to C-S/P and C-C  
Elron Enterprises, LLC  
Delta Center II, LLC  
Burrill Development Co, LLC

## CRITERION NO. 1

1. *The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford's Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.*

### CONSISTENCY WITH THE OREGON TRANSPORTATION PLANNING RULE (OAR 660-012-0060)

#### MEDFORD TRANSPORTATION SYSTEM PLAN CONSISTENCY

The City of Medford and the State of Oregon interpret the language of Chapter 660-012-0060 to apply to application for not only changes to the City's Comprehensive Plan, but also applications for zone changes within the City.

Zone change criterion No. 1, which requires consistency with the TPR, states that when the City adopts a Transportation System Plan (TSP), then "*a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.*"

A Transportation System Plan (TSP) was adopted by the Medford City Council on November 20, 2003. The TSP identifies both existing and future needs, and includes improvements to meet those needs. In order to achieve those needs, the TSP has established the city's goals, policies, and implementation measures in order for the City to develop and maintain its transportation system for both the short and long term.

The Medford TSP addresses the Oregon Statewide Planning Goal 12 and the Oregon Transportation Planning Rule (TPR), which directs cities and counties to develop balanced transportation systems addressing all modes of travel including motor vehicles, transit, bicycles and pedestrians. The TPR envisions development of local plans that will promote changes in land use patterns and transportation systems that make it more convenient for people to walk, bicycle, use transit, and drive less to meet their daily needs.

Below are those policies and implementation strategies from Medford's TSP that are relevant to the subject application.

**Overall Transportation System**

**GOAL 1:** *To provide a multi-modal transportation system for the Medford planning area that supports the safe, efficient, and accessible movement of all people and goods, and recognizes the area's role as the financial, medical, tourism, and business hub of Southern Oregon and Northern California.*

**Policy 1-B:** *The City of Medford shall use the Transportation System Plan as the legal basis and policy foundation for decisions involving transportation issues.*

**Implementation 1-B(6):** *Require Comprehensive Plan, Land Development Code, and Zoning Map amendments to contain findings that show how the action is in conformity with the adopted tenets of the Medford Transportation System Plan.*

Findings of Fact

The City of Medford has revised the criteria for zone changes within the City, reflected in Section 10.227(1) of the Land Development Code, requiring that findings to be made showing consistency with the Transportation System Plan. The applicant, below, has addressed the policies and implementation strategies of the TSP that apply to the subject application for a change of zone from Light Industrial to Service Commercial and Professional Office, and Community Commercial.

The findings also address the TPR directly, specifically the language in Sections 2 and 3 in regard to a facility that is already operating at a less than acceptable level and conditions of development placed upon the approval.

**Transportation and Land Use**

**GOAL 8:** *To maximize the efficiency of Medford's transportation system through effective land use planning.*

**Implementation 8-A(1):** *Through revisions to the Medford Comprehensive Plan and Land Development Code, provide opportunities for increasing residential and employment density in locations that support increased use of alternative travel modes, such as along transit corridors.*

Findings of Fact

Although the property owner's request is an application to change the zoning on the subject parcels, the intent of this goal and its implementation strategy are important ones that apply to the applicant's request.

Rogue Valley Transit District's bus Route #60 runs between the downtown Medford Front Street station and White City, principally following Crater Lake Avenue and Crater Lake Highway for the entire distance. The route does include

two side “diversions” however; one being a route along the Delta Waters Road, Springbrook Road, Cedar Links Road, Hawaiian Avenue residential area; and the other route along Delta Waters Road, Lear Way, Cardinal Avenue, and Crater Lake Highway.

The walking distance from the furthest of the subject parcels to Lear Way, part of Route #60’s bus line, is only approximately 500 feet, or about 1/10<sup>th</sup> of a mile.

The intent of this goal and as stated in its implementation strategy is to increase the employment density along transit corridors. With only a small number of transit routes operating, providing a limited amount of good transit access to C-S/P and Commercial zoning districts, it is important to take this opportunity to increase the employment density and commercial opportunities in this location close to a transit route.

According to the Economic Element, Office Commercial job generation averages about 38 per acre, while Retail Commercial is about 19 per acres, and Industrial, about 9 per acre.

#### Conclusion of Law

Base on the findings above, the Planning Commission concludes that the applicant has provided findings showing how the proposed zone change is in conformity with the goals, policies, and implementation measures of the Medford Transportation System Plan.

The Planning Commission also finds that approval of the zone change will provide opportunities for increasing employment density in a location that supports the increased use of transit.

#### *TRANSPORTATION PLANNING RULE CONSISTENCY – Additional Findings*

#### Findings of Fact

The Transportation Planning Rule (TPR) allows that zone changes can be approved, provided that a condition of development (Section 2e) is placed on the approval assuring that an existing transportation facility will not be significantly affected by the approval of that change of zone without such a condition.

The TPR also allows in Section 3a, that the local government may approve a zone change if that zone change would without measures or conditions, significantly affect an existing transportation facility, if that “*facility is already performing below the minimum acceptable performance standard identified in the TSP*”

The transportation facility most affected by the proposal is the state-maintained intersection of Crater Lake Highway and Delta Waters Road. According to Table 5-4 of the Medford Transportation System Plan, that intersection will be operating at a volume to capacity (V/C) ratio of 1.37 for the 2023 pm peak hour, which exceeds the applicable V/C mobility standard utilized by the Oregon Department of Transportation, of 0.85. Table 3-6 shows a 2002 pm peak hour V/C ratio of 1.10. The City acknowledges this fact in their agreement with the applicant property owners (Exhibit "10").

The applicant is stipulating to a condition that a trip cap be placed on the approval of the zone change on the 10 parcels to Service Commercial and Professional Office, to not exceed the number of trips allowed by the existing Light Industrial zoning district, as discussed in the Trip Generation Impact Analysis performed by JRH Transportation Engineering (Exhibit "2"). The property owners will have the opportunity in the future to eliminate that condition in accordance with the provisions of Section 10.228 of the Land Development Code.

#### CONSISTENCY WITH GENERAL LAND USE PLAN MAP DESIGNATION

##### Findings of Fact

The City Council is reviewing an application to amend Medford's GLUP Map by changing the land use designations on the subject parcels from General Industrial to Service Commercial and Commercial as shown on the submitted GLUP Map (Exhibit "5") and Zoning Map (Exhibit "6"). In discussion with planning staff members, it is assumed that approval of that application by the City Council is a prerequisite to the Planning Commission's review and approval of the zone change application.

Regarding the appropriate zoning district for the land use designations, the General Land Use Plan Element of the Comprehensive Plan states that:

***Service Commercial** This designation permits offices, medical facilities, and other limited service-oriented businesses as well as residential development under certain circumstances. It permits multiple-family dwellings meeting the density standards of the MFR-30 (Multiple-Family Residential - 30 units per gross acre) zoning district. In addition, the Southeast Plan authorizes an increase in the maximum permitted density in this designation from 30 to 36 units per acre. This designation may be located adjacent to residential designations. The corresponding zoning district permitted in this designation is the C-S/P (Service Commercial and Professional Office) zone which is intended to be customer oriented, while limiting the number of retail uses. (emphasis added)*

***Commercial** This designation permits the largest spectrum of commercial development as well as residential development under certain circumstances. It permits multiple-family dwellings meeting the density standards of the MFR-30 (Multiple-Family Residential - 30 units per gross acre) zoning district, except for mixed-use (commercial-*

residential) buildings, which have no maximum density limitation. In addition, the Southeast Plan authorizes an increase in the maximum permitted density in this designation from 30 to 36 units per acre, and a maximum of 60 dwellings per acre in the Southeast Commercial Core Area if in a mixed-use building. The C-N (Neighborhood Commercial), C-C (Community Commercial), C-R (Regional Commercial) and C-H (Heavy Commercial) zoning districts are permitted in this designation.

The most appropriate zoning district for each site designated Commercial shall be determined based on the following:

**The C-N zone** provides land for the development of small integrated commercial centers servicing the frequent and daily convenience requirements and service needs of adjacent residential neighborhoods. The C-N zone shall be located in commercial designations which are under three acres in size and are within residential neighborhoods.

**The C-C zone** provides land for the development of commercial facilities servicing the shopping needs of the local community. The C-C zone shall be located on collector and arterial roadways and cohesive, integrated shopping facilities shall be encouraged.

**The C-R zone** provides land for the development of those service and commercial uses which serve shoppers from the surrounding region as well as from the local community. The C-R zone shall be located in areas served by adequate regional and local street systems to avoid the impact of regional traffic using neighborhood streets.

**The C-H zone** is primarily intended to accommodate existing heavy commercial development along highways. The C-H zone shall be located near industrial zones and away from zones permitting residential, retail commercial, and general office uses.

The subject property is located on Delta Waters Road, a designated Major Arterial street, and on Lear Way, a designated Major Collector street.

The proposed extension of Excel Drive will provide vehicular access from the office development to the north, to the Delta Center PUD by connecting those two developments into an integrated shopping area. With the Excel Drive extension, a third access point will be added to the Delta Center development, allowing north-bound traffic to exit easily, avoiding the Delta Waters Road / Crater Lake Highway intersection.

The net area to be rezoned to C-C is approximately 4.5 acres and is not within a residential neighborhood, and is approximately 100 feet from the existing zoning district to the north that allows office uses.

#### Conclusion of Law

Based on the findings above, the Planning Commission concludes that the request to rezone the 10 parcels from Light Industrial to Service Commercial and Professional Office is consistent with the recently amended GLUP Map

designation to Service Commercial, as it is the only zone permitted in the Service Commercial land use designation. The Planning Commission also concludes that the request to rezone the 3 parcels from Light Industrial to Community Commercial is consistent with the recently amended GLUP Map designation from General Industrial to Commercial, because it is situated on collector and arterial roadways and will result in cohesive and integrated shopping facilities.

#### CONSISTENCY WITH LOCATIONAL STANDARDS - SECTION 10.227(1)

- c. *For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:*
- ii. *The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.*

#### Findings of Fact

A review of the zone change criteria found in Section 10.227 of the Land Development Code shows that there are no locational criteria for the Service Commercial and Professional Office (C-S/P) zoning district, and the General Land Use Plan Element states that the C-S/P zone is the only corresponding zone permitted in the Service Commercial designation.

Regarding the parcels proposed to be changed to Community Commercial (C-C), the zoning district will be approximately 4.5 acres in size and the zoning district will front upon an both arterial and collector streets.

#### Conclusion of Law

Based on the findings above, the Planning Commission concludes that the application complies with the locational standards of the zone change criteria, specifically that:

- (1) there are no listed locational criteria to be met for the Service Commercial and Professional Office (C-S/P) zone and the General Land Use Plan Element states that the C-S/P zone is the corresponding zone permitted in the Service Commercial designation:
- (2) the locational standards for the C-C zone have been met as the size of the area is greater than 3 acres in size and the zoning district fronts on both collector and arterial streets.



## CRITERION NO. 2

2. *It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan "Public Facilities Element."*
  - a. *Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.*
  - b. *Adequate streets and street capacity must be provided in one of the following ways:*
    - i. *Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or*
    - ii. *Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or*
    - iii. *If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:*
      - a. *the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or*
      - b. *when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits. (iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.*

- c. *In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:*
- i. *Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,*
  - ii. *Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule, (iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.*

With respect to each of the above Category "A" public facilities, the Planning Commission considers the following facts:

Findings of Fact

The *Public Facilities Element* of Medford's Comprehensive Plan lists two categories of Public Facilities. The four Category "A" facilities, the key minimum physical facilities necessary for urban development, are listed as:

- Water Service
- Sanitary Sewer and Treatment
- Storm Drainage
- Transportation Facilities

A. Water Service – The subject property is currently served by the following water lines that are adjacent to the subject site:

- a 12-inch water main in Excel Drive;
- a 10-inch water main in Lear Way;
- a 12-inch water main in Delta Waters Road;
- a 12-inch water main in Aero Way;

According to the Medford Water Commission, water supply to the City of Medford comes from two sources: Big Butte Springs and the Rogue River. The current (2008) combined capacity is approximately 71 million gallons per day (mgd), with current total water rights of 91 mgd.

According to the Medford Water Commission's Statistical Report for 2007, the Medford Water Commission's service population is approximately ± 130,000.

Based on current peak per capita water use rates, it is estimated that water rights held by the Medford Water Commission, and existing treatment plant design capacity can support a population of approximately 185,000 people. Water rights held by cities served by the Medford Water Commission will support additional population, the number which is currently under evaluation.

The Medford Water Commission staff states that water service is adequate in condition and capacity to accommodate existing and future development of the subject property with uses allowed under the proposed C-S/P and C-C zoning districts.

#### Conclusions of Law

Based upon the Findings of Fact, the Planning Commission concludes that the water system, which serves the subject property, is adequately sufficient and available to accommodate existing and future development of the subject property with uses that are permitted under the proposed Service Commercial and Professional Office, and Community Commercial zoning districts.

B. Sanitary Sewer and Treatment – The subject property is currently served by the City of Medford, which has the following sanitary sewer lines that serve the subject properties:

- an 8-inch line in Excel Drive;
- an 8-inch line along the western property line of those lots on the west side of Excel Drive;
- an 8-inch line in Lear Way;
- an 8-inch line in Aero Way to serve those lots that front on Excel Drive and Aero Way;

The City of Medford, along with several other regional municipalities, discharges its wastewater into the Rogue Valley Sewer Service (RVSS) operated interceptor system, which transports the wastewater for treatment to the City of Medford operated Regional Water Reclamation Facility (RWRf), located adjacent to the Rogue River outside of Medford's Urban Growth Boundary.

The RWRf average daily dry weather (summer) influent flow for 2004 was 15.7 million gallons per day (mgd), while the yearly flow average for the last 3 years is 18.4 mgd. The 2000 RWRf Facilities Plan projected that the

ultimate population to be served by the regional plant is estimated to be 190,000.

The City of Medford Public Works staff has determined that the sanitary sewer system is adequate in condition and capacity to accommodate existing and future development of the subject property with uses allowed under the proposed C-S/P and C-C zoning districts.

#### Conclusions of Law

Based upon the Findings of Fact, the Planning Commission concludes that the sanitary sewer system and treatment facilities which serves the subject property is adequately sufficient and available to provide sanitary sewer service to the subject property with existing and future development that is permitted under the proposed Service Commercial and Professional Office, and Community Commercial zoning districts.

C. Storm Drainage – The subject properties are located in the Midway Creek Drainage Basin and are currently served by City of Medford storm drainage infrastructure, which includes storm drainage lines in:

- Excel Drive, with diameters of 12 inches, 15 inches, 21 inches, and 24 inches;
- Lear Way, with a diameter of 8 inches;
- Aero Way, with a diameter of 8 inches to serve those lots that front on Excel Drive and Aero Way;

According to the City of Medford Engineering Division, the current Medford Storm Drainage Master Plan indicates improvements are required in the downstream storm drainage system to meet current design standards for this basin. The City therefore requires detention of storm drainage water to be designed as part of the future development, assuring that there will be a controlled storm water release of no more than 0.25 cubic feet per second per acres of development for the 10-year storm event.

The Medford Public Works Department states that with detention, the storm drainage system is adequate in condition and capacity to accommodate existing and future development of the subject property under uses allowed under the proposed C-S/P and C-C zoning districts and no improvements to the system are required.

#### Conclusions of Law

Based upon the Findings of Fact, the Planning Commission concludes that the storm drainage system which serves the subject property is adequately

sufficient and available to provide storm drainage to the subject property with development that is permitted under the proposed Service Commercial and Professional Office, and Community Commercial zoning districts, provided that storm water detention is incorporated into the future development plans in accordance with City of Medford standards.

- D. Transportation Facilities – The subject properties have frontage on Delta Waters Road, a designated Major Arterial Street; Lear Way, a designated Major Collector Street; and Excel Drive and Aero Way, industrial/commercial streets. The adopted North Medford Circulation Plan (Exhibit “9”) shows that Medco Haul Road, a designated Major Arterial Street is planned to intersect with Delta Waters Road, and run along the west side of the subject lots 300, 306, and 2500.

All of the frontage streets are fully improved other than sidewalks along the vacant parcels.

JRH Transportation Engineering has performed a Trip Generation Impact Analysis (Exhibit “2”) on the properties proposed to be rezoned and which is found as Exhibit “G” of the May 21, 2009 agreement between the property owners and the City Council (Exhibit “10”). That document includes agreements (#2 and #3) that acknowledge the existing status of the Delta Waters Road / Crater Lake Avenue intersection, thereby allowing a stipulation.

As discussed under the Oregon Transportation Planning Rule section of these findings, which address consistency with the TPR, the JRH analysis makes two conclusions:

1. A condition can be placed upon the redesignation of the 10 properties from General Industrial to Service Commercial and the corresponding change from a Light Industrial zone to a Service Commercial and Professional Office zone, that vehicular trips generated from those parcels do not exceed the amount generated under the I-L zone, which the City of Medford determines to be 300 Average Daily Trips per acre.

The applicant will maintain a current track of that area basis, which will be made available to the City at such time as those amounts are needed.

2. The second conclusion is that the redesignation of the 3 properties from General Industrial and the corresponding zone change from Light Industrial to Community Commercial as developed as a standard shopping center will not generate any more traffic than that generated from a development scenario that is allowed under the existing Light Industrial zoning and which could likely occur.

The JRH report analysis states that with regard to the Transportation Planning Rule, "... there is no significant affect from the proposed zoning and comprehensive plan amendment." With the accompanying stipulation made by the applicant, there are no transportation facilities that need to be provided as a result of the requested zone change.

It should be noted that the condition may be removed in the future in accordance with the provisions of Section 10.228 of the Land Development Code.

#### Conclusions of Law

Based upon the findings above, the Planning Commission concludes that the transportation facilities which will serve the subject property are adequately sufficient and available to provide transportation service to the subject property with the existing and future development that is permitted under the proposed C-S/P and C-C zoning districts, provided that, as stipulated, the number of vehicular trips from the properties changed to C-S/P are limited to 300 Average Daily Trips per acre, the same amount that the City recognizes to be generated without limitation in the existing Light Industrial zoning district.

#### COMPLIANCE WITH OREGON REVISED STATUTE 197.635

*197.625 When amendment or new regulation considered acknowledged; application prior to acknowledgment.*

- (3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land use regulation or an amendment to a comprehensive plan or land use regulation is effective at the time specified by local government charter or ordinance and is applicable to land use decisions, expedited land divisions and limited land use decisions if the amendment was adopted in substantial compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.*
- (b) Any approval of a land use decision, expedited land division or limited land use decision subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall include findings of compliance with those land use goals applicable to the amendment.*
- (c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land use regulation shall not be relied upon to justify retention of improvements so permitted if the comprehensive plan provision or land use regulation does not gain acknowledgment.*

### Findings of Fact

Although an application for an amendment to the City of Medford GLUP Map, and a corresponding application to change Medford's Zoning Map for the same properties are being simultaneously submitted, it is presumed and understood in conversations with Planning Department staff, that the approval of the GLUP Map amendment application by the City Council will precede the approval of the zone change application by the Planning Commission.

### Conclusion of Law

The Planning Commission concludes that because the zone change decision is not subject to an unacknowledged amendment to Medford's Comprehensive Plan, the regulation found in ORS 197.625(3b) does not apply to this application.

### **F. ULTIMATE CONCLUSION**

Based upon the above Findings of Fact and Conclusions of Law, the Planning Commission concludes that the application for a change of zone from a Light Industrial (I-L) zoning district to a Service Commercial and Professional Office (C-S/P) zoning on 10 parcels, and from a Light Industrial zoning district to a Community Commercial (C-C) zoning district on 3 parcels, is consistent with the relevant decisional criteria found in Section 10.227 of Medford's Land Development Code, the Oregon Transportation Planning Rule (Section 660-012-0060 of the Oregon Administrative Rules), Oregon Revised Statute 197.635, and the application can, therefore, be approved, with the stipulation below.

### **G. STIPULATION**

In accordance with, and in order to insure that adequate transportation facilities serving the subject property are available, the applicant agrees to limit the number of vehicular trips generated from the 10 parcels changed to the Service Commercial and Professional Office (C-S/P) zoning district do not exceed the amount generated under the Light Industrial zoning district, which the City of Medford determines to be 300 Average Daily Trips per acre.


Respectively Submitted,  
Maize & Associates, Inc.

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Jim Maize

Findings of Fact and Conclusions of Law  
Zone Change from I-L to C-S/P and C-C  
Elron Enterprises, LLC  
Delta Center II, LLC  
Burrill Development Co, LLC

Respectively Submitted,  
Maize & Associates, Inc.



---

Jim Maize  
Agent for Applicants,  
Elron Enterprises, LLC  
Delta Center II, LLC  
Burrill Resources, Inc.  
Burrill Investments, Inc.  
Burrill Development Company, LLC  
JCTN Family Offices, LLC

Dated: July 21, 2009



**EXHIBIT "G"**

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PLANNING DEPT



March 19, 2009

Elron Enterprises, LLC  
Delta Center II, LLC  
Burrill Resources, Inc.  
c/o Stuart Foster  
Foster Denman  
3521 E. Barnett Road  
Medford, OR 97504



RE: Trip Generation Comparison – Excel Drive Property Rezoning

Dear Stuart:

I have performed a preliminary assessment of the impacts from the proposed rezoning of properties north and south of Delta Waters Road in the vicinity of Excel Drive. Based on our analysis, rezoning the southerly properties from I-L to C-C will not result in any increased trip generation beyond a worst-case I-L development scenario. In addition, the rezoning of the northerly properties from I-L to C-S/P will not result in a "significant effect" provided that less than 69 percent of the site has medical office buildings with the remainder of the site developed with general office buildings.

This analysis was performed in three steps. First, the northerly properties were analyzed to determine the amount of general office space that could be converted to medical office space while not exceeding the City of Medford's assumption of 300 trips per acre per day for I-L (Light Industrial) zoned properties. Second, the "lost" trips resulting from the Excel Drive extension through the southerly properties was determined and applied to the northern properties to achieve additional medical office building potential. Finally, an analysis was performed to illustrate that a worst-case I-L development scenario produces more trips than a "shopping center" development on the southerly properties.

The majority of the northerly properties have already been developed with general office buildings. Tax lots 311, 319 and 2500 are currently vacant and are assumed to develop with office buildings in the future. A 6,200 square foot office building is approved and not built on tax lot 311. Assuming a 25% building coverage factor on tax lots 319 and 2500 results in an office square footage of 13,000 square feet. The total acreage subject to the zone change from I-L to C-S/P is 7.57 acres. Two of the southerly properties are also currently vacant (tax lots 300 and 307). A commercial-type building is located at the south end of tax lot 308 currently.

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Proposal from Matthew W. Zoll, P.E. **EXHIBIT "G"**  
RE: Trip Generation Comparison – Excel Drive Rezoning  
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#### **Analysis of Northerly Properties**

Detailed spreadsheet calculations are attached with this letter. The analysis of the northerly properties aims to determine the maximum amount of existing (and forecast) general office space that could be converted to medical office space without exceeding the City's allowance of 300 daily trips per acre for I-L zoned land. Currently all but three of the northerly tax lots have been developed with general office space, with a total floor area of 65,043 square feet. The developed tax lots comprise 5.84 acres; the total area subject to the rezone (i.e., the size of the tax lots included in the rezone area) is 7.57 acres. A 6,200 square foot office building has been approved for tax lot 311 but has not currently been constructed. Tax lots 319 and 2500 do not have any building approvals to date. For these properties a building coverage ratio of 25% was assumed resulting in an additional 13,000 square feet of office space.

The percentage of medical office space and general office space was adjusted until the resulting trip generation equaled 300 daily trips per acre. These calculations are shown in the attached spreadsheet output. As shown, based on the daily trip generation for these two uses as listed in the Institute of Transportation Engineer's *Trip Generation Manual, 7<sup>th</sup> Edition*, 63.4 percent of the building space could be converted to medical office space under the proposed C-S/P zoning without exceeding the City's allowance of 300 daily trips per acre. Therefore, the zone change could be approved with the provision that all space will be developed with offices, and that no more than 63.4 percent of the floor area constitutes medical or dental office uses.

#### **Credit for Land Lost due to Excel Drive Extension**

The City of Medford has proposed to provide supplemental access to the properties south of the tax lots subject to the proposed rezoning by extending Excel Drive through the southerly tax lots. It is assumed that the Excel Drive extension will straddle the boundary between tax lots 300 and 307, with a right-of-way (ROW) width of 60 feet. The tax lot boundary is approximately 286 feet long along the assumed Excel Drive extension alignment. This results in a ROW area of 17,160 square feet (0.394 acres).

Since the area allocated to the Excel Drive extension results in lost development potential, a credit should be applied. This "credit" was determined in terms of additional medical office space that could be afforded in the northerly properties. The foregone development trips were determined by multiplying the road ROW by the maximum I-L daily trip generation per acre ( $0.394 \times 300$  trips per acre = 118 daily trips). Given the difference in daily trip generation between general office and medical office uses, the 118 daily trip "credit" relates to a conversion of an additional 4,705 square feet from general office to medical office. The resulting total medical office square footage allowed within the northern properties is 58,115 square feet, with the remaining 26,128 square feet

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**PAGE 2**

required to be general office space. This results in a split of 69.0 percent medical office and 31.0 percent general office space.

**Trip Generation Analysis for Southerly Properties**

For the southerly properties, a worst-case I-L zoning development scenario was developed then compared to the trip generation for a standard "shopping center" development. This analysis was performed based on a land balance analysis in which assumptions are made regarding the coverage area of parking and building footprints on the site. In addition, an average parking space size (including adjacent drive aisle width) was used to develop an equation that determines the maximum building size possible within a given area. The following equation was used to perform the land balance analysis:

$$\text{Maximum Building Size} = \frac{\text{Site Size} \times \text{Parking/Building Utilization Factor}}{(1 + (250 / \text{Parking Requirement}))}$$

Where the: Parking/Building Utilization Factor = Percentage of Site used by the Building and Parking Footprint

Parking Requirement = Building Square Footage per Parking Space

The following table lists the assumptions and parking requirements for each land use analyzed.

**Parking/Building Utilization Factors and Parking Requirements  
By Land Use**

Land Use	Parking/Building Utilization Factor	Parking Requirement
Bank with Drive-Up Window	60%	200 SF
Fast-Food Restaurant with Drive-Up Window	60%	75 SF
High-Turnover Sit-Down Restaurant	75%	100 SF
Shopping Center	75%	200 SF

An average parking space and adjacent drive aisle is 250 square feet. The parking/building utilization factor accounts for setbacks, circulation drives, sidewalks, etc. that are not included in the building footprint or the parking areas. The utilization factor is lower for the uses with drive-up windows to account for the drive-up lanes.

The City of Medford Development Code allows for banks and restaurants within the I-L zone, with a stipulation that banks cannot exceed 3,500 square feet and restaurants cannot

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exceed 6,000 SF within this zone. Using the land balance equation shown previously, a maximum commercial development building size of 64,904 square feet could be accommodated on the three southerly tax lots. This calculation is somewhat conservative since it does not account for the land lost as a result of the Excel Drive extension dedication.

Under the worst-case I-L scenario, I have assumed two drive-through banks (each 3,500 square feet), two fast-food restaurants with drive-up windows (each 3,000 square feet), and two high-turnover sit-down restaurants (each 6,000 square feet). Using the land balance equation results in a required land area of 2.88 acres to accommodate these six buildings. This is significantly less than the 4.47 acres available for development. Therefore, this development scenario is also conservative in terms of comparison to the "shopping center" alternative since additional development could actually be accommodated on the site.

The total trip generation of the assumed uses in a worst-case I-L development scenario is shown in the following table. As shown, the worst-case I-L development results in 6,293 daily trips, and 659 PM peak hour trips (346 entering and 313 exiting).

**Trip Generation of Worst-Case I-L Zoning Scenario**

Land Use	Daily Trips		PM Peak Hour Trips	
	Inbound	Outbound	Inbound	Outbound
Bank with Drive-Up Window	895	895	180	160
Fast-Food Restaurant with Drive-Up Window	1,408	1,408	109	104
High-Turnover Sit-Down Restaurant	763	763	80	51
<b>TOTALS</b>	<b>3,066</b>	<b>3,066</b>	<b>346</b>	<b>313</b>
		<b>6,293</b>		<b>659</b>

The trip generation of the "shopping center" scenario (i.e., under the proposed C-C designation) is shown in the following table.

**Trip Generation of Proposed C-C Zoning Scenario**

Land Use	Daily Trips		PM Peak Hour Trips	
	Inbound	Outbound	Inbound	Outbound
Shopping Center	2,564	2,564	228	245
<b>TOTALS</b>		<b>5,128</b>		<b>473</b>

Comparing the two tables illustrates that a conservative worst-case I-L development scenario generates more trips than the proposed "shopping center" development allowed under the C-C zoning. For all intents and purposes, there is no differential increase in trips resulting from the proposed rezoning and comprehensive plan amendment.

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Proposal from Matthew W. Zoll, P.E.  
RE: Trip Generation Comparison - Excel Drive Rezoning  
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Therefore, in regard to the Transportation Planning Rule, there is no significant affect from the proposed zoning and comprehensive plan amendment.

In conclusion, the change in designation of the southerly properties from Light Industrial to Community Commercial does not result in a significant effect to the local road system. In fact, the proposed "shopping center" use produces less impact than what could be generated under a worst-case I-L development scenario. Our analysis also illustrates that the northern parcels could be rezoned to C-S/P (Service Commercial and Professional Office) without exceeding the City's allowance of 300 trips per day per acre under the existing I-L zoning. The 300 trip per day per acre allowance would be satisfied provided that all vacant parcels are developed with office space and that no more than 70 percent of the total space is used for medical or dental offices.

If you have any questions or comments regarding this letter please contact me at 541-687-1081.

Sincerely,



RENEWS: 06/30/2010

Matthew W. Zoll, P.E.  
JRH Transportation Engineering

Attachments

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**EXHIBIT "G"**

**Excel Drive Extension and Property Rezone and Plan Amendments**

**Calculation To Determine the Mix of General Office and Medical Office to Maintain Maximum I-L Trip Allowance (300 Daily Trips)**

Percent Medical Office	63.4%	
Percent General Office	36.6%	
Medical Office Daily Trips:	36.13	per 1,000 square feet
General Office Daily Trips:	11.01	per 1,000 square feet
Total Existing SF:	66,043	square feet
Acres Included:	5.84	acres
Total Acreage:	7.57	acres (to include TL 311, 319, and 2500)
Total Building SF:	84243	square feet
General Office Building SF:	30833	square feet
Medical Office Building SF:	53410	square feet
General Office Daily Trips:	339	trips
Medical Office Daily Trips:	1930	trips
Total Daily Trips:	2269	trips
Trips per Acre:	300	trips

**Credit for Acreage Lost to Excel Road Extension**

Excel Drive Extension ROW Width:	60	feet
Length of Road Extension within Site:	286	feet
Area of Road ROW:	17160	square feet
	0.394	acres
Allowed Trips by City:	118	trips (at 300 trips per acre in I-L zone)
Difference between Medical and General Office Trip Generation:	25.12	trips
Additional Medical Office SF Allowed:	4705	square feet
Resulting Medical Office Space Allowed:	58115	square feet
General Office Space Allowed:	26128	square feet
Percentage Medical Office Space	69.0%	

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EXHIBIT "G"

**Excel Drive Extension and Property Rezone and Plan Amendments**

**Land Balance Calculations**

Equation:  $\text{Building Size} = \frac{\text{Site Size} \times \text{Parking/Building Utilization Factor}}{(1 + (250/\text{Parking Standard}))}$

Standards:	Bldg Util. Fact.	Parking Standard	Building Size
Drive through bank	60%	200	51924
Drive through restaurant	60%	75	26960
Sit-down restaurant	75%	100	41724
Commercial	75%	200	64904

Site Size: 4.47 acres = 194713 SF

Bank maximum size in I-L Zone 3500 SF  
 Fast Food Restaurant size 3000 SF  
 Restaurant Max size in I-L Zone 6000 SF

Land required per bank 13125 SF Little over 3 per acre  
 Land required per fast food 21667 SF Roughly two per acre  
 Land req. per restaurant 28000 SF

Assume 2 fast food restaurants, 2 high-turnover sit-down restaurant and 2 banks versus 64904 square feet of commercial development

Area needed:				
Banks	2	x	13125	= 26250 SF
Fast Food	2	x	21667	= 43333 SF
Sit-down	2	x	28000	= 56000 SF
				125583 SF
				2.88 acres

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**Excel Drive Extension and Property Rezone and Plan Amendments**

**Trip Generation Equations and Rates**

Shopping Center	Daily: $\ln(T) = 0.65 \ln(X) + 5.83$	In	Out
	PM Peak: $\ln(T) = 0.66 \ln(X) + 3.40$	48%	52%
Bank with Drive-up Window	Daily: $T = 182.34(X) + 256.87$	In	Out
	PM Peak: 45.74 trips per 1000 SF	50%	50%
Restaurant with Drive-up Window	Daily: 496.12 trips per 1000 SF	In	Out
	PM Peak: 34.64 trips per 1000 SF	51%	49%
High Turnover Sitdown Restaurant	Daily: 127.15 trips per 1000 SF	In	Out
	PM Peak: 10.92 trips per 1000 SF	61%	39%

**Trip Generation Calculations**

**Existing Zoning Scenario (Restaurants and Banks)**

Land Use	Size	Units	Rate	Daily	In	Out	Rate	PM Peak	In	Out
Bank with Drive-Up Window	3.5	2	EQN	1790	895	895	45.74	320	160	160
Fast-Food with Drive-Up Window	3	2	496.12	2977	1488	1488	34.64	208	106	102
Sit-Down Restaurant	6	2	127.15	1526	763	763	10.92	131	80	51
				6293	3146	3146		659	346	313

**Proposed Zoning Scenario (Shopping Center)**

Land Use	Size	Units	Rate	Daily	In	Out	Rate	PM Peak	In	Out
Shopping Center	65	1	EQN	5128	2564	2564	EQN	471	226	245

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**EXHIBIT "A"**

**Elron Property**

Lot Fourteen (14) in CRATER LAKE BUSINESS CENTER, in the City of Medford, Jackson County, Oregon, according to the official plat thereof, now of record.

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CITY OF MEDFORD  
EXHIBIT # "D"  
File # 7C-09-076  
33 of 51

Exhibit "A" - Elron Property

APPLICANT'S  
EXHIBIT  
"3/4"

"D"  
33 of 51

7

EXHIBIT "B"

DC II Property

Lot Thirteen (13) in CRATER LAKE BUSINESS CENTER, in the City of Medford, Jackson County, Oregon, according to the official plat thereof, now of record.

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CITY OF MEDFORD,  
EXHIBIT #   D    
File #   ZC-09-076    
  34 of 51  

APPLICANT'S  
EXHIBIT  
  37/4  

Exhibit "B" – DC II Property

34 of 51

EXHIBIT "C"

Burrill Tax Lot 300

Lot Twelve (12) in CRATER LAKE BUSINESS CENTER, in the City of Medford, Jackson County, Oregon, according to the official plat thereof, now of record.

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EXHIBIT # "D"  
File # 20-09-076  
35 of 51

APPLICANT'S  
EXHIBIT  
"3 3/4"

Exhibit "C" - Burrill Tax Lot 300

35 of 51

EXHIBIT "D"

Burrill Office Park

Lots Three (3), Four (4), The North 56.17 feet of Lot Five (5), Lots Nine (9), Ten (10), Eleven (11), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Twenty (20), Twenty-Two (22), Twenty-Three (23) and Twenty-Four (24) in CRATER LAKE BUSINESS CENTER, in the City of Medford, Jackson County, Oregon, according to the official plat thereof, now of record.

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CITY OF MEDFORD  
EXHIBIT # "D"  
File # 20-09-076  
36 of 51

APPLICANT'S  
EXHIBIT  
"3/A"

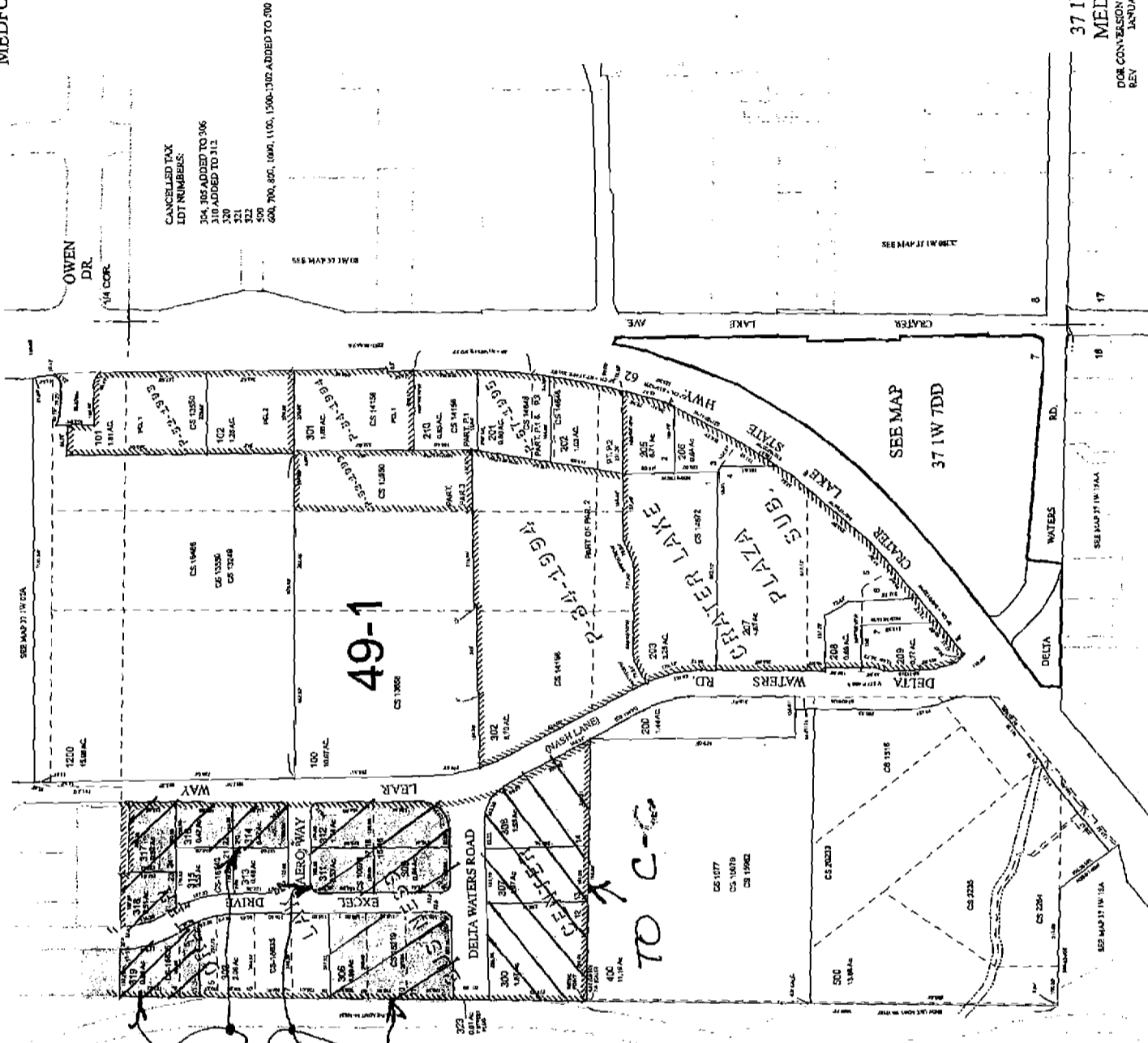
Exhibit "D" - Burrill Office Park

36 of 51

S.E. 1/4, SEC. 7, T.37S., R.1W., W.M.  
JACKSON COUNTY  
1" = 200'

37 1W 07D  
MEDFORD

FOR ASSESSMENT AND  
EVALUATION ONLY



37 1W 07D  
MEDFORD  
FOR CONVERSION, OCTOBER 06, 1999  
KEY JANUARY 04, 2008

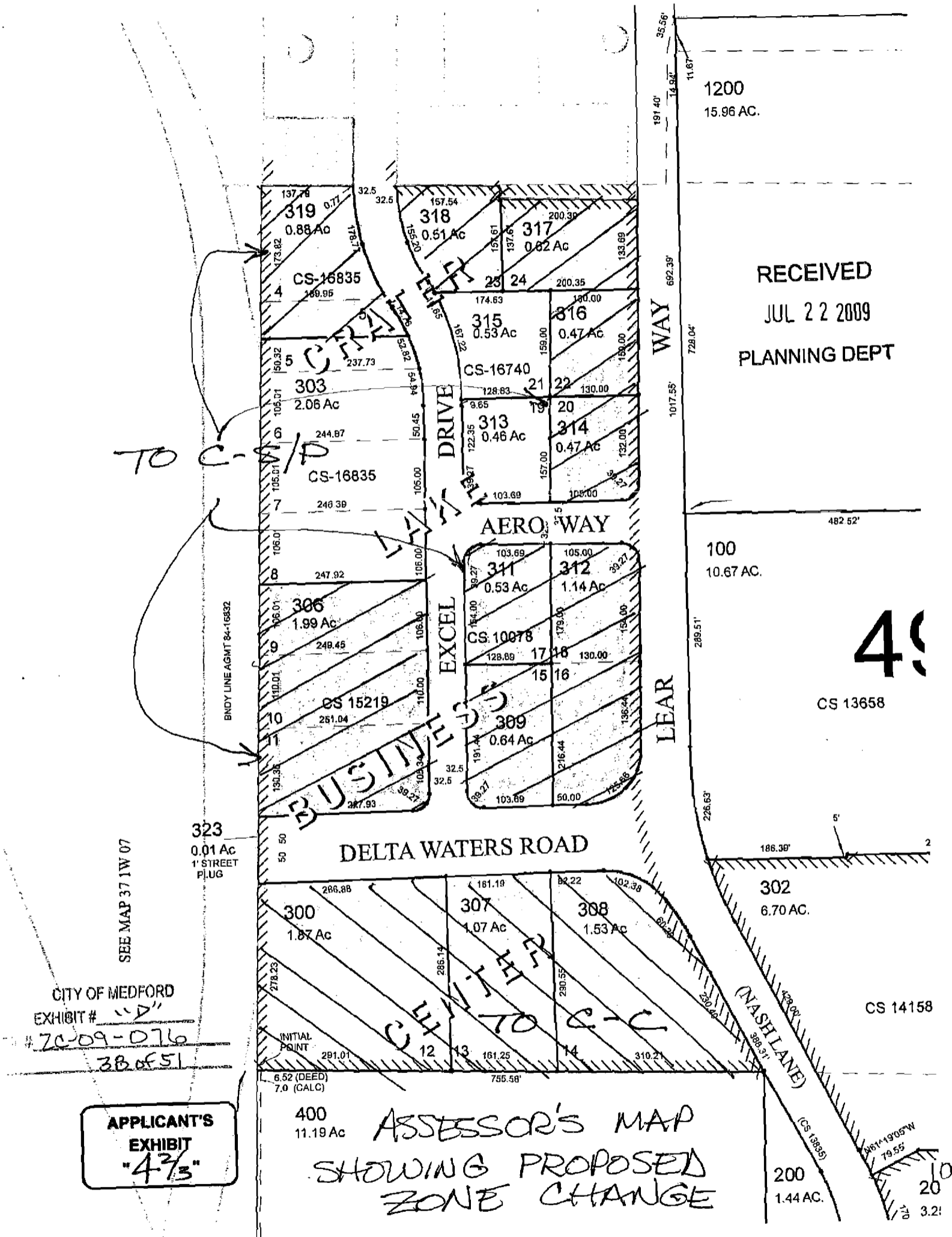
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ASSESSOR'S MAP SHOWING  
PROPOSED ZONE CHANGE  
CITY OF MEDFORD

APPLICANT'S  
EXHIBIT  
"A/B"

EXHIBIT # "D"  
File # 20-09-076  
37 of 51

37 of 51 10



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4  
 CS 13658

APPLICANT'S  
 EXHIBIT  
 "4 2/3"

ASSASSOR'S MAP  
 SHOWING PROPOSED  
 ZONE CHANGE

CITY OF MEDFORD  
 EXHIBIT # "D"  
 #70-09-076  
 38 of 51

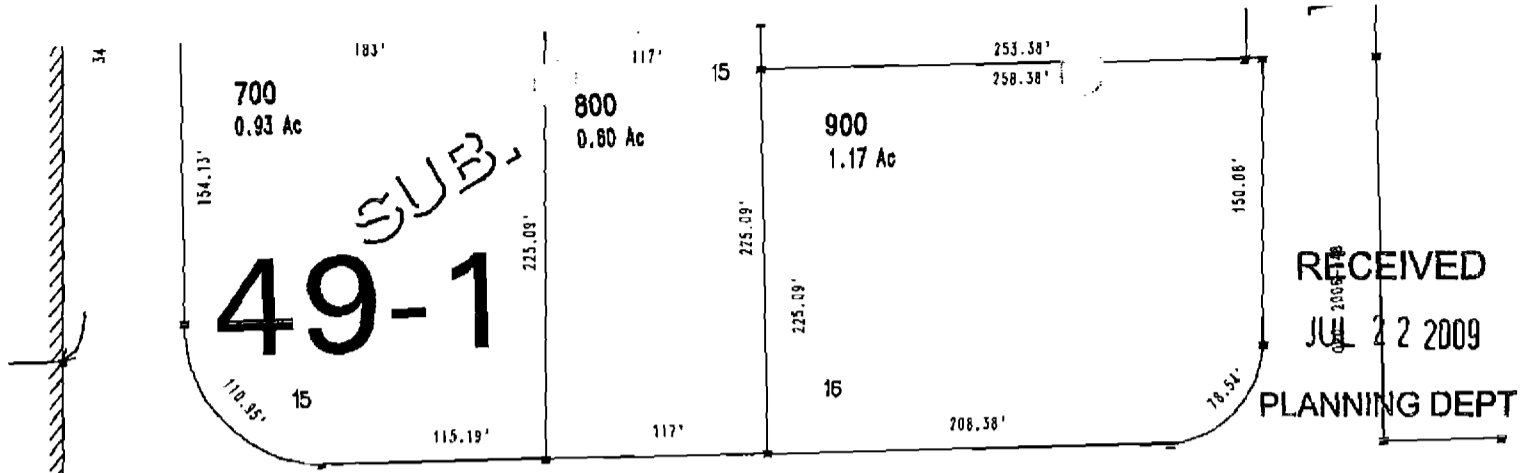
SEE MAP 37 1W 07

323  
 0.01 Ac  
 1' STREET  
 P.L.U.G

INITIAL  
 POINT  
 6.52 (DEED)  
 7.0 (CALC)

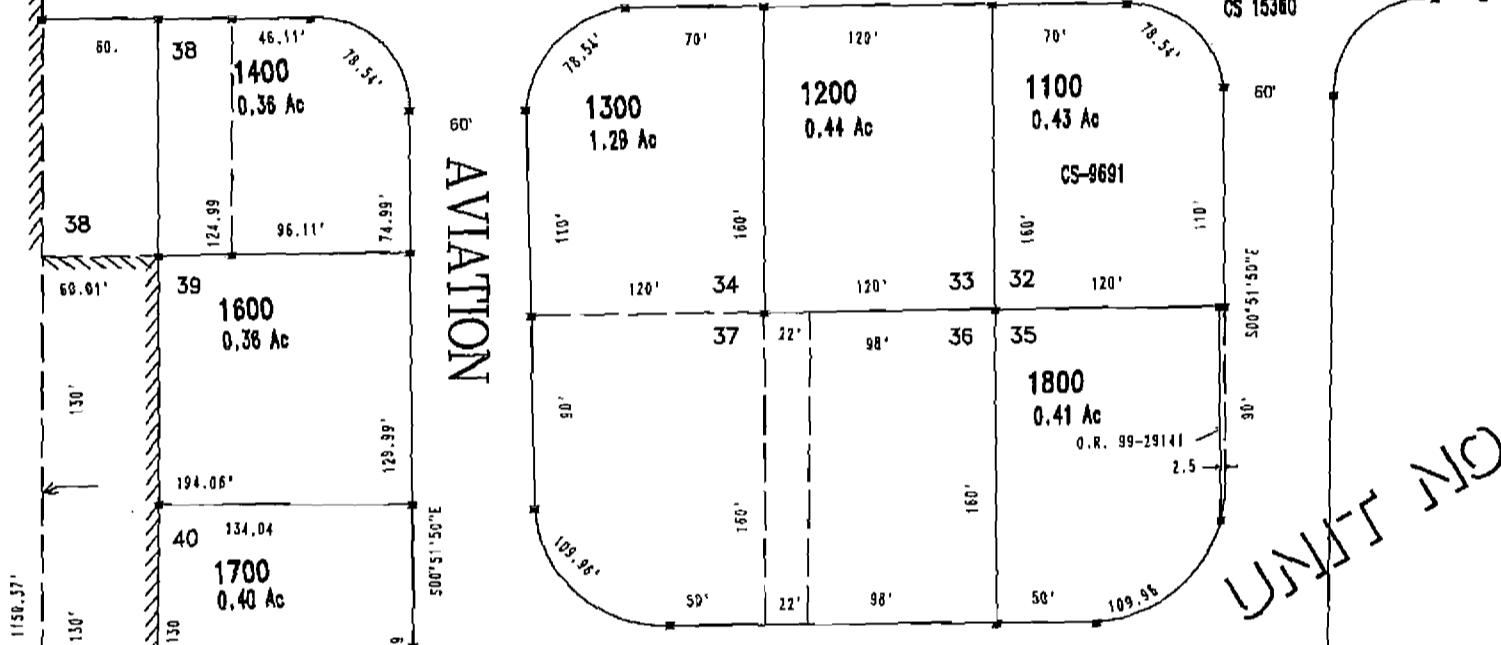
200  
 1.44 AC.

10  
 20  
 3.2'

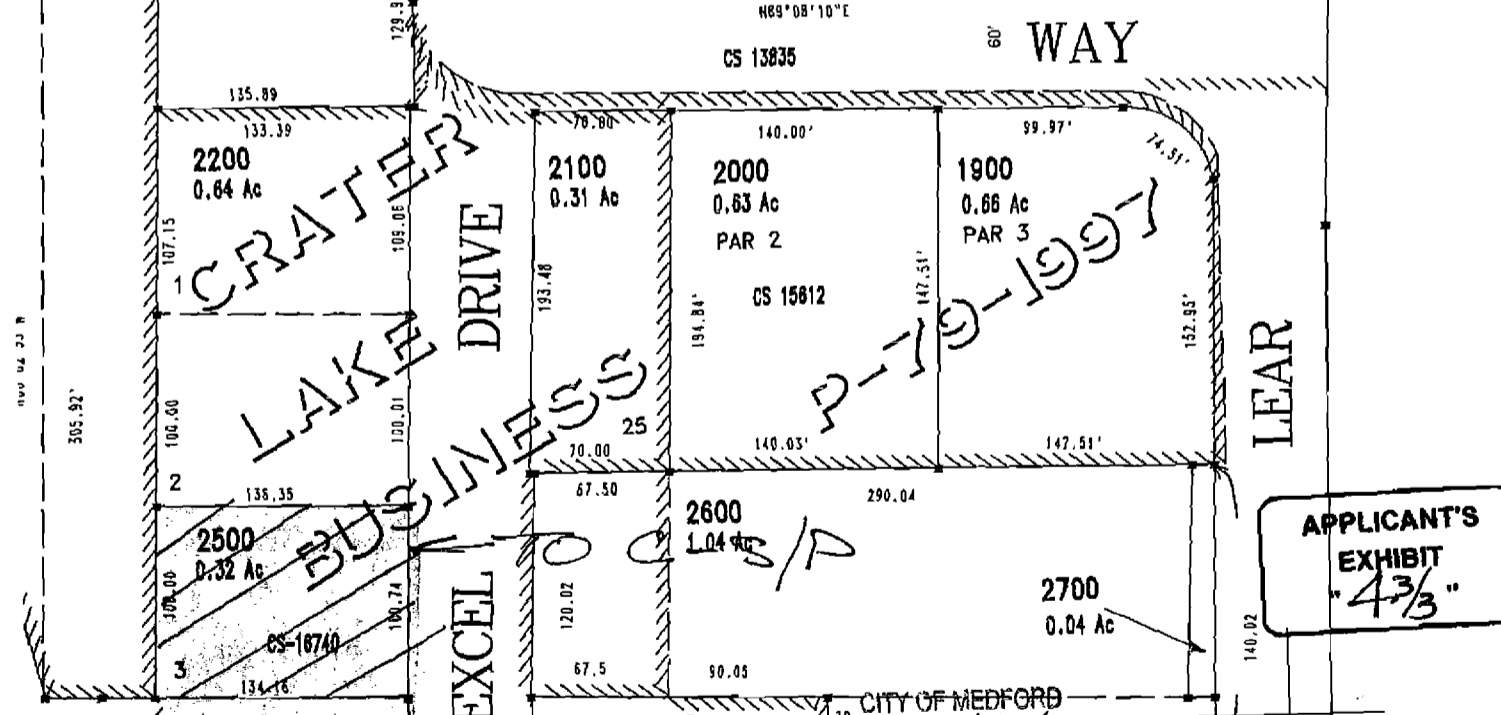


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CARDINAL AVENUE



UNIT NO. 1

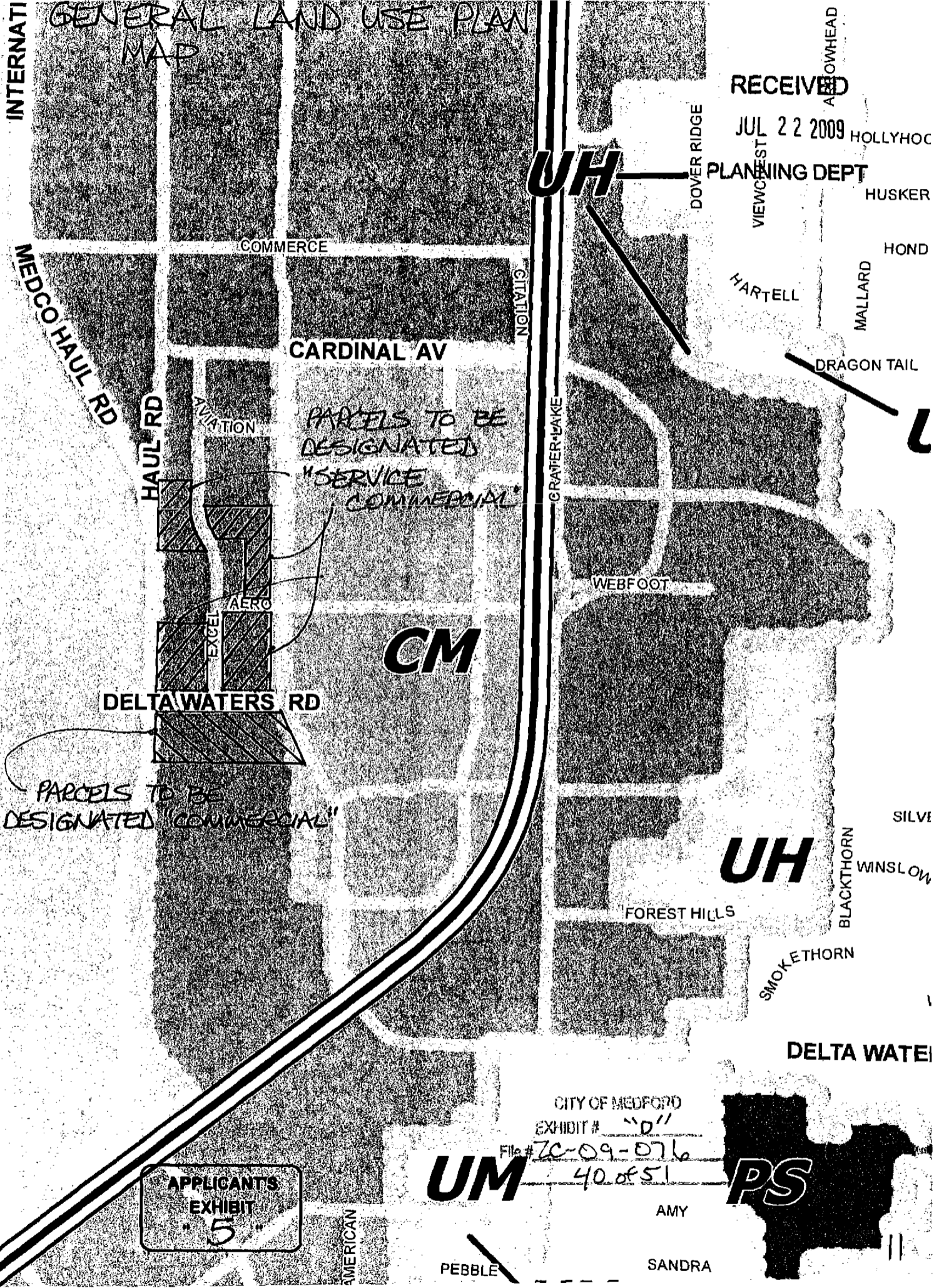


APPLICANT'S  
 EXHIBIT  
 "4 3/3"

CITY OF MEDFORD  
 EXHIBIT #  
 File # 20-04-026  
 39 of 51

APPROX.  
 1/16 COR.

GENERAL LAND USE PLAN  
MAP



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PARCELS TO BE  
DESIGNATED  
"SERVICE  
COMMERCIAL"

PARCELS TO BE  
DESIGNATED "COMMERCIAL"

APPLICANT'S  
EXHIBIT  
"5"

CITY OF MEDFORD  
EXHIBIT # "D"  
File # 20-09-076  
40 of 51

UM

PS

AMY  
SANDRA

PEBBLE



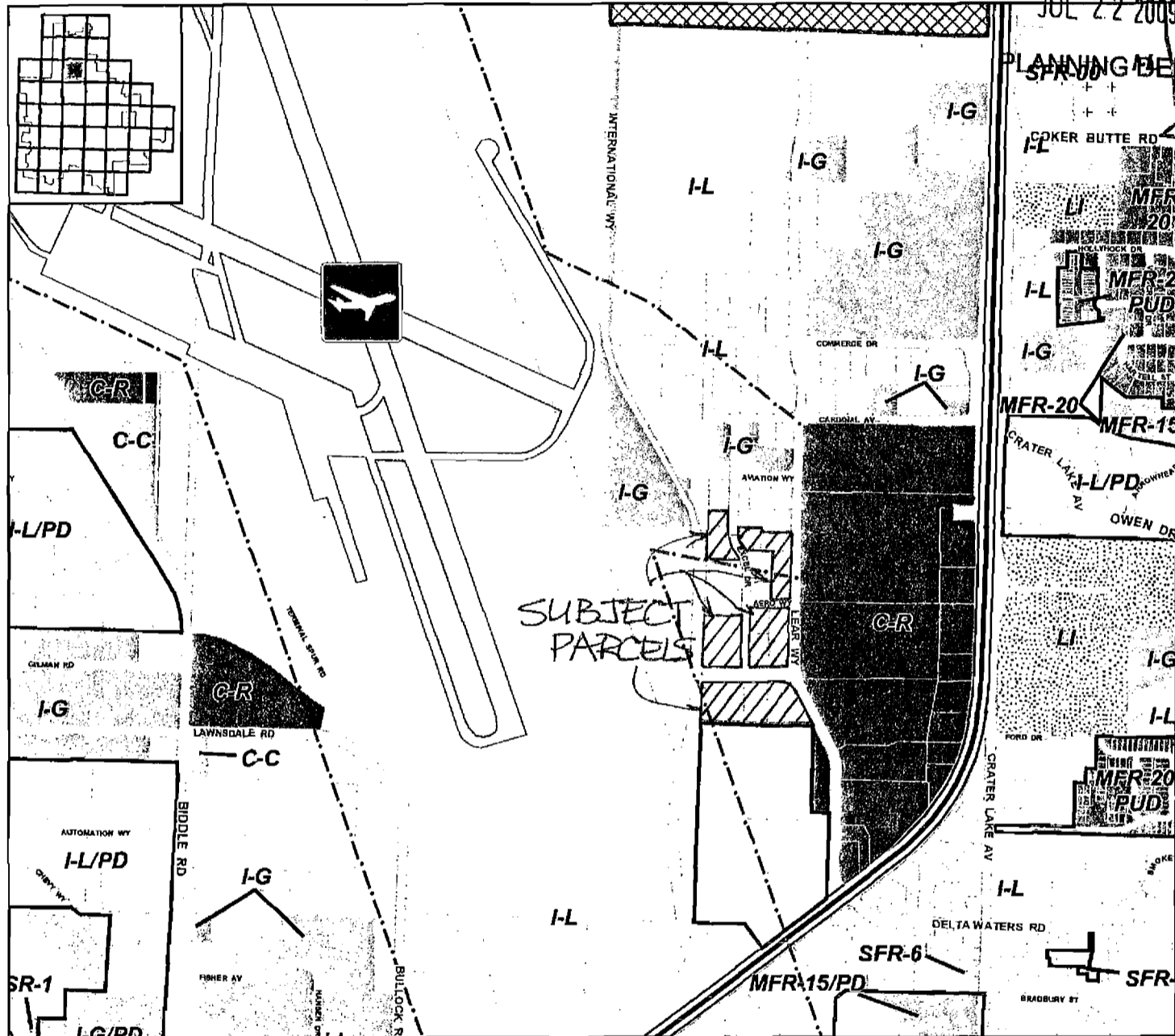
# CITY OF MEDFORD ZONING MAP

Township, Range and Section: 371W7

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	<b>OVERLAYS</b> AA - Airport Approach AR - Airport Radar CB - Central Business District F - Freeway H - Historic IO - Limited Industrial	<b>LS - Limited Service</b> PD - Planned Development SE - Southeast Plan	<b>City Limits</b> UGB Outside UGB		No guarantee or warranty is expressed or implied in terms of data accuracy or legitimacy. This product is intended for use as public information and precise interpretations of the official record should be solicited from the Medford Planning Department.
--	--	--	--	--	---

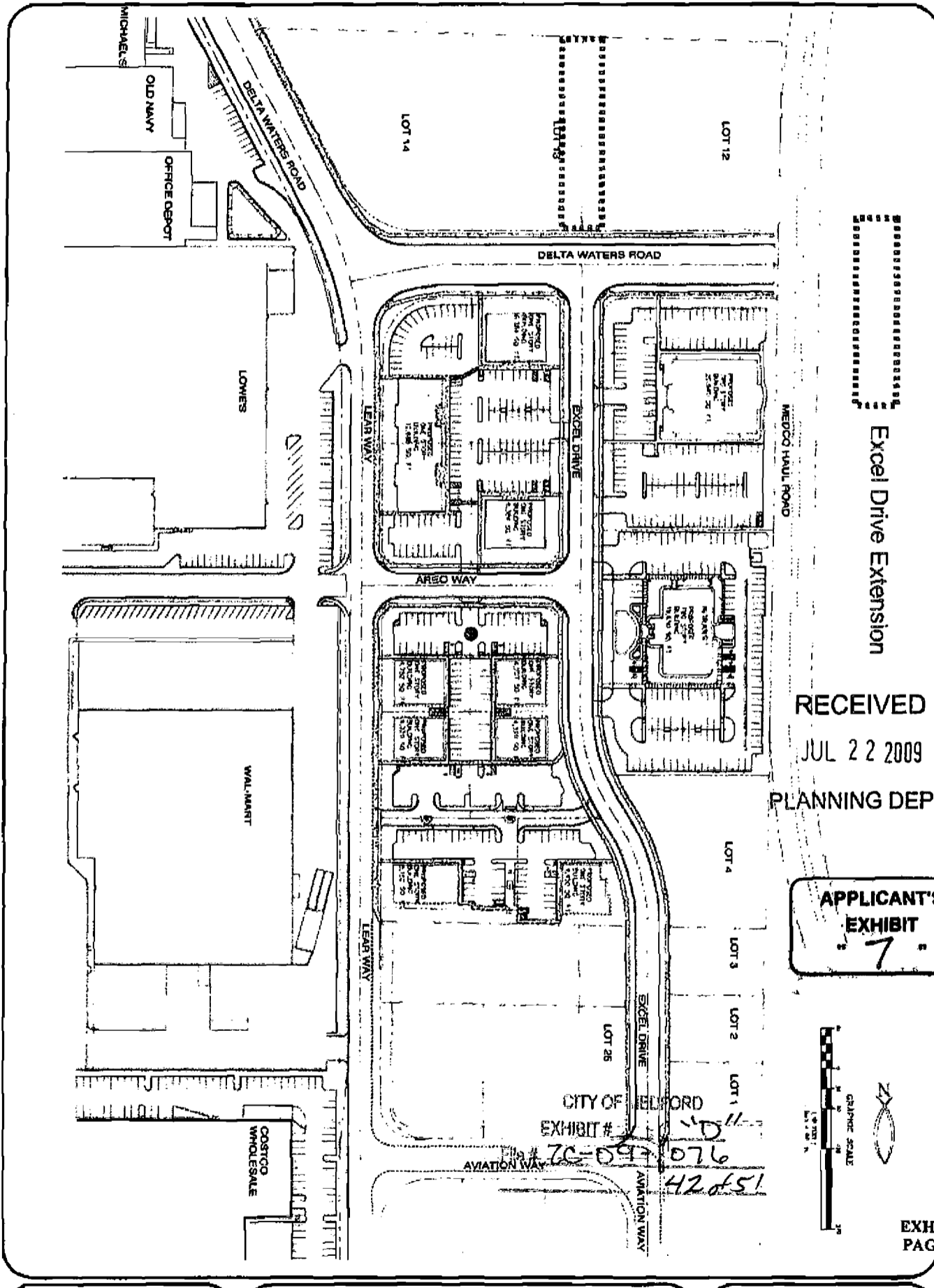
MEDFORD CITY ZONES			
Residential			
● Multi-Family - 30 Units/Acre (MFR-30)	○ Single Family - 6 Units/Acre (SFR-6)		
● Multi-Family - 20 Units/Acre (MFR-20)	○ Single Family - 4 Units/Acre (SFR-4)		
○ Multi-Family - 15 Units/Acre (MFR-15)	○ Single Family - 2 Units/Acre (SFR-2)		
○ Single Family - 10 Units/Acre (SFR-10)	○ Single Family - 1 Unit/Lot (SFR-00)		
Commercial		Industrial	
● Heavy (C-H)	○ Neighborhood (C-N)	● Heavy (I-H)	○ General (I-G)
● Regional (C-R)	○ Service/Professional (C-S/P)	○ General (I-G)	○ Light (I-L)
○ Community (C-C)			

COUNTY ZONES IN MEDFORD		
Residential		
● Suburban - 1 Acre Minimum (SR-1)	● Rural - 5 Acre Minimum (RR-5)	
● Suburban - 2.5 Acre Minimum (SR-2.5)	● Farm - 5 Acre Minimum (F-5)	
Commercial	Resource	Industrial
● General (GC)	● Exclusive Farm Use (EFU)	● General (GI)
● Neighborhood (NC)	● Open Space Reserve (OSR)	● Light (LI)
● Airport Development - (AMU)		

CITY OF MEDFORD PLANNING DEPARTMENT
EXHIBIT # "D" File # 41 of 51
APPLICANT'S EXHIBIT "6" DATE: 7/22/09

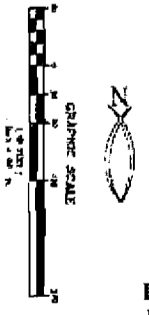
20-09-076  
41 of 51

EXHIBIT "E"



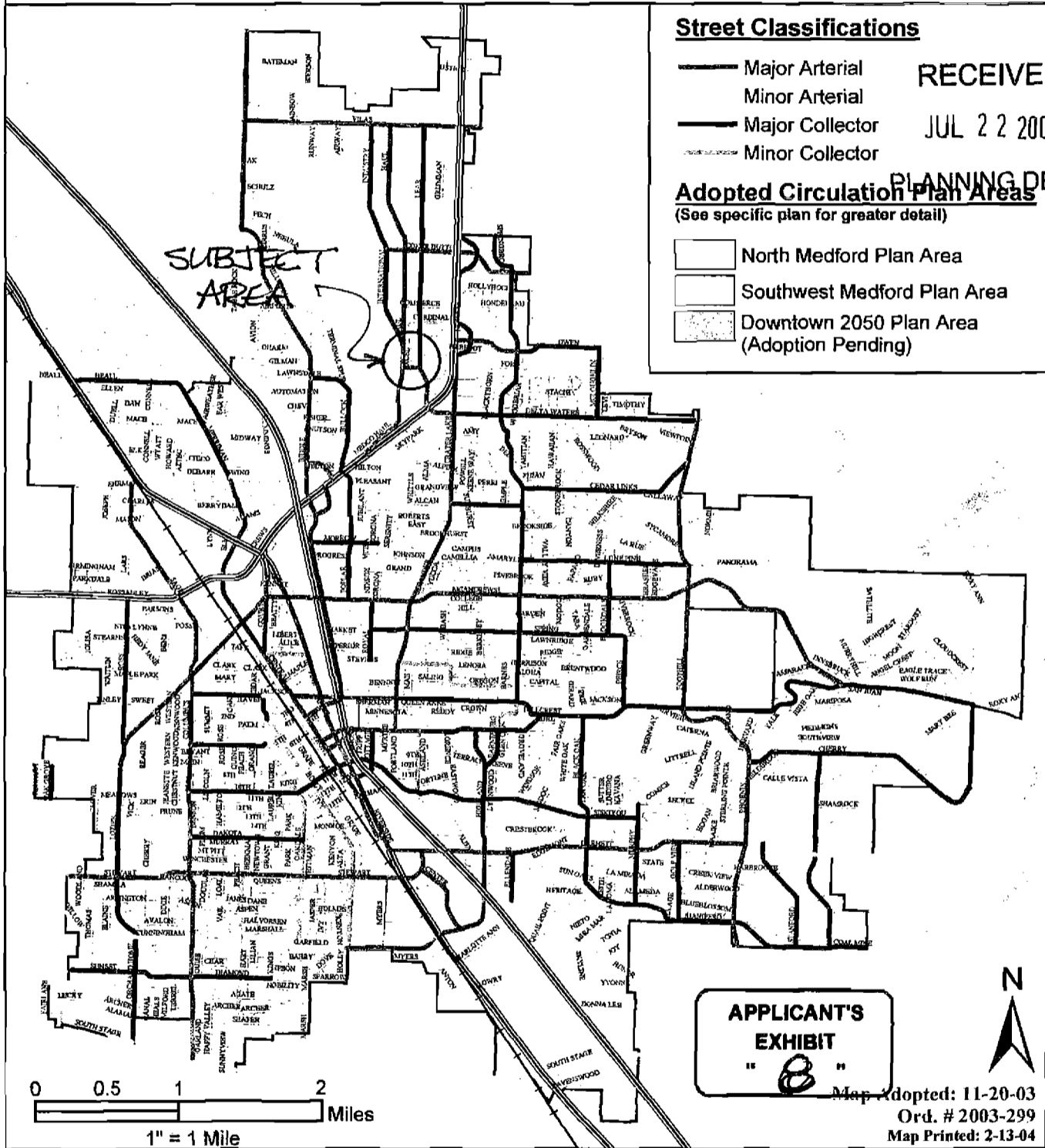
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JUL 22 2009  
PLANNING DEPT

APPLICANT'S  
EXHIBIT  
7



13  
EXHIBIT "E"  
PAGE 1

# Figure 1-2: Medford Street Functional Classification Plan



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PLANNING DEPT

### Street Classifications

- Major Arterial
- Minor Arterial
- Major Collector
- Minor Collector

### Adopted Circulation Plan Areas

(See specific plan for greater detail)

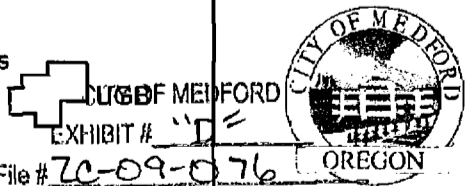
- North Medford Plan Area
- Southwest Medford Plan Area
- Downtown 2050 Plan Area (Adoption Pending)

0 0.5 1 2 Miles  
1" = 1 Mile

APPLICANT'S EXHIBIT "B"

Map Adopted: 11-20-03  
Ord. # 2003-299  
Map Printed: 2-13-04

- Other Streets
- Highway
- Railroad



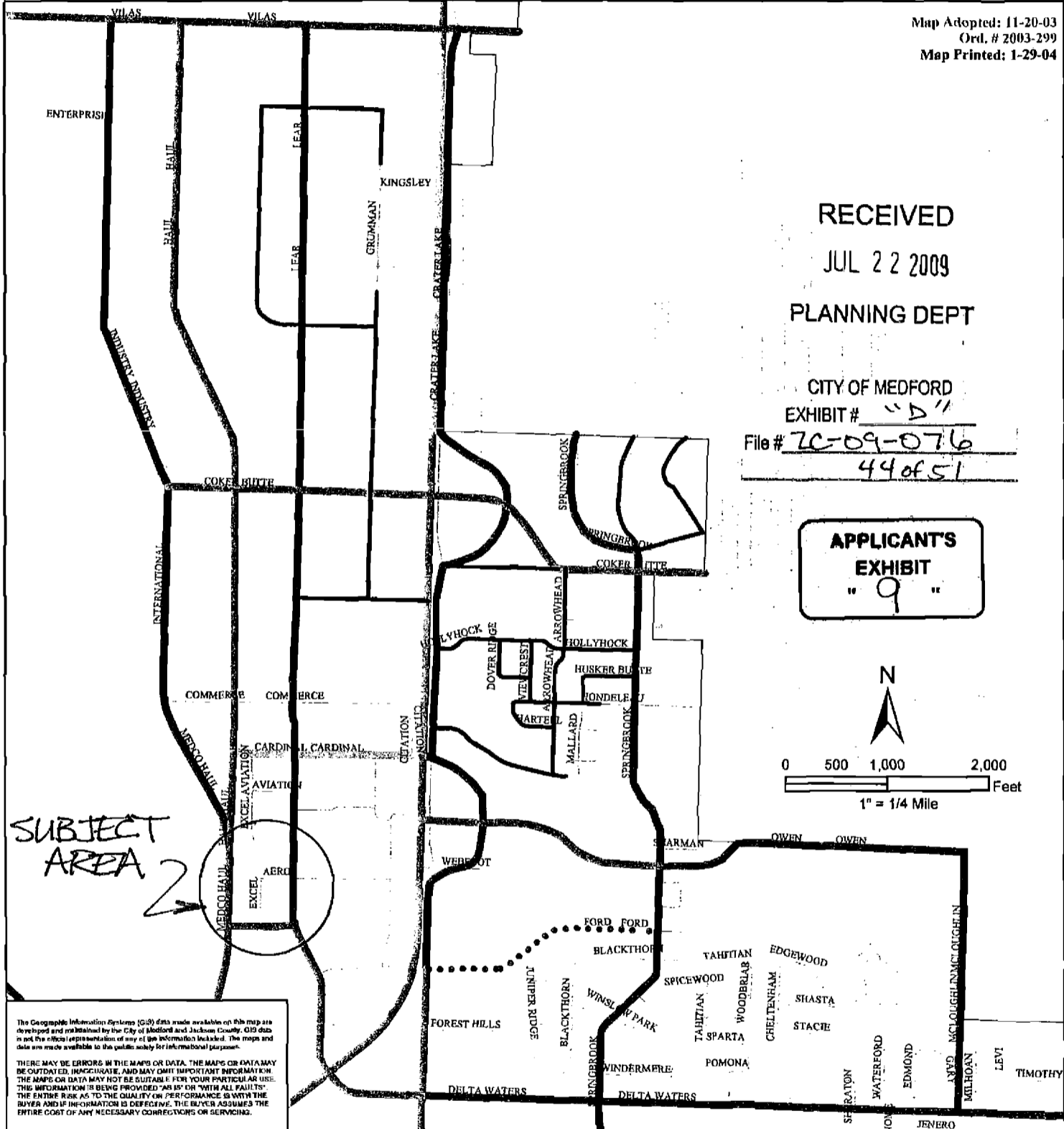
The Geographic Information Systems (GIS) data made available on this map are developed and maintained by the City of Medford and Jackson County. GIS data is not the official representation of any of the information included. The maps and data are made available to the public solely for informational purposes.

THERE MAY BE ERRORS IN THE MAPS OR DATA. THE MAPS OR DATA MAY BE OUTDATED, INACCURATE, AND MAY OMIT IMPORTANT INFORMATION. THE MAPS OR DATA MAY NOT BE SUITABLE FOR YOUR PARTICULAR USE. THIS INFORMATION IS BEING PROVIDED "AS IS" OR "WITH ALL FAULTS". THE ENTIRE RISK AS TO THE QUALITY OR PERFORMANCE IS WITH THE BUYER AND IF INFORMATION IS DEFECTIVE, THE BUYER ASSUMES THE ENTIRE COST OF ANY NECESSARY CORRECTIONS OR SERVICING.

111

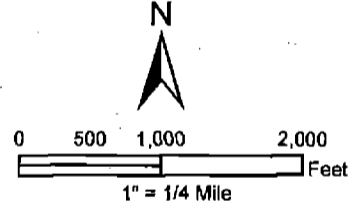
# Adopted North Medford Circulation Plan

Map Adopted: 11-20-03  
 Ord. # 2003-299  
 Map Printed: 1-29-04



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 JUL 22 2009  
 PLANNING DEPT  
 CITY OF MEDFORD  
 EXHIBIT # "D"  
 File # 7C-09-076  
44 of 51

APPLICANT'S  
 EXHIBIT  
 "9"



The Geographic Information System (GIS) data made available on this map are developed and maintained by the City of Medford and Jackson County. GIS data is not the official representation of any of the information included. The maps and data are made available to the public solely for informational purposes.  
 THERE MAY BE ERRORS IN THE MAPS OR DATA. THE MAPS OR DATA MAY BE OUTDATED, IMPRECISE, AND MAY OMIT IMPORTANT INFORMATION. THE MAPS OR DATA MAY NOT BE SUITABLE FOR YOUR PARTICULAR USE. THIS INFORMATION IS BEING PROVIDED "AS IS" OR "WITH ALL FAULTS". THE ENTIRE RISK AS TO THE QUALITY OR PERFORMANCE IS WITH THE BUYER AND IF INFORMATION IS DEFECTIVE, THE BUYER ASSUMES THE ENTIRE COST OF ANY NECESSARY CORRECTIONS OR SERVICES.

Street Classifications			UGB
Major Arterial	Major Collector	Local Streets	UGB Adopted Circulation Plan Area
Minor Arterial	Minor Collector	Other Streets	



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JUL 22 2009

AGREEMENT

PLANNING DEPT

This Agreement dated this 21 day of May, 2009 is by and between the CITY OF MEDFORD, a municipal corporation of the State of Oregon ("City"), ELRON ENTERPRISES, LLC, an Oregon limited liability company ("Elron"), DELTA CENTER II, LLC, an Oregon limited liability company ("Delta Center II"), and BURRILL RESOURCES, INC., an Oregon corporation (Burrill Resources"), BURRILL INVESTMENTS, INC., an Oregon corporation ("Burrill Investments"), BURRILL DEVELOPMENT COMPANY, LLC, an Oregon limited liability company ("Burrill Development") and JCTN FAMILY OFFICES, LLC, an Oregon limited liability company ("JCTN") (collectively the "Burrill Group").

RECITALS

A. Elron owns the property located in the City of Medford and more particularly described on Exhibit "A" attached hereto and made a part hereof ("Elron Property").

B. Delta Center II owns the property located in the City of Medford and more particularly described on Exhibit "B" attached hereto and made a part hereof ("DC II Property").

C. Burrill Resources, owns the property located in the City of Medford, South of Delta Waters Road and adjacent to the DC II Property more particularly described on Exhibit "C" attached hereto and made a part hereof ("Burrill Tax Lot 300").

D. The Burrill Group owns the property located in the City of Medford, North of Delta Waters Road more particularly described on Exhibit "D" attached hereto and made a part hereof ("Burrill Office Park").

E. Elron, Delta Center II and the Burrill Group shall be referred to herein collectively as the "FB Group".

CITY OF MEDFORD  
EXHIBIT # "D"  
File # ZC-09-076  
45 of 51

APPLICANT'S  
EXHIBIT  
" 10 "

16

F. The City desires to acquire from the FB Group a parcel of real property more particularly describe on Exhibit "E", attached hereto and made a part hereof ("Excel Drive Extension").

G. Delta Center II has been issued a building permit by the City for 1584 Delta Waters Road for a building that extends onto the proposed right of way for the Excel Drive Extension.

H. On February 5, 2009 the Medford City Council put on its agenda for City Council consideration the condemnation of the Excel Drive Extension.

I. The FB Group attended the City Council meeting of February 5, 2009 and objected to the City's right to condemn the Excel Drive Extension because the condemnation lacks the sufficient public purpose required by law and is for the private benefit of Delta Center, a Planned Unit Development (the "Delta Center PUD") which abuts the FB Group property to the south.

J. The City disagrees with FB Group's position and believes that it has the right to condemn the Excel Drive Extension.

K. The parties desire to resolve their dispute amicably as set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. Within sixty (60) days of the mutual execution of this Agreement, the FB Group shall apply, under code sections 10.225 through 10.227 and 10.192 to the City Planning Department for a joint comprehensive plan/zone change from Light Industrial ("LI") to Community Commercial ("CC") on the Elron Property, DC II Property and Burrill Tax Lot 300 and from Light Industrial ("LI") to Service Commercial and Professional Office ("C-S/P") on the

**Burrill Office Park. The FB Group hereby agrees to stipulate that the following conditions may be placed on the zone changes by the City of Medford Planning Commission:**

**1.1 That the FB Group dedicate to the City the Excel Drive Extension subject to a reservation by the grantors for deeded accesses to Excel Drive at the locations depicted on Exhibit "F".**

**1.2 The Burrill Group place a covenant on the Burrill Office Park that provides as follows: documents the trip cap identified in the letter dated March 19, 2009 from JRH signed by Matthew Zoll attached hereto as Exhibit "G" ("JRH Traffic Analysis").**

**2. The FB Group and the City will stipulate that the intersection of Delta Waters and Crater Lake Avenue is currently failing and that development under the proposed zone change of the Elron Property, DC II Property, Burrill Tax Lot 300 and Burrill Office Park, without trip caps on Burrill Office Park, would further degrade the operation of that intersection.**

**3. The City agrees as follows:**

**3.1 The City will deem complete the FB comprehensive plan and zone change applications with the JRH Traffic Analysis. As part of its review of those applications, the City's Public Works Department will submit its recommendations based on the stipulated dedication, trip caps and failures in Sections 1.1, 1.2 and 2 above.**

**3.2 Accepting the JRH Traffic Analysis as part of an application that is deemed complete does not create any precedent for future comprehensive plan amendments or zone change applications. Any trip caps imposed by the City will be removed per section 10.228.**

3.3 If finally approved by the Planning Commission or City Council or on appeal, then, within one (1) year after the approval of the zone change and dedication of the Excel Drive Extension:

3.3.1 The City shall plan and design the extension of Excel Drive as a commercial street.

3.3.2 The City shall construct all necessary improvements to the Dedicated Property including without limitation all asphalt paving, curbs, sidewalks, gutters and traffic signalization at Delta Waters and Lear Way. The City further agrees that the FB Group has no financial responsibility for the planning, design or construction costs associated with the improvements to the Dedicated Property or the traffic signalization.

4. During the pendency of the joint comprehensive plan/zone change application the City will, at six (6) month intervals, extend Delta Center II's permit for 1584 Delta Waters Road. Within sixty (60) days of the final approval of the zone change Delta Center II will apply for an amended site plan for 1584 Delta Waters Road to reduce the footprint of the current building permitted at 1584 Delta Waters Road to accommodate the Excel Drive Extension.

5. Effect Of Approval, Denial Or Appeal Of Comprehensive Plan And Zone Change Applications:

5.1. If the zone change is denied by the Planning Commission, the FB Group will appeal to the City Council.

5.2 The FB Group will not withdraw their applications without express written consent of the City. Notwithstanding the foregoing, if the Planning Commission or City Council propose to impose trip caps or traffic mitigation measures more onerous than proposed in the



JRH Traffic Analysis, the FB Group shall have the option of withdrawing its application and such a withdrawal will be equivalent to a denial and section 5.5 below shall apply.

5.3 If the City approves the zone change and comprehensive plan, and either approval is appealed to any other body including but not limited to DLCD, LCDC, LUBA, the State Circuit Court, Oregon's Appellate Courts, or Federal Court, the FB Group will have no obligation to defend such appeal, but the City may, but shall not be obligated, to defend such appeal.

5.4 The City shall obtain assurances from the owners/developers of the Delta Center PUD that they will (a) re-design the Delta Center PUD to recognize Excel Drive as an entrance; and (b) grant and design their traffic circulation for public access easement from Excel Drive to Crater Lake Highway.

5.5 In the event the FB Group is not granted a zone change and comprehensive plan amendment, then (a) this Agreement shall be of no further force and effect, (b) the FB Group will have no obligation to dedicate the Excel Drive Extension to the City, (c) Delta Center II will have no obligation to reduce the footprint of its building, (d) the City retains the option of exercising its power of eminent domain, and (e) the FB Group does not waive any argument that the City has no public purpose in eminent domain.

6. This document runs with the land described in the attached exhibits, and binds the FB Group; all their officers, agents, employees, representatives, successors and assigns.

7. Any dispute over this agreement will be resolved in the State of Oregon Jackson County Circuit Court, and each party shall bear their own costs, fees and expenses.

///

///

EXECUTED the day and year first hereinabove set forth.

CITY OF MEDFORD, a municipal corporation  
of the State of Oregon

By: \_\_\_\_\_  
Its: \_\_\_\_\_ "City"

ELRON ENTERPRISES, LLC, an Oregon  
limited liability company

By: Stuart E. Foster, Trustee  
Its: Member "Elron"

DELTA CENTER II, LLC, an Oregon  
limited liability company

By: Stuart E. Foster, Trustee  
Its: Member "Delta Center II"

BURRILL RESOURCES, INC.,  
an Oregon corporation

By: Michael Burrill  
Its: Member "Burrill Resources"

BURRILL INVESTMENTS, INC.,  
an Oregon corporation

By: Michael Burrill  
Its: Member "Burrill Investment"

BURRILL DEVELOPMENT COMPANY, LLC,  
an Oregon limited liability company

By: *Mark E. Burrill*

Its: *managing member*  
"Burrill Development"

JCTN FAMILY OFFICES, LLC,  
an Oregon limited liability company

By: *Troy J. Wald*

Its: *member*  
"JCTN"

CITY OF MEDFORD  
INTER - OFFICE MEMORANDUM

TO: Planning Department

FROM: Engineering Division

SUBJECT: Zone Change Request, File No. ZC-09-076

DATE: November 5, 2009

CITY OF MEDFORD  
EXHIBIT # "E"  
File # ZC-09-076

1. Sanitary Services:

A. This zone change is within the City of Medford sewer service area. The sanitary sewer downstream issues were reviewed, and sufficient capacity exists for this zone change.

2. Streets:

A. Current condition of nearest streets:

Delta Waters Road, a designated Major Arterial Street, is paved with curb and gutter along the frontage of this zone change and is to current City Standards.

Medco Haul Road, a designated Major Arterial Street, is unpaved along the frontage of this zone change.

Lear Way, a designated Major Collector Street, is paved with curb and gutter along the frontage of this zone change and is to current City Standards.

Aero Way and Excel Drive, designated Commercial Streets, are paved with curb and gutter along the frontage of this zone change and are to current City Standards.

B: Who has maintenance responsibilities:

Delta Waters Road, Lear Way, Aero Way and Excel Drive - City of Medford

Medco Haul Road - ODOT

C. Transportation analyses for the surrounding street system are stated below:

Land Development Code Section 10.461 governs traffic impact analyses (TIA) required to determine development impacts on the street system. The proposed zone change from Light Industrial (I-L) to Service Commercial and Professional Office (S-SP) on ten

parcels totaling 7.57 acres has the potential to generate 3785 average daily trips (ADT) or produce a net increase of 1514 average daily trips (ADT) to the transportation system. The proposed zone change from Light Industrial (I-L) to Community Commercial (CC) on three parcels totaling 4.47 acres has the potential to generate 6705 average daily trips (ADT) or produce a net increase of 5364 average daily trips (ADT) to the transportation system.

Based on this and code sections 10.460 and 10.461, a traffic impact analysis (TIA) will be required. The Excel Dr. rezoning trip generation comparison (dated March 19, 2009) was submitted by JRH Engineering.

Public Works department has concluded facility adequacy can not be determined with the information provided and therefore recommends the approval with the following condition:

Any change of Zoning to C-C or C/SP shall be stipulated to a trip cap of no more than 300 daily trips per acre.

### 3. Drainage:

This site lies within the Midway Creek Drainage Basin. The City's current Drainage Master Plan indicates improvements are required in the downstream storm drainage system to meet current design standards for this basin. As a zone change is not allowable without adequate storm drain facilities, the following criteria must be met prior to issuance of a development permit or a building permit:

a) An engineer registered in the State of Oregon shall prepare a report which includes testing, plans and calculations necessary to demonstrate a controlled storm water release of no more than 0.25 C.F.S. per acre of development for the 10-year storm. The report shall be submitted to the City of Medford Engineering Division for review and approval

"E"  
2 OF 2



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation  
Region 3 / District 8  
100 Antelope Road  
White City, OR 97503  
(541) 774-6299

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NOV 16 2009

PLANNING DEPT.

11/16/2009

City of Medford, Planning Dept.  
Lausmann Annex, Room 240  
200 South Ivy Street  
Medford, OR 97501

Medford file no.: ZC-09-076  
ODOT Case No: 3415

Attn: Desmond McGeough, City Planner

RE: ODOT comments for the Elron Enterprises (et al) Zone Change (ZC-09-076)

The Oregon Department of Transportation appreciates the opportunity to review and comment on the noticed Elron Enterprises (et al) Zone Change application, following our prior comments on the proposed Elron Enterprises Comprehensive Plan Map Amendment (see City file no. CP-09-075). The purpose of this letter is as a cover correspondence requesting our prior letter of record be included within the proposed Elron Enterprises Zone Change public hearing record.

We recommend the City of Medford Planning Commission adopt the recommended conditions of approval identified within our September 3, 2009 letter for the prior minor comprehensive plan amendment of these subject properties. We agree with the City of Medford Public Works memo dated September 10, 2009 (see "Exhibit D" of City file no. CP-09-075). Please reference the attached ODOT letter, for consideration by the City of Medford Planning Commission within the proposed zone change land use decision.

At this time, we are again expressing interest to include the City of Medford's adoption of a similar 300 ADT/acre trip cap proposed for the ten (10) parcels totaling 7.57 acres, to also be applied to the vacant Tax Lots 300 & 307 (Map 37-1W-7D), totaling 2.94 acres, as recommended in our letter of September 3, 2009. The purpose of this recommendation is for the City of Medford to evidence compliance with Oregon's Transportation Planning Rule (OAR 660-012-0060), and avoid the potential for further degradation of transportation facility performance at the Crater Lake Highway (OR-62) / Delta Waters Road intersection. This intersection currently exceeds state highway performance standards. Without benefit of the recommended trip cap applicable to these vacant parcels, further degradation of this intersection (i.e., a TPR "significant effect") could occur under a reasonable worst-case scenario of the proposed Community Commercial zoning compared to the existing Light Industrial zoning.

Thank you for providing ODOT the opportunity to participate in this land use review. Please include this letter and attachment within the CP-09-076 project record, and copy me on the City of Medford's final decision. If you have any questions regarding this correspondence, please contact me at (541) 774-6399.

Sincerely,

David Pyles, Development Review Planner III

CITY OF MEDFORD  
EXHIBIT # "F"  
File # ZC-09-076  
1 of 4

24

Cc: Jim Maize, applicant's land use consultant  
Matt Zoll, applicant's traffic consultant  
Stuart Foster, owner / applicant / agent  
Mike Burrill, owner / applicant / agent  
Alex Georgevitch, City of Medford Traffic Manager  
ODOT Region 3

"P"  
Zof4



**Oregon**

Theodore R. Kulungoski, Governor

**Department of Transportation**

Region 3 - Planning

3500 NW Stewart Parkway

Roseburg, OR 97470

Telephone (541) 957-3692

FAX (541) 957-3547

September 3, 2009

Desmond McGeough, Planner II  
City of Medford Planning  
200 S. Ivy St.  
Medford, OR 97501

Re: Elron Enterprises LLC ET AL Comprehensive Plan Amendment (CP-09-75)

Dear Mr. McGeough:

We received public notice of a proposed Comprehensive Plan Amendment from General Industrial (GI) to Service Commercial (SC) on ten parcels totaling 7.57 acres and from General Industrial (GI) to Commercial (C) on three parcels totaling 4.47 acres located on the west side of Lear Way and north and south sides of Delta Waters (Map 37-1W-07AC TL 2500 and Map 37-1W-07D TL 300, 306, 307, 308, 309, 311, 312, 314, 316, 317, 318 & 319).

We reviewed the applicant's traffic evidence and determined that commercial uses significantly affect state transportation facilities (See Attachment). The OR 62 (Crater Lake Highway)/Delta Waters intersection currently exceeds ODOT's mobility standards. Commercial development is expected to generate traffic further degrading the intersection's function, capacity and performance standards<sup>1</sup>.

The OR 62 Corridor Solutions Project Phase II (aka Crater Lake Bypass) will improve the OR 62/Delta Waters intersection performance. Phase II is expected to be completed by Year 2016. A trip cap limiting future development to 300 Average Daily Trips per acre equivalent to 7,000 sq .ft of commercial development per acre on vacant tax lots 300, 307, 311, 319 and 2005 is needed to avoid further degradation of the intersection. The trip cap should be removed upon completion of the OR 62 Corridor Solutions Project Phase II. We recommend the City Ordinance and Findings of Facts adopt measures demonstrating commercial uses are consistent with the OR 62/Delta Waters intersection planned function, capacity, and performance standards<sup>2</sup>.

- (1) Future development exceeding 300 ADT and/or 7,000 sq ft. of commercial development per acre on vacant tax lots 300, 307, 311, 319 and 2005 shall submit a TIS and mitigate traffic impacts that further degrade the OR 62/Delta Waters intersection. The TIS shall be scoped by Public Works in consultation with ODOT. This measure shall sunset upon completion of the OR 62 Corridor Solutions Project Phase II.
- (2) Future structures abutting Medco Haul Road shall be setback at least 20 feet from the right-of-way line to allow for future road widening.

Please enter this letter into the record and send me a copy of the Planning Commission decision.

Sincerely,

*Thomas Guevara Jr.*  
**THOMAS GUEVARA JR.**  
Development Review Planner

Attachment

Cc: ODOT Region 3  
Medford Public Works  
JRH Consultants

<sup>1</sup> OAR 660-012-060(1)(C)(c)

<sup>2</sup> OAR 660-012-060(2)(a)

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3 of 4





Theodore R. Kulonowski, Governor

## Oregon Department of Transportation

### Region 3, District 8 Traffic Section

100 Antelope Road  
White City, OR 97503  
Phone: 541-774-6316  
Fax: 541-774-6387

#### TECHNICAL MEMORANDUM

**TO:** THOMAS GUEVARA JR.  
Development Review Planner

**FROM:** WEI (MICHAEL) WANG, M.S. *WW*  
Development Review Traffic Engineer

**SUBJECT:** Excel Drive Property Rezoning known as Elron Enterprises Zone Change

Region 3 Traffic Section reviewed the Excel Drive Rezoning Trip Generation Comparison, prepared by JRH Consultants (dated March 19, 2009), for the proposed Excel Drive Property Zone Change on approximately 12 acres located on the west side of Lear Way and on the north and south sides of Delta Waters.

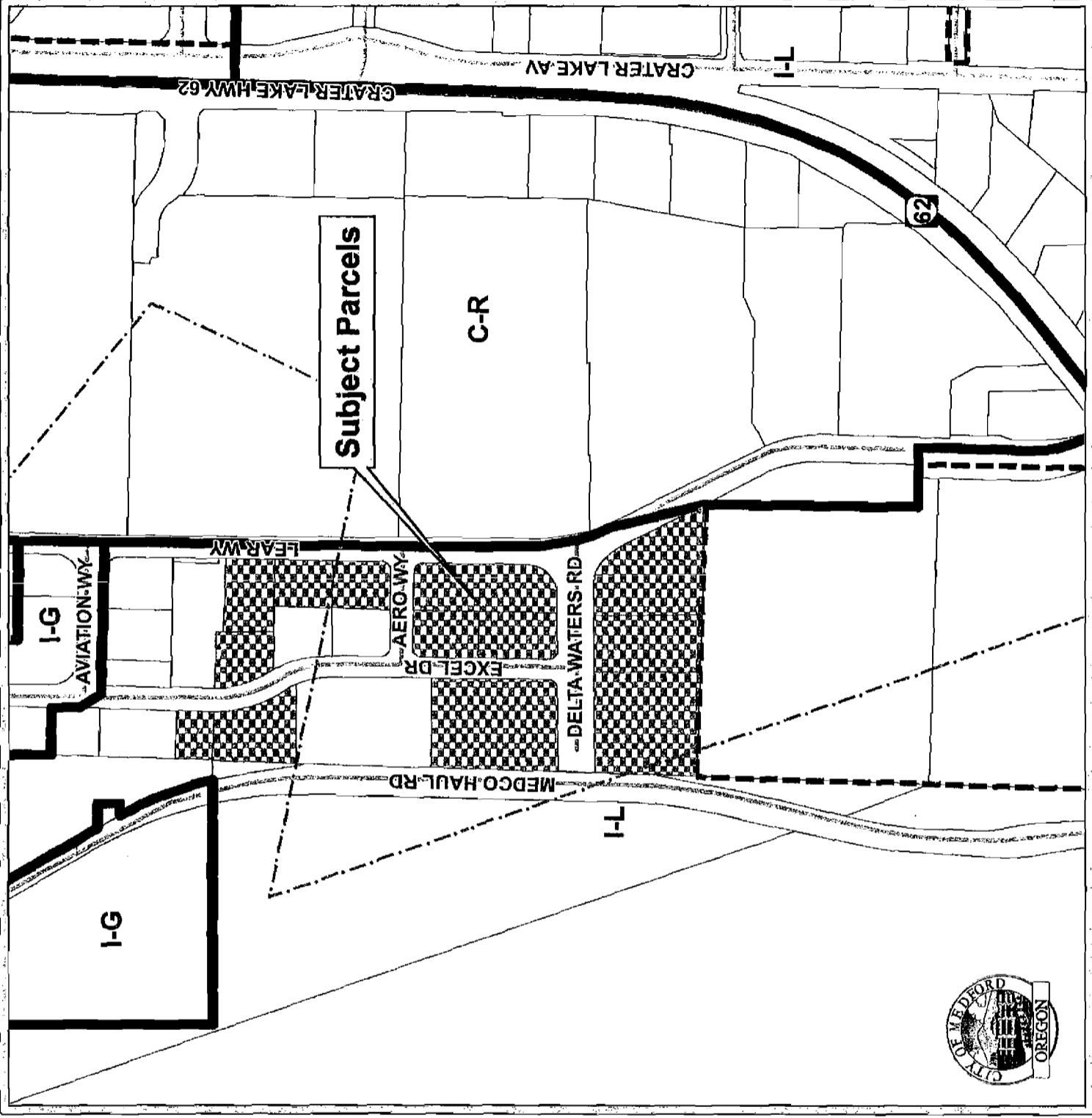
We determined that the proposed land use change significantly affects state transportation facilities. The Crater Lake Hwy (OR 62)/Delta Waters intersection Volume-to-Capacity (V/C) currently exceeds ODOT's performance standard, and causes extensive traffic queues on Crater Lake Hwy. during the PM peak hour (Draft Report-Preliminary Traffic Analysis Results for OR 62 Interim Phase Solutions).

1. Commercial uses are expected to generate additional traffic further degrading the intersection's performance, safety and operations.
2. The Crater Lake Bypass Project (OR 62 Solutions) will improve the Crater Lake Hwy. /Delta Waters intersection performance. The phase I of the project is scheduled to be completed in Year 2016.
3. A trip cap limiting future development to 300 average daily trips per acre and/or 7000 sq. foot per acre of commercial development on vacant tax lots 300, 307, 311, 319 and 2005 will not further degrade the intersection's performance. The trip cap limitation should be removed when the construction of Crater Lake Hwy. Bypass Project Phase I completes.
4. Future development exceeding these thresholds will require a Traffic Impact Study (TIS) to assess intersection safety and operations, and will require traffic mitigation to avoid further degradation of the intersection.

You may contact me if you have questions or require additional information.

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4064



**Vicinity Map**

- Zoning Boundary
- UGB
- City Limits
- Taxlots
- OVERLAY**
- Airport Approach
- Airport Radar
- Central Business
- Freeway
- Historic Outline
- Limited Industrial
- Limited Service
- Planned Development
- Southeast

**FILE NUMBER:**

**ZC-09-076**

**APPLICANTS:**

**Elron Ent. et al**

Map: 371W07AC

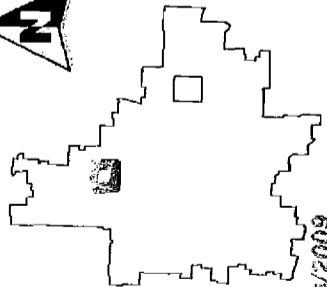
TL: 2500

Map: 371W07D

TL's: 300, 306, 307,

308, 309, 311, 312,

314, 316, 317, 318, 319



7/24/2009



7007 0710 0001 0567 0438

CITY OF MEDFORD  
PLANNING DEPARTMENT  
200 SOUTH IVY STREET  
MEDFORD, OR 97501

ATTN: Plan Amendment Specialist  
Dept. of Land Conser. & Develop.  
635 Capitol St. NE, Ste. 150  
Salem, Or 97301-2540



Hasler

\$07.17<sup>0</sup>

01/22/2010

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