



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

January 31, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Harney County Plan Amendment
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 14, 2007

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

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

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

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Brandon McMullen, Harney County

<paa> ya

FORM 2

DLCD NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

JAN 25 2007

DEPT OF
LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction Harney County

Local File # 06-43
(If no number, use none)

Date of Adoption 20 Dec 2006
(Must be filled in)

Date Mailed 23 Jan 2007
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD _____

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other _____
(Please Specify Type of Action)

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

Zone change from EFRU-1 to Rural Recreational

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

Same.

Plan Map Change From _____ to _____

Zone Map Change From EFRU-1 to R-2

Location: T23S R30E Sec. 2 TL500 Acres Involved: 38.15

Specify Density: Previous _____ New _____

Applicable Statewide Planning Goals: Goal 3 and Goal 14

Was an Exception adopted? ☒ Yes ☐ No

DLCD File # 001-06(15402) DLCD Appeal Deadline _____

Did the DLCD receive a Notice of Proposed Amendment **FORTY-FIVE (45) days prior to the first evidentiary hearing?**
Yes ☒ No ☐

If no, do the Statewide Planning Goals apply? Yes ____ No ____

If no, did the Emergency Circumstances Require immediate adoption? Yes ____ No ____

Affected State or Federal Agencies, Local Government or Special Districts: _____

Local Contact Brandon M. McMullen, Planning Director Phone: (541) 573-6655

Address 450 North Buena Vista

City Burns Zip Code + 4 97720

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within five (5) working days after the final decision**
Per ORS 197.610 and OAR Chapter 660 - Division 18

1. Send this form and two (2) copies of the Adopted Amendment to:

Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

2. Submit two (2) copies of adopted material, if copies are bound please submit two (2) complete copies of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **five (5)** working days following the date of the final decision on the amendment.
4. Submittal of 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 may copy this form on **8½ X 11" green paper only**; or call the DLCD office at (503) 373-0050; or fax your request to (503) 378-5518; or e-mail your request to Larry.French@state.or.us - Attention: Plan Amendment Specialist.

Revised: 01/01/2000

T-514

20070055

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

In the Matter of Application to Rezone)
Property Owned by Dennis and Betty Dunn) **ORDER**
From EFRU-1 to R-1)

This matter having come before the Harney County Court on the 20th
day of December 2006 and the Court being fully advised in the premises,
hereby

FINDS that the applicable criteria supporting the rezone have been
satisfied and the findings included in the Staff Report are adopted by
the court and constitute the findings of the court. The Staff Report is
attached hereto and incorporated herein as though fully set forth in this
document.

Now, therefore, it is hereby ordered that applicant Dunn's request
to rezone is hereby granted.

DATED this 20th day of December 2006.



Steven E. Grasty
Steven E. Grasty
County Judge

Dan Nichols
Dan Nichols
Commissioner

Jack Drinkwater
Jack Drinkwater
Commissioner

STATE OF OREGON } ss
County of Harney }
I certify that the within instrument was received
for record on the 20th day of December
2006 at 9:46 o'clock PM and
recorded Microfilm number 20070055
Ded Records of said County.
Maria Iturriaga County Clerk
By D. R. Deputy

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Harney County Government Planning Department

Richard H. Jennings, Planning Director
450 N. Buena Vista, Burns, OR 97720
Voice: (541) 573-6655
FAX: (541) 573-8387
Email: planning@co.harney.or.us
Website: www.co.harney.or.us

STAFF REPORT

Date of Public Hearing: July 23, 2006
Type of Proposed Land Use Permit Application: Rezone – EFRU-1 to R-1

File # 06-43
Applicant Name and Address: Harney County

Current Property Owner: Dennis & Betty Dunn
29302 Radar LN
Burns, OR 97720

Account # 8034
Map # 23 – 30
Tax Lot # 500
Code # 1-4
Class # 401 – Rural Tract with improvements
Zoning: EFRU-1
Acres: 38.51 acres

Floodplain Status: Zone D, 410083-0625-B, 4/17/84 (Zone D is NOT a Special Flood Hazard Zone with the definition being "Areas of undetermined flooding.")

Project

Description (taken directly from the application materials - #23, page 6 of the application):

"It is proposed that that parcel have an Exception to Goal 3 - Agriculture and an Exception to Goal 14 - Urbanization and be rezoned to R-1 (Rural Residential); a zone that the County has had in effect since the early 1980s. Eventually, there would be three parcels: Parcel 1 being 28.51 acres, Parcel 2 being 5 acres and Parcel 3 being 5 acres plus/minus with a home placed on the two new parcels (Parcel 2 & 3). There is currently a home on Parcel 1 with some outbuildings. The parcel is very rocky and is difficult to have in production; it would not be a

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ddetriment to remove this parcel from resource land. The Exception appears to be satisfied and the R-1 Zone would have a minimum lot size of 5 acres."

Applicable

Criteria: Zoning Ordinance and/or Subdivision and Partitioning Ordinance Criteria and ORS and/or OAR provisions:

Review the attached packet.

Recommendation from the Harney County Planning Department:

The County Court directed me to put these materials together and I believe all of the questions area answered as determined in State Statute. The reason for the County assisting on this application is stated in the letter that is in the packet. Briefly, t was due to an error on the Assessor's database that said the parcel was zoning R-1 but when the property owners made application for a partition to divide their property it was found that the zoning was actually EFRU-1. A rezone application was the most logical avenue to pursue and the County Court determined that County staff should run the process since it was our error (inadvertent, of course).

Please review the packet thoroughly.
I cannot make a recommendation on this application.


Richard H. Jennings, Planning Director

Thursday, August 10, 2006
Date

**2007**Project Application #: 06-43Date Received: 7-17-06Final Decision or Public Hearing Date: 8-16-06 (PC)

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Harney County Planning Land Use Permit Application 2006

This application must be submitted to the Harney County Planning Department, 450 N. Buena Vista, Burns, OR 97720, (541) 573-6655, and must be accompanied by a non-refundable application fee(s). Acceptance of the application and fee(s) does not guarantee approval. **PLEASE COMPLETE THIS APPLICATION BY PRINTING CLEARLY WITH A BLACK INK PEN (copies come out better). THANK YOU.**

Section 1: Contact Information

Name of Applicant: Harney County Court, Judge Steve GrastyAddress: 450 N Buena VistaCity, State, Zip: Burns, OR 97720Email & Telephone Number: 573-6356, sgrasty@co.harney.or.usName of current Property Owner(s):
(If Property Owner is not the applicant) Dennis & Betty DunnAddress: 29302 Radar LaneCity, State, Zip: Burns, OR 97720Email & Telephone Number: 541-573-1182

The applicant or an appointed representative **MUST** be in attendance at the Public Hearing (if required) of the Harney County Planning Commission in order to explain the project. Planning Commission meetings occur every 3rd Wednesday of the month at 7 PM in the Harney County Courthouse basement meeting room.

If there is no representative present during the scheduled Public Hearing for this Land Use Permit Application, the application will be tabled until the next regularly scheduled meeting.

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Section 2: Type of Application and Fees

Check all application (s) being submitted.

☐	Type of Application: (Alphabetically Listed)	Fee(s):	Process Summary			
			Public Comment Period	Open Record Hearing	Decision Made By	1 st and 2 nd Level Appeal
☒	Comp. Plan Amendment	\$200.00	20 + days	PC	CC	LUBA
☐	Conditional Use Permit (Including a Non-Farm Dwelling)	\$125.00 **	20 + days	PC	PC	CC and LUBA
☐	Farm Dwelling and other Permitted Uses requiring Admin. Review (Lot of Record Dwelling)	**-**	20 + days	-	PD	CC and LUBA
☐	Property Line Adjustment	\$50.00 *	20 + days	-	PD	CC and LUBA
☒	Partition (Divide parcel into 3 - parcels)	\$175.00 *	20 + days	PC	PC	CC and LUBA
☐	Subdivision (Divide parcel into 4 + lots)	\$200.00 + \$10 /lot *	20 + days	PC	CC	LUBA
☐	Variance	\$125.00	20 + days	PC	PC	CC and LUBA
☒	Zone Change (Rezone) (Map/Text, Requires Petition)	\$200.00	20 + days	PC	CC	LUBA
* Partitions, Property Line Adjustments and Subdivisions: Tax Map Maintenance Fee.		\$35 and \$35/lot on subdivisions				
Site Plan Review (required for all applications):		\$35.00				
County Clerk Recording Fee of Findings and Decision:		\$50.00				
** Rural Addressing: When constructing a home.		\$50.00/ea				
TOTAL FEE:		\$ 385.00				

Key for Abbreviations used above:
PD - Planning Director, PC - Planning
Commission, CC - County Court, LUBA -
Land Use Board of Appeals

It should be noted that appeals above
LUBA would go to the Oregon Court of
Appeals and possibly the Oregon Supreme
Court

Advertisement Costs: All land use applications will also have additional costs to be billed to the applicant **AFTER** the application is processed - actual costs for public notice in the Burns-Times Herald and \$2.00 for every adjacent landowner that receives a public notice by mail.

Appeals: There is a non-refundable fee when appealing to the Harney County Court of \$125.00

NOT All Sections of this Land Use Permit Application **may** be applicable to every type of application. Sections 1-3, p. 1-8 and Sections 13, 15, p. 18 -20 are required for every application. Only complete the remaining sections that apply: Sec. 4, p. 8- a home or business, Sec. 5, p. 9 - depends on the permit, Sec. 6, p.10- Property Line Adjustment, Sec. 7, p. 11 - Partition, Sec. 8, p. 12 -Farm Dwelling, Sec. 9, p. 14 - Non-Farm Dwelling, Sec. 10, p. 15 - Lot of Record Dwelling, Sec. 11, p. 16 - Rural Addressing, Sec. 12, p. 17 - Road Naming.

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Section 3: Property Information

Complete this section for ALL applications.

1. Location of Property (Provide directions you would give someone to get to the property):	The property is located 1/2 mile west of the Burns Paiute Indian Reservation, south of Rad Lane.
2. Has the Property or dwelling received a Rural Address ? If so, what is it?	☒ Yes: <u>29302 Radar LN</u> ☐ No
3. Assessor's Account Number(s) for the Property:	Parcel 1: <u>8034</u> Parcel 2: _____ Parcel 3: _____
4. Assessor's Tax Lot Number(s) for the Property:	Parcel 1: <u>500</u> Parcel 2: _____ Parcel 3: _____
5. Legal Description of Property: Township: <u>23</u> Range: <u>30</u> Section: _____ Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".	
6. Current Zoning Classification :	☒ EFRU-1 ☐ EFRU-2 ☐ FU or OTHER _____
7. Current Use of Property:	Residential
8. Surrounding Uses of Property:	Residential and grazing
9. Size of Property: (acres)	38.15 acres
10. Does the Property reside in a Floodplain ? If the Property is in a Floodplain (Zone Ax) you will need to complete a Floodplain Development Permit before building.	Zone: <u>C</u> Panel Number: <u>410083-625-B</u> Will building permits eventually be applied for on this project? ☒ Yes ☐ No

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11. Is the property located in wetlands as listed on the National Wetlands Inventory maps?	☐ Yes ☒ No
12. What road provides ACCESS to the Property?	Radar Lane
13. Will the Property need an Access Permit onto a County Road or State Highway? (If so call Kerry Landers, County Road master, 573-6232, or ODOT, 541-889-9115).	☐ Yes, if so please contact the proper authority and provide that documentation with this application. ☒ No
14. Are there any easements that provide the MAIN ACCESS for the Property OR adjacent properties?	☐ Yes, if so please provide the documentation with this application. ☒ No
15. Does the Applicant hold Title to the Property? If not, what is your interest in the Property?	☐ Yes ☒ No, who does? <u>The Dunn's hold title to the proeprty.</u>
16. Include a narrative of the types of Fish and Wildlife Habitat found on the Property: (This information MUST be obtained from Ron Garner, Oregon Department of Fish and Wildlife, 237 Hines Blvd, Hines, OR 97738, 541-573-6582.)	The description from ODFW is NOT necessary for Partitions and Property Line Adjustments.
17. What type of Water Use/Rights is present on this Property? Describe type of Water Use - domestic wells, surface water rights, etc. (Contact June Miller, OWRD, County Courthouse, 573-2591.)	☐ No water uses/rights present. ☒ Yes, there are water uses/rights. Circle those that apply: Stock Wells, Domestic Wells, Irrigation Wells
18. What is the environmental health of this Property? For example are there any dumpsites, pollutants, etc. which makes this Property environmentally unhealthy?	☒ Good ☐ Fair ☐ Poor, if so, please explain:

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19. Are there any **natural hazards** found on the Property?

- ☐ Yes, if so, please explain:
☒ No

20. Are there any **Archeological Sites** on this Property? (If during construction, remains are uncovered please contact the Harney County Planning Department immediately)

- ☐ Yes, if so, please describe:
☒ No

21. Is the Property considered a **Legal Lot of Record**? This means that the parcel or lot was created according to required procedures. Mark which description applies and provide documentation (i.e. Property Deed Card - Assessor's Office):

- ☐ A lot in an existing, duly recorded **subdivision**; or,
☐ A parcel in an existing, duly recorded major or minor land **partition**; or,
☒ An existing unit of land for which a **survey** has been duly filed which conformed to all applicable regulations at the time of filing, or,
☐ Any unit of land **created PRIOR to zoning** and partitioning regulations by deed or metes and bounds description, and recorded with the Harney County Clerk, provided, however that contiguous units of land so created under the same ownership and not conforming to the minimum property size of the underlying zone shall be considered one (1) lot of record.
☐ The Property does not meet any of the above descriptions.

22. Projected **timeline** of proposal: (If applying for a Conditional Use Permit it should be noted that if there is no substantial development begun within 1 year from the date of approval, an extension must be written and approved by the Harney County Planning Commission before the permit expires [the 1 year anniversary date]. There is a limit to one extension.)

23. Provide a **description of proposal**:

It is proposed that that parcel have an Exception to Goal 3 - Agriculture and an Exception to Goal 14 - Urbanization and be rezoned to R-1 (Rural Residential); a zone that the County has had in effect since the early 1980s. Eventually, there would be three parcels: Parcel 1 being 28.15 acres, Parcel 2 being 5 acres and Parcel 3 being 5 acres plus/minus with a home placed on the two new parcels (Parcel 2 & 3). There is currently a home on Parcel 1 with some outbuildings. The parcel is very rocky and is difficult to have in production; it would not be a detriment to remove this parcel from resource land. The Exception appears to be satisfied and the R-1 Zone would have a minimum lot size of 5 acres.

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Section 5: Multiple Permits (Comprehensive Plan Amendment, Conditional Use Permit, Variance OR Zone Change) Complete this section ONLY if submitting an application type listed above. If applying for a Conditional Use Permit - Non-Farm Dwelling, complete Section 9 as well.

34. Proposed Zoning Classification of the Property:	☐ No Change in Zoning ☒ New Zoning Proposed: <u>R-1</u>
35. Proposed Use of the Property:	Residential Uses
36. What is the nature and purpose of this Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change?	The nature of this Comp Plan Amendment and Zone change would be to rezone this area to be Rural Residential (R-1) and allow 5 acre minimums. Thus, allowing homes outright. There would be two new homes placed on this proerpty on separate and descrete parcels.
37. What are the reasons this Property needs and is suited for a Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change?	This proerpty needs a Comp Plan Amendment and Zone change since the current zoning is EFRU-1 and allow small parcels as requested. The proerpty is not able to produce crops, is very rocky and in effect is not used as resource land although it is zoned that way.
38. What effects might the Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change have on <u>adjoining property</u> ?	The impacts to adjacent proerpty owners is termed "compatible". There is no forseable impact that that would result in adverse conditions being palced on nearby proerpty.

39. Complete if applying for a **Variance**:

Setback

Required Minimum Setback: 20 feet Proposed: _____

Lot Size

Required Minimum Lot Size: _____ Proposed: _____

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Section 7: Partition

Complete this section ONLY if submitting a Partition application.

45. Please provide a **Legal Description** for the parcel that will be effected by this Partition:

Legal Description of **Original Parcel**:

Township: 23 Range: 30 Section: _____ Tax Lot: 500

Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".

46. Please describe the reasons this parcel should have a division:	Once the R-1 Zone is approved the division of land would be completed and homes placed on each parcel.
47. What is the current size of the parcel involved?	Original Parcel <u>38.15</u> acres
48. What is the proposed size of each parcel created?	Parcel 1 <u>28.15</u> acres Parcel 2 <u>5</u> acres Parcel 3 <u>5</u> acres

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Section 13: Required Application Materials

86. These materials are to be submitted with the application: The proceeding page is to be used as a base for the site plan. This drawing DOES NOT take the place of any maps required to be submitted by a Licensed Surveyor. This site plan will show what is or will be on the property. Additional material may be requested.

☒	Materials to be submitted for ALL types of Applications:
☒	a) Completed Application form .
☒	b) Applicable Application fees .
☒	c) Site Plan Marked Exhibit B (see proceeding page) to include:
☒	• North Arrow
☒	• Site area showing Property boundaries and dimensions
☒	• Proposed and existing structures with dimensions to nearest Property lines.
☒	• Location of existing wells
☒	• Location of existing septic systems (i.e. tanks, drain fields)
☒	• Widths and names of roads adjacent to the site as well as existing roads, which provide direct access to the Property.
☒	• Existing access points (driveways, lanes, etc.)
☒	• Easements and rights-of-ways
☒	• Existing utility lines (above and below ground)
☒	• Approximate location of any unusual topographical features
☒	• Major geographic features
☒	• Location of all creeks, streams, ponds, springs and other drainage ways.
☒	d) Vicinity Map - Assessor's map of the Property.
☒	e) Quick Print showing property details.
☒	f) The Deed of the Property in question.
☒	g) Property Deed Card and description of property.
	PROPERTY LINE ADJUSTMENT Applications All applications for Property Line Adjustments must have a Record of Survey Map completed by a Surveyor licensed in the State of Oregon, showing the proposal to County standards as found in the Harney County Subdivision and Partitioning Ordinance, Article 5 PARTITION and SUBDIVISION Applications: A Surveyor licensed in the State of Oregon must submit a Preliminary Plat showing the proposal to County standards as found in the Harney County Subdivision and Partitioning Ordinance, Article 5.



Contact County
Assessor

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Section 15: Certification

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. It is further understood that the signing of this application if for a dwelling will preclude any lawsuits related to the by-products (i.e. noise, dust, order, etc.) of farming operations.

ALL Property Owners with any interest in the properties being effected by this Land Use Permit Application must sign and date this form. If more room is needed signing the reverse side of this page is appropriate.

X

Signature of Applicant

Date

Judge Steven E. Grasty, Harney County

Printed Name of Applicant

X

Dennis E. Dunn

Signature of Property Owner

7-19-06

Date

Dennis Dunn

Printed Name of Property Owner

X

Betty A. Dunn

Signature of Property Owner

7-19-06

Date

Betty Dunn

Printed Name of Property Owner

Is there anyone else besides the property owner and adjacent property owners who would like to receive notice of this application during its' review period and notice of decision? (Realtor, perspective buyer, etc.) If so, provide name and mailing address:

Name: _____

Name: _____

Mailing Address: _____

Mailing Address: _____

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ASACD1R9 RICH DISPLAY REAL ACCOUNTS DISPLAY 8/11/06
ACCOUNT # 8034 2006 OWNER DUNN, DENNIS E & BETTY J
LEG/COMM C/O
MAP 23 S 30 E 500 ADDRESS
CODE AREA 14 ZONING EFRU-1 ADDRESS 29302 RADAR LANE
MA 2 VALUE AREA 14 CLASS 401 ADDRESS
SUB/BL/LT SPLIT ZIP CODE 97720-2465 BURNS OR
SD# CON/SEG JV# 0 X-NUMBER
SITUS 29302 # RADAR LN ZIP 97720 BURNS
DOC # 20021331 ACRES 38.510 FP ACRES .000
DQ COMPLET
23S30E000050000 RMV MAV SAV MSAV/M50 TAXABLE AV
MARKET LAND 62,077
SPECIAL LAND
IMPROVEMENTS 47,919
MFG STRUCTURE
SUB TOTAL/BASE 109,996 44,379
EXCEPTIONS
SUB TOTAL 109,996 44,379 44,379
EXEMPTIONS
2006 TOTALS 109,996 44,379 44,379
F1=LN 2=IM 3=EN 4=OW 5=SA 6=EX 7=OH 8=ET 10=LG 11=FL 12=CM
13=MS 14=SI 15=XC 16=DT 17=TX 18=SL 19=QP 20=PR 21=NX 22=AP 24=DL

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ASACDTR6 RICH DISPLAY ACCOUNT LEGAL DESC DISPLAY 8/11/06
14:25:09
ACCOUNT # 8034 OWNER DUNN, DENNIS E & BETTY J

LEGAL/REMARKS DATE DEED REC-REM ACRE
T 23 S., R 30 E.,W.M. TL 500
LAND IN HARNEY COUNTY, OREGON, AS FOLLOWS:
IN TOWNSHIP 23 S., RANGE 30 E.,W.M.
SECTION 2: LOT 4 - SAVE & EXCEPT COUNTY ROAD RIGHT OF WAY

Bottom
F1=LN 2=IM 3=EN 4=OW 5=SA 6=EX 7=OH 8=ET 10=LG 11=FL 12=CM
13=MS 14=SI 15=XC 16=DT 17=TX 18=SL 19=QP 20=PR 21=NX 22=AP 24=DL

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Description of the Proposal

The proposal is to rezone a 38.15-acre parcel from Exclusive Farm and Range Use (EFRU-1) to Rural Residential (R-1) with a 5-acre minimum, which is how the current R-1 Zone provisions specify. The property is located immediately south of Radar Lane, north of the City of Burns approximately 2 miles and west of the existing R-1 Zone and the Burns Paiute Indian Reservation approximately ¼ mile in the EFRU-1 Zone. Currently there is a home site on the property with various out buildings.

In order to bring all of the applicable materials together the following items are being submitted for review:

1. **Comprehensive Plan Amendment** – Adding text to Section 7.4, “Rural Residential Exceptions To Goal 3 – Agriculture” dealing with language about the “Radar Lane Rural Area”. The R-1 Zone that is existing along Radar Lane never had a Comprehensive Plan Amendment and so a brief description would be added along with the description and justification for the new or proposed rural residential zone.
2. **Zone Map Change** - The rezone would also modify the current Zoning Map to include the proposed exception site as R-1 instead of the EFRU-1 (See Map 6a)
3. **Exception to Goal 3** – The criteria that would determine whether the removal of the proposal site from resource to nonresource land is appropriate.
4. **Exception to Goal 14** – The criteria that would allow the proposal to have a 5-acre minimum lot size rather than a 10-acre minimum lot size as outlined in OAR 660-004-0040 (7).

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0055

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**Amending the Harney County Comprehensive Plan, Section 7.4 to
add additional language for the Exception to Goal 3, "Rural Land
Rural Area"**

(See Section Three, paragraph (C) for the added text.)

7.4 Rural Residential Exceptions To Goal 3 - Agriculture

There are areas of Rural Residential zoning located around and west of Burns and Hines. The majority of this zoned area encompasses large areas of Land Capability Class IV and VI Composition 1 soils. Only a relatively small part of Harney County is suitable for cultivation, and yet, as is typical in many places, this is the area that has been subdivided for rural residential use.

The Harney County Court, based on the study and recommendations of the Harney County Planning Commission, the Agricultural Advisory Committee, and the Board of the Soil and Water Conservation District, has determined that it is in the Public and County's best interest to designate most of the areas east of Burns and Hines as EFRU. The existing and proposed zoning is shown on maps and this will not cause any impact on what rural residential uses there are in this area, other than prohibiting the future creation of lots less than the minimum lot size of the EFRU zones limiting uses to those allowed in the zones. All existing lots will be legally nonconforming, or "grandfathered" and will not be restricted in their utilization other than conforming to the use provisions of the zones.

The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements.

As this area is made up of Class VI soils, an Exception must be taken to LCDC Goal 3 - Agriculture that requires the preservation of all Class I through VI soils in Eastern Oregon.

The following Rural Residential Zone material consists of two sections, Section One will deal with Highland Ranch Estates and Garland Acres and Section Two will deal with the North Burns Area and the Hebener Tracts. The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

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Section One

... (Text not included)

Section Two

The area north of Burns to which the County is taking an exception to the agricultural goal, contains 396 ~~434~~ acres. There are ~~two~~ three distinct areas that must be treated separately for the purpose of taking an exception (See Map 16, 17 and 17a).

A. Hebener Tracts

... (Text not included)

B. North Burns Rural Area

... (Text not included)

C. Radar Lane Rural Area

The third area is south of Radar Lane, north of Burns and west of the Burns Paiute Indian Reservation. The area will be termed the Radar Lane Rural Area. The Radar Lane Rural Area contains approximately 75 acres with 6 different parcels in various sizes. The area has developed into an area that allows housing for persons who work in the Burns/Hines area on land that is difficult to farm and ranch. Each parcel is independent from the others with individual water and septic systems. Access is provided off of Radar Lane, a County maintained roadway. The geology, soils and habitat is what is commonly found near volcanic deposits with rocky and shallow soils and sagebrush-oriented habitats.

The first three parcels closest to the Paiute Indian Reservation were rezoned in 1996 with the parcels being some 12 acres each. All three of these parcels are developed with home sites. The other three parcels were rezoned in 2006 with two of the parcels being 5 acres and the other parcel being 28.5 acres. Along with the criteria used for an exception to Statewide Planning Goal 3, the criteria for cluster development was applied with voluntary restrictions related to future development on the parcels.

The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. The area is inherently nonresource land. The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vie "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the

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conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.

2. The overall land use pattern will be consistent. There are six homes that are adjacent to Radar Lane and the addition of this rural residential zone with an additional 2 home sites will fit well within the current land use pattern of the area. There is another R-1 zone that is about ¼ mile to the east of this parcel with very similar soils and uses. Additionally, the Burns Paiute Indian Reservation is adjacent to the existing "Radar Lane Rural Area" where development is on very small parcels (see Map 6a & 6b, "Radar Lane Rural Area").

Map 17a – Radar Lane Rural Area, Rural Residential (R-1) Zone

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Zone Change Map and Description

The affected parcel is found at the following descriptions:

Rural Address: 29302 Radar Lane, Burns, OR 97720

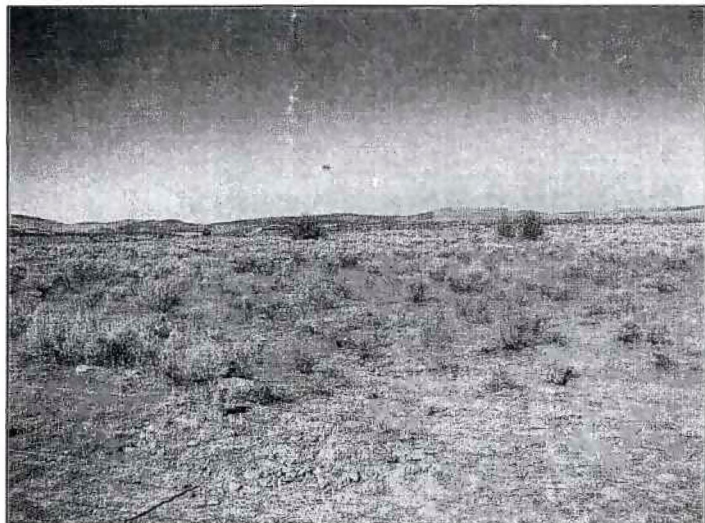
Legal: T23S, R30E, within Section 2 and Tax Lot 500
Consisting of 38.15 acres.

See Map 6a

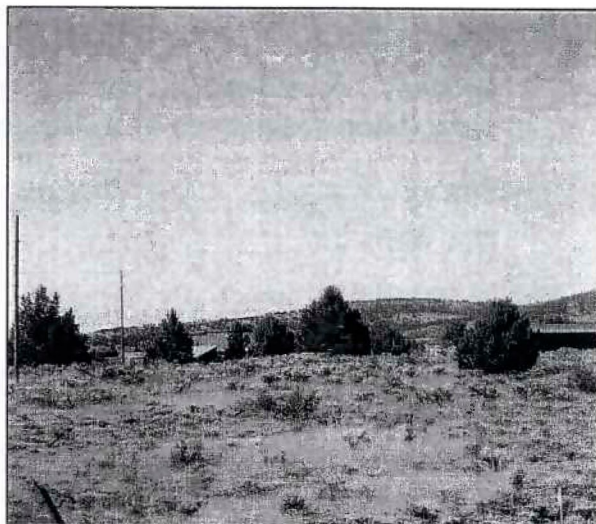
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Photos of proposed exception site, taken July 2006.



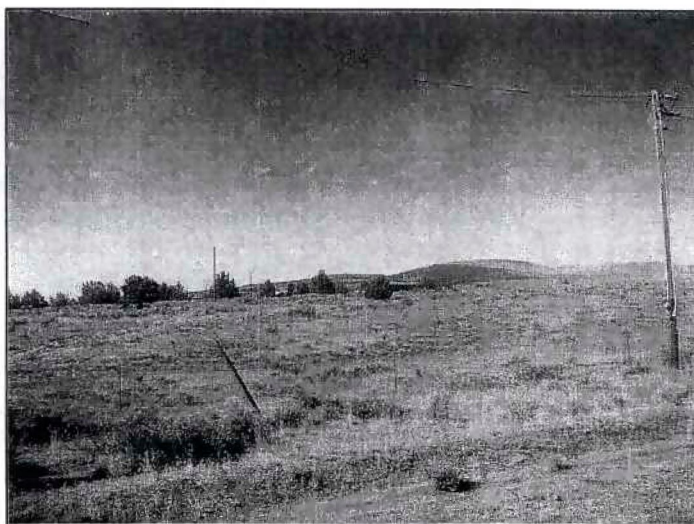
Looking southwest across the proposed exception area standing on access road.



Looking southwest toward existing home site from Radar Lane.



Looking north up the existing access road.
(notice a pickup stirring up the dust)



Looking northeast toward adjacent property development standing in front of existing home site.

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**PART A, Taking an Exception to Goal 3, Agricultural Lands:
Rezoning Parcels from EFRU-1 to Rural Residential (R-1) In
Harney County**

660-004-0020, Goal 2, Part II(c), Exception Requirements

- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.
- (2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:
 - (a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;
 - (b) "Areas which do not require a new exception cannot reasonably accommodate the use":
 - (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

FINDING: There are a number of areas that are zoned Rural Residential (R-1 Zone) currently in the County (see attached maps). They are:

- 1. Garland Acres (Map 1a & 1b)
- 2. Hebener Tracts (Map 2a & 2b)
- 3. Highland Ranch Estates (Map 3a & 3b)
- 4. Norris Addition (Map 4a & 4b)
- 5. North Burns Area (Map 5a & 5b)
- 6. Radar Lane Rural Area, identifying the proposed exception area (Map 6a & 6a)
- 7. Choate Addition/Revak Tracts (Map 7a & 7b)
- 8. Skelton Addition (Map 8a & 8b)

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(B) To show why the particular site is justified, it is necessary to discuss why other areas, which do not require a new exception, cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

FINDING: There are a number of R-1 Zones as mentioned above. Each has an area for development and for the most part, each zone has been irrevocably committed with development. There are currently 270 parcels that are contained in the R-1 Zones throughout the County and of those parcels 215 have homes already built or in the process of being built. Thus, 80 percent of the buildable parcels are committed. Of the remaining 55 parcels it is difficult to determine just how many are buildable; why hasn't development occurred on the parcel yet, and whether the property owners want to sell the parcels. These are questions that cannot be answered at this time.

The proposal calls for the creation of three additional parcels to become rural residential. Could the development be located in areas already zoned for rural residential? It is feasible to assume that additional home sites could be located in existing rural residential zones. The unknown factor that causes some doubt, however, is whether the parcels that have not been developed in the current R-1 Zones are available to be developed. There has not been an exhaustive review of each parcel with the current property owners to determine of the 55 parcels that are undeveloped which ones could be sold and/or developed. Some possible reasons for the parcels not being developed may be terrain, soils, or unwillingness by the property owners to sell.

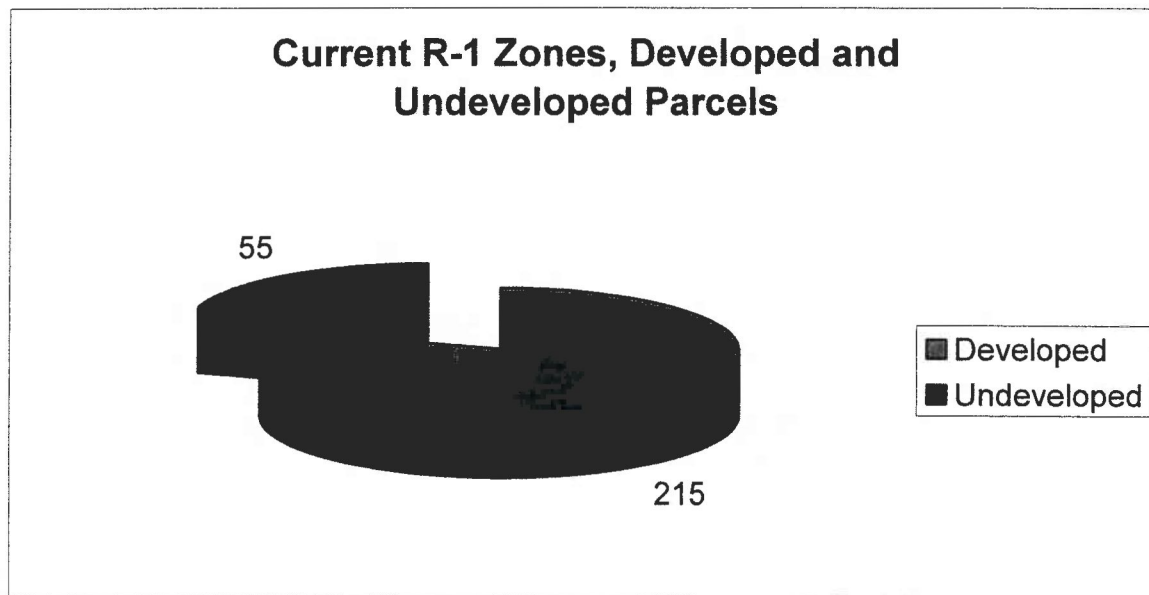
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**Current R-1 Zones
Developed and Undeveloped Parcels**

Name of Zone Area	In a UGB?	Number of Acres	Number of Parcels	Number of Developed Parcels	Number of Undeveloped Parcels
Garland Acres	Y	249	55	34	21
Hebener Tracts	N	287.5	36	31	5
Highland Ranch Estates	N	69	34	26	8
Norris Addition	Y	38	64	63	1
North Burns Area	N	109	25	19	6
Radar Lane Rural Area	N	34	3	3	0
Choate Addition & Revak Tracts	Y	31	20	12	8
Skelton Addition	Y	33	33	27	6
		850.5 acres	270 lots	215 lots	55 lots

Table 1 – Current R-1 Zones, Developed and Undeveloped Parcels

1



Graph 1 – Current R-1 Zones, Developed and Undeveloped Parcels

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- (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

FINDING: The property that is part of the proposal is irrevocably committed to nonresource uses (currently there is one home site) and the property has little if any tillable soil for resource-oriented activities. The proposal is to create two additional parcels on this property and then each parcel would have a rural non-farm dwelling placed on it. The existing parcel is located in a resource zone and is irrevocably committed to nonresource uses and the development of two additional home sites on separate parcels could be reasonably accommodated. The current size of the parent parcel is 38.5 acres. The proposal would create two 5-acre parcels leaving 28.15 acres. This criterion is met.

- (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

FINDING: Out of the eight R-1 Zones, five are within the Urban Growth Boundary of Burns/Hines (Garland Acres, Choate Addition/Revak Tracts, Norris Addition, Skelton Addition). The proposed use of rural residential development could not be located within the UGB of Burns/Hines. This criterion is met.

There are two rural residential zones adjacent to Burns (Garland Acres and Norris Addition). These two areas are either built out or the property owners do not want to sell making the land unavailable for development at this time. The Norris Addition is made up of 64 lots and only 1 is undeveloped at this time. Garland Acres is much more open with some 21 parcels undeveloped and some of the parcels that are not developed are quite large. Unfortunately, the parcels are not for sale and the larger parcels have not been subdivided although it is possible if there were a desire to do so. The desire of the landowner at this time is not to sell or subdivide the land, thus making these undeveloped parcels impossible to develop. It would be unreasonable to move the proposal to these locations.

There are currently three rural residential zones on the west side of Hines that have some undeveloped parcels (Choate Addition/Revak Tracts and Skelton Addition). However, these parcels are most likely not buildable. The terrain of these parcels is steep and access is limited. The undeveloped parcels will most likely remain undeveloped and so it would be unreasonable to move the proposal to these locations.

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- (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

FINDING: The proposal calls for the creation of two additional parcels with home sites to be constructed on each. The only public facility or service would be a septic system for each as well as potable water wells. These systems would be for private use only with no provision of a publicly accessible system. This criterion is met.

- (C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site-specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless another party specifically describes such sites with facts to support the assertion that the sites are more reasonable during the local exceptions proceeding.

- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

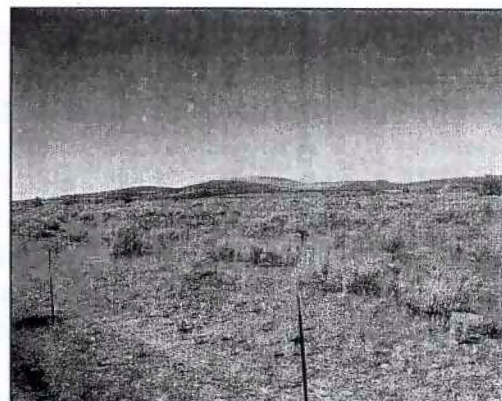
FINDING: The exception at the proposed site would have far less impacts on the long-term environmental, economic, social and energy consequences than if it were to be placed on other land also requiring an exception. This criterion is met.

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... *which resource land is least productive.* The parcel in question is not valuable farmland due to soils, terrain and geology. The parcel sits on a rocky, volcanic deposit that has shallow soils. Native vegetation can grow on the parcel but converting it to more valuable agricultural land would be unreasonable (See Map 9, "Soils").

One observation of the property from the photo taken on July 18, 2006 shows the lack of viable vegetation and the shortness of the sagebrush on the property. A rule of thumb states that if the sagebrush is short then there is shallow topsoil. This area along Radar Lane is very rocky and is near impossible to farm.



Looking southwest across the proposed exception area.

... *ability to sustain resource uses near the proposed use.* There are resource uses or agricultural uses adjacent to this parcel. Grazing cattle and the raising of farm animals are found on adjacent property and the placement of additional home sites on the parcel in question would have minimal impacts. The increased presence of domestic animals (i.e. dogs, cats, etc.) can have the potential of causing disturbances to farm animals. There may be some interference between domestic uses and agricultural uses, but these impacts would be very difficult to determine (both the cause and the magnitude) at this time. On the face of it, the homes and accessory development would not adversely impact agricultural practices on adjacent property. There are a number of homes on other nearby parcels that have been there for several years, which seem to exist without adverse impacts being caused to the nearby agricultural practices. It is feasible to assume that the addition of two additional home sites would not cause undue impacts.

... *irreversible removal of the land from the resource base.* The long-term economic impact of this property being taken out of the resource base would be non-existent. The reason for this "no impact" determination is because this parcel has not contributed much to the resource base in the past. The soils and terrain do not allow this parcel to be a productive feature of the overall resource base of this area of the County.

- (d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce "adverse impacts". The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

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FINDING: The parcel on which the proposal would be placed is compatible with the adjacent areas. There is currently another R-1 Zone nearby (1/4 mile to the east) with very similar size, landscape, soil types and use. There are homes in the immediate vicinity along Radar Lane (See Map 6a & 6b, "Radar Lane Rural Area"). There are farm uses adjacent to this property where animals reside, which have not resulted in adverse impacts. There may be impacts to these uses although the criteria clearly states that "compatible" is not intended as an absolute term meaning no interference or impacts of any type with adjacent uses." Thus, there may be impacts to adjacent property, but not to such a degree as to warrant a prohibition of this property being eligible for an exception. This criterion is met.

- (3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

FINDING: The exception does not include more than one area. The only area would be located on the single parcel of property that is listed in the Land Use Permit Application as T23S, R30E within Section 2 and Tax Lot 500 consisting of 38.15 acres. This criterion is not applicable to this proposal.

- (4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

FINDING: This proposal does not call for an expansion of an Unincorporated Community or for an Urban Unincorporated Community. This criterion is not applicable to this proposal.

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660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
 - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either
 - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
 - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

FINDING: The proposed use is provided for in subsequent sections of the rule OAR 660, division 014, which will follow. The use is rural residential and that specific use is covered in Section (2) below. Thus, the remaining criteria in Section (1) do not need to be addressed.

- (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

FINDING: The Harney County Comprehensive Plan was initially adopted in the early 1980s and formulated in the late 1970s. Chapter 5 of the Plan, unfortunately, has not

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been updated to reflect more current trends and needs from those expressed in the earlier timeframe. The following comes from page 141 of the Harney County Comprehensive Plan, Chapter 5, subsection 2 entitled, "Outlook".

"5.2 Outlook

The Burns/Hines urban area and most of Harney County can expect little change in the economic outlook over the next few years. Based on historical trends, the overall civilian labor force in all of Harney County can be expected to increase by about 2 to 2.45 percent a year. Normal seasonal patterns will occur including differing employment levels in agriculture, trade, construction, and government. Livestock production, timber harvesting, and weed products are the present major industries of Harney County. There appears to be various opportunities to develop certain types of recreational and tourist facilities within the county. Due to the lack of all modes of transportation, the distance to large markets, and available labor supply, it has been difficult to attract new industries to Harney County. Future socio-economic growth will depend on the expansion of the agricultural and timber industries and the further development of the recreation and tourist industry, which ranks third among the major economic segments of the community."

Market trends seem to ebb and flow with the changes in economics and desire. Recently Harney County has experienced a surge in families and individuals moving here for employment, retirement and other similar reasons. Of course, it is difficult to track where people are coming from and why it is that they are moving to the area, but from the following numbers it is shown that there has been a rise in the number of sales over the past several years as well as the number of new homes and manufactured homes being built/placed.

Table 1 shows that from 2001 until the end of 2005 there has been a steady increase in the number of new stick built homes being constructed. The numbers come from monthly reports provided to the County by Inspections, Inc., the contracted County Building Department, of the various permits being issued. Thus, in the year 2001 there were only four new home permits issued and in 2005 there were 16 new home permits issued, which is a 400 percent increase. This trend most likely will continue, in that more and more persons will continue to move here and depending upon housing stock will either move into an existing home or build a new one. New stick built homes are a good indicator of positive trends for an areas growth. Building a new home by the person or a developer shows an interest for long-term residency and eventually a contribution to the local economy. Not only is the home being built and material being purchased locally but also the ones living in the home will more than likely be permanent residents for at least two years and possibly even longer. New homebuyers tend to stay in an area longer than ones that rent, lease or live in less expensive housing.

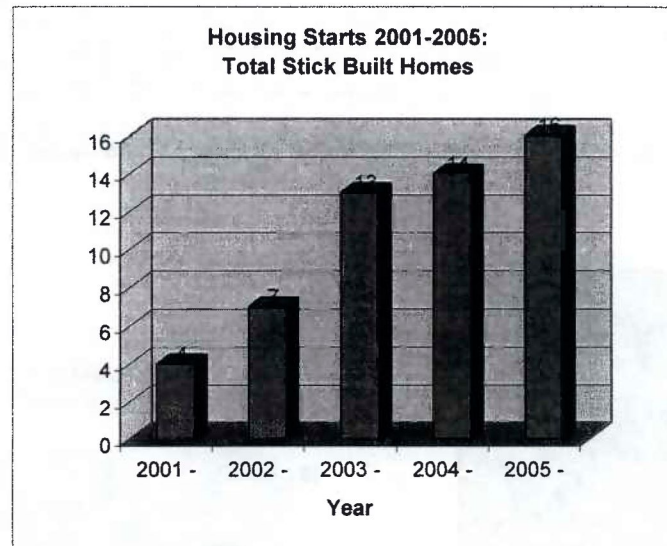
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**Housing Starts 2001- 2005
Building Permits for Stick Built Homes**

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							1	0	1	2	0	0	4
2002 -	0	1	0	1	0	1	0	0	2	1	0	1	7
2003 -	0	0	0	3	1	2	1	1	0	4	1	0	13
2004 -	0	1	1	2	1	2	2	1	1	0	1	2	14
2005 -	0	0	0	2	0	6	2	0	3	0	1	2	16
													54

Table 2 - Housing Starts 2001-2005: building permits issued for stick built homes



Graph 2 – Housing Starts 2001-2005: building permits issued for stick built homes

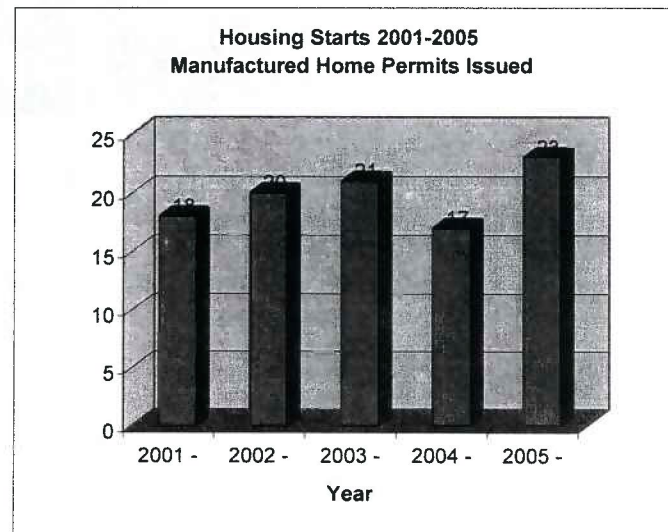
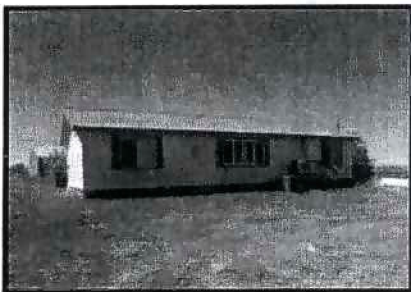
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Table 2 shows the number of permits that were issued for manufactured homes either new or used from 2001-2005. Similar to the stick built home permits, these permits are issued through Inspections, Inc. and are reported monthly to the County. The number of permits issued over the past several years seems to remain relatively stable with little fluctuation. Manufactured homes, for the most part, are affordable housing and have a much faster construction timeframe. Of course, manufactured homes, although more affordable and predictable, tend to serve a more temporary living experience. Nonetheless, there are a steady number of manufactured homes being set up each year and the probability of these numbers remaining at or above those in previous years are very high.

**Housing Starts 2001- 2006
Manufactured Home Placement Permits Issued**

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							5	2	2	3	2	4	18
2002 -	0	0	0	2	2	0	6	3	3	0	4	0	20
2003 -	3	1	1	2	1	2	4	1	2	4	0	0	21
2004 -	0	0	3	1	1	1	1	4	2	2	2	0	17
2005 -	1	1	3	2	1	2	3	3	3	1	0	3	23
													99

Table 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.



Graph 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.

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The Sales from 2000-2005 also shows an increase in the number of persons possibly relocating to this area and the need for housing. The County Assessor's Office reports the sales data. The numbers reported here are termed "Verified and Confirmed Sales", which means that these sales were via a contract, deed or other instrument for real market value. There has been a steady increase with a spike happening this past year of more than 318 sales. There may be a number of reasons for the increase in sales, but one possibility is that people are moving to this area and using the amiable housing stock. And it is a rule of trends that as the numbers rise they will continue to rise until it reaches a critical mass and levels out the activity. Thus, sales will continue to increase until there is nothing left that is valuable, desirable or is available to sell in terms of housing.

**Total Sales 2000-2005, Verified and Confirmed Sales
By Class Code (types of use)**

Year of Report	Class Code (Type of Use)										Total
	100	101	109	400	401	409	550	551	5509	800	
2000 -	12	53	16	26	6	7	26	13	5	0	164
2001 -	5	55	10	26	2	12	20	9	9	0	148
2002 -	7	59	14	47	4	6	12	9	10	3	171
2003 -	12	71	11	26	1	7	21	11	8	2	170
2004 -	6	76	17	40	3	10	25	19	10	4	210
2005 -	15	118	14	76	6	12	30	20	23	5	319

Table 4 -Total Sales 2000-2005: Verified and Confirmed Sales by Class Code

Taken from a Report generated from County Assessor Database, June 22, 2006

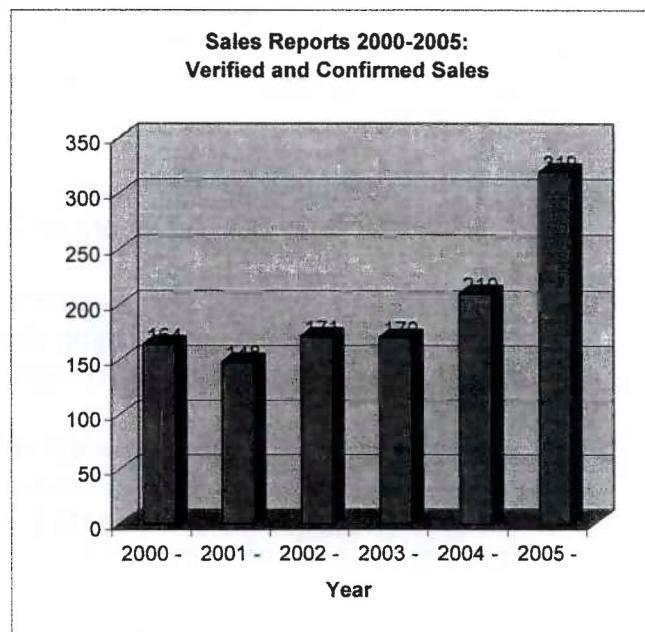
Class Code Legend:

Class 100 – Residential Lot, no improvements
Class 101 – Stick built home on residential lot
Class 109 – Manufactured structure on residential lot

Class 400 – Rural tract no improvements
Class 401 – Rural tract with a stick built home
Class 409 – Rural tract with manufactured home

Class 550 – Farm tract, no improvements
Class 551 – Farm tract with a stick built home
Class 559 – Farm tract with manufactured home

Class 800 – Recreational Lot, no improvements



Graph 4 – Total Sales 2000-2005, Verified and Confirmed Sales by Class Code

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The following provisions do not apply to this proposal:

- (3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:
- (4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:
- (5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
- (6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:
- (7) Goal 16 -- Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:
- (8) Goal 16 -- Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:
- (9) Goal 17 -- Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:
- (10) Goal 18 -- Foredune Breaching: A foredune may be breached when the exception demonstrates an existing dwelling located on the foredune is experiencing sand inundation and the grading or removal of sand is:
- (11) Goal 18 -- Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:
- (12) Goal 12 -- Transportation Improvements on Rural Lands. Transportation improvements not allowed on rural lands as provided for in OAR 660-012-0065 require an exception pursuant to OAR 660-012-0070 and this division.

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**PART B, Taking an Exception to Goal 14 – Urbanization Rezoning
Parcels from EFRU-1 to Rural Residential (R-1) In Harney County**

Why are we also taking an exception to Goal 14? The requested rezone from EFRU-1 to R-1 proposes a 5-acre minimum lot size. According to OAR 660-004-0040 (7)(i) the minimum lot size must be at least 10 acres for new rural residential areas unless an exception to Goal 14 is taken. Thus, an exception to Goal 14 is required.

**660-014-0040, Establishment of New Urban Development on
Undeveloped Rural Lands**

(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

FINDING: It is found that the property in question is termed "undeveloped rural land". This property is at least 2 miles from an urban growth boundary and although there is currently a home on the property the development is not at urban densities. This criterion is met.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

FINDING: Harney County has had as the minimum lot size for the established Rural Residential (R-1) Zone of 5 acres since the initial adoption of the Zoning Ordinance in 1983 instead of the requirement of 10 acres for a new rural residential parcel as required by Administrative Rule. The Administrative Rule was modified during the 2001 legislative session that made the minimum lot size for a new parcel in a newly created rural residential zone to be 10 acres. Initially, the County questions whether the difference between the 5-acre minimums to 10 acres minimums constitutes "urban density". Nonetheless, the fact that development on 5 acres constitutes urban density has been set by the State.

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The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. **The area is inherently nonresource land.** The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vie "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.
2. **The overall land use pattern will be consistent.** There are six homes that are adjacent to Radar Lane and the addition of this rural residential zone with an additional 2 home sites will fit well within the current land use pattern of the area. There is another R-1 zone that is about ¼ mile to the east of this parcel with very similar soils and uses. Additionally, the Burns Paiute Indian Reservation is adjacent to the "Radar Lane Rural Area" where development is on very small parcels (see Map 6b, "Radar Lane Rural Area").

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

FINDING: The proposal cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensifying the development in existing rural communities. The current R-1 Zones (Choate Addition/Revak Tracts, Garland Acres, Skelton Addition and Norris Addition) that are within the UGB of either Burns or Hines are committed and have very few parcels remaining for development or are available for development. Also, the nearest rural community zone is either Crane (30 miles southeast) or Drewsey (50 miles east). It would not be reasonable to direct this proposal to nearest UGB or to those rural communities.

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

FINDING: The amount of land included within the boundaries of the proposed urban development is appropriate for the specified uses. The desired use is for

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home sites and the 5 acres on which the two home sites would be located (5 acres each) would be enough land to accommodate the required services to support these homes. There would be little difference between the suggested 10-acre lot size and the desired 5-acre lot size for this proposal. It would be difficult to locate homes on smaller than 5-acre parcels because of the terrain, soils and availability of topsoil for the septic and drain field. Thus, 5 acres would be the smallest that the parcels should be and so this criterion is met.

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

FINDING: It is found that the air, water, energy and land resources would be available for the proposal and the proposal would not adversely affect these resources. The proposal calls for the creation of two additional home sites, which does require a certain amount of air, water, energy and land for the home sites themselves. This criterion is met.

Air: There would be some disturbance of the air canopy during development and the movement of soil and the like. However, after development occurs there would be no pollutants or other disturbance to the air canopy that is known at this time from these home sites.

Water: The affect of additional potable water wells into the current aquifer is unknown. There is no credible survey or study at this point for the aquifer in this area of the County as to the volume currently used and to the rate of recharge. It would be feasible to assume that the addition of the two homes would not adversely impact the current potable water. Additionally, there is no water right needed for domestic use unless irrigation is being utilized for more than ½ an acre.

Energy: The usage of energy for the proposed home sites would be minimal. Of course, there would be demand for electrical and other low voltage energy systems (cable, phone, etc.). At this time it is assumed that those systems can handle additional loads represented by what two additional home sites would require.

Land: The creation of two parcels of 5 acres each would be enough room to handle the development of home sites and the placement of the services that are required to serve these homes (septic, wells, driveways and open space). Additionally, the soils are shallow and the septic system will require more than the typical area for a working drain field and the replacement area. A shared driveway with recorded easements will be serving all three homes, which will lessen impacts of additional access points being constructed.

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(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

FINDING: It is found that there are no cities or service districts that will be impacted since the proposed site will not receive any services from a city or service district. All services such as water and septic will be provide by the landowner through private systems. Also when reviewing the service district of public safety such as law enforcement and medical it is found that two additional homes would not create undue impacts to where these services would find it more difficult to serve the public. The area of Radar Lane has a good number of homes already in place and is well known and easy to reach by emergency vehicles. This criterion is met.

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

FINDING: The nearby and adjacent resource management practices of adjacent property owners can be continued with a high degree of certainty. The impacts from additional home sites being constructed at this site will have little foreseeable impacts on resource based management practices.

It is difficult to speculate just what impacts there might be due to personal activities or hobbies of those living in the homes resulting from this proposal. There may be some impacts but those impacts such as noise, domestic animals, etc. would be termed "compatible" and could be managed to lessen any impacts felt by adjacent property owners. This criterion is met.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

FINDING: The landowners themselves are actually providing the public facilities and services that would serve these parcels (i.e. water and septic). Thus, the water well and sanitary septic system are not termed "public" in the strictest sense of the word. These systems will only serve the home sites and not other development. There may be some discussion as to the feasibility of one well serving all three homes, but that is still being discussed at this time. If it were found to be feasible then a "water easement" would be recorded to ensure that the home sites would be served with potable water far into the future.

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Also, the other public facilities and services such as emergency services would be provided in a timely fashion as these services are able to handle additional development at this time. This criterion is met.

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

FINDING: It is found that the establishment of new urban development on undeveloped rural land is coordinated and consistent with the Harney County Comprehensive Plan, which is the guiding document for this development area. The Harney County Comprehensive Plan makes clear statements as to the overall intent and need to provide rural non-farm housing on either resource or nonresource land. A portion of the text found in Section 7.4 "Rural Residential Exceptions to Goal 3 - Agriculture " is as follows:

"The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements." (Emphasis added)

Thus, the creation of a new rural residential area is consistent with the Harney County Comprehensive Plan and the determination that there is a need for rural development in the County when the review criteria are met. This criterion is met.

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

FINDING: The criterion is not applicable to this proposal. The development is for rural residential and not for rural industrial development.

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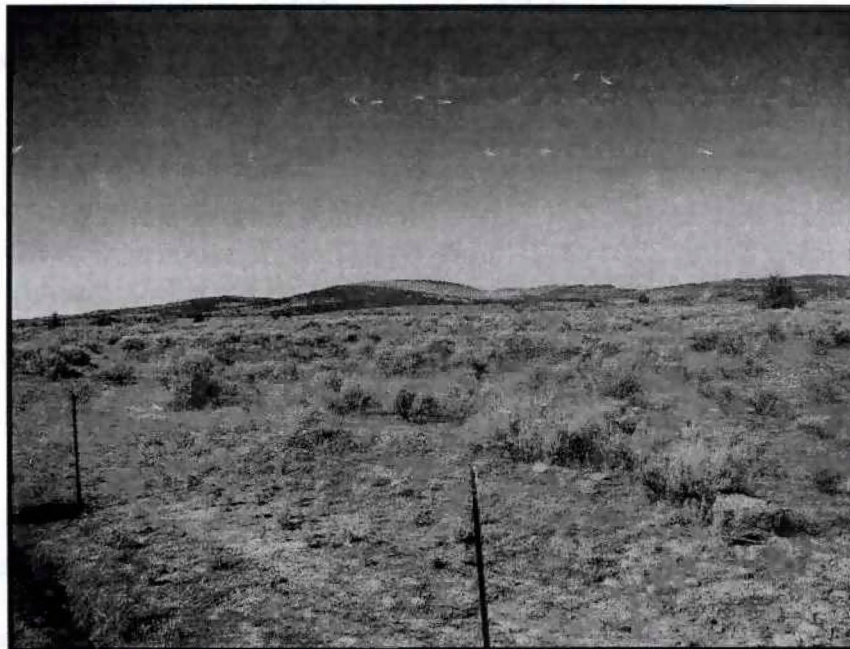
June 2003	2	2
May 2003	1	1
April 2003	3	2
March 2003	0	1
February 2003	0	1
January 2003	0	3
December 2002	1	0
November 2002	0	4
October 2002	1	0
September 2002	2	3
August 2002	0	3
July 2002	0	6

June 2002	1	0
May 2002	0	2
April 2002	1	2
March 2002	0	0
February 2002	1	0
January 2002	0	0
December 2001	0	4
November 2001	0	2
October 2001	2	3
September 2001	1	2
August 2001	0	2
July 2001	1	5

Numbers taken from monthly reports from
Inspections, INC files held by Harney County Planning.

Comprehensive Plan Amendment, Zone Change and Exception to Goals 3 and 14

**“RADAR LANE RURAL AREA”
Rezone from Exclusive Farm and Range
Use (EFRU-1) to Rural Residential (R-1)**



Looking southwest across proposed exception site.

Prepared by

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Description of the Proposal

The proposal is to rezone a 38.15-acre parcel from Exclusive Farm and Range Use (EFRU-1) to Rural Residential (R-1) with a 5-acre minimum, which is how the current R-1 Zone provisions specify. The property is located immediately south of Radar Lane, north of the City of Burns approximately 2 miles and west of the existing R-1 Zone and the Burns Paiute Indian Reservation approximately ¼ mile in the EFRU-1 Zone. Currently there is a home site on the property with various out buildings.

In order to bring all of the applicable materials together the following items are being submitted for review:

1. **Comprehensive Plan Amendment** – Adding text to Section 7.4, “Rural Residential Exceptions To Goal 3 – Agriculture” dealing with language about the “Radar Lane Rural Area”. The R-1 Zone that is existing along Radar Lane never had a Comprehensive Plan Amendment and so a brief description would be added along with the description and justification for the new or proposed rural residential zone.
2. **Zone Map Change** - The rezone would also modify the current Zoning Map to include the proposed exception site as R-1 instead of the EFRU-1 (See Map 6a)
3. **Exception to Goal 3** – The criteria that would determine whether the removal of the proposal site from resource to nonresource land is appropriate.
4. **Exception to Goal 14** – The criteria that would allow the proposal to have a 5-acre minimum lot size rather than a 10-acre minimum lot size as outlined in OAR 660-004-0040 (7).

Amending the Harney County Comprehensive Plan, Section 7.4 to add additional language for the Exception to Goal 3, "Radar Land Rural Area"

(See Section Three, paragraph (C) for the added text.)

7.4 Rural Residential Exceptions To Goal 3 - Agriculture

There are areas of Rural Residential zoning located around and west of Burns and Hines. The majority of this zoned area encompasses large areas of Land Capability Class IV and VI Composition 1 soils. Only a relatively small part of Harney County is suitable for cultivation, and yet, as is typical in many places, this is the area that has been subdivided for rural residential use.

The Harney County Court, based on the study and recommendations of the Harney County Planning Commission, the Agricultural Advisory Committee, and the Board of the Soil and Water Conservation District, has determined that it is in the Public and County's best interest to designate most of the areas east of Burns and Hines as EFRU. The existing and proposed zoning is shown on maps and this will not cause any impact on what rural residential uses there are in this area, other than prohibiting the future creation of lots less than the minimum lot size of the EFRU zones limiting uses to those allowed in the zones. All existing lots will be legally nonconforming, or "grandfathered" and will not be restricted in their utilization other than conforming to the use provisions of the zones.

The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements.

As this area is made up of Class VI soils, an Exception must be taken to LCDC Goal 3 - Agriculture that requires the preservation of all Class I through VI soils in Eastern Oregon.

The following Rural Residential Zone material consists of two sections, Section One will deal with Highland Ranch Estates and Garland Acres and Section Two will deal with the North Burns Area and the Hebener Tracts. The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

Section One

... (Text not included)

Section Two

The area north of Burns to which the County is taking an exception to the agricultural goal, contains ~~396~~ 434 acres. There are ~~two~~ three distinct areas that must be treated separately for the purpose of taking an exception (See Map 16,17 and 17a).

A. Hebener Tracts

... (Text not included)

B. North Burns Rural Area

... (Text not included)

C. Radar Lane Rural Area

The third area is south of Radar Lane, north of Burns and west of the Burns Paiute Indian Reservation. The area will be termed the Radar Lane Rural Area. The Radar Lane Rural Area contains approximately 75 acres with 6 different parcels in various sizes. The area has developed into an area that allows housing for persons who work in the Burns/Hines area on land that is difficult to farm and ranch. Each parcel is independent from the others with individual water and septic systems. Access is provided off of Radar Lane, a County maintained roadway. The geology, soils and habitat is what is commonly found near volcanic deposits with rocky and shallow soils and sagebrush-oriented habitats.

The first three parcels closest to the Paiute Indian Reservation were rezoned in 1996 with the parcels being some 12 acres each. All three of these parcels are developed with home sites. The other three parcels were rezoned in 2006 with two of the parcels being 5 acres and the other parcel being 28.5 acres. Along with the criteria used for an exception to Statewide Planning Goal 3, the criteria for cluster development was applied with voluntary restrictions related to future development on the parcels.

The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. The area is inherently nonresource land. The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vle "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the

conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.

2. The overall land use pattern will be consistent. There are six homes that are adjacent to Radar Lane and the addition of this rural residential zone with an additional 2 home sites will fit well within the current land use pattern of the area. There is another R-1 zone that is about ¼ mile to the east of this parcel with very similar soils and uses. Additionally, the Burns Paiute Indian Reservation is adjacent to the existing "Radar Lane Rural Area" where development is on very small parcels (see Map 6a & 6b, "Radar Lane Rural Area").

Map 17a – Radar Lane Rural Area, Rural Residential (R-1) Zone

Zone Map Change and Description

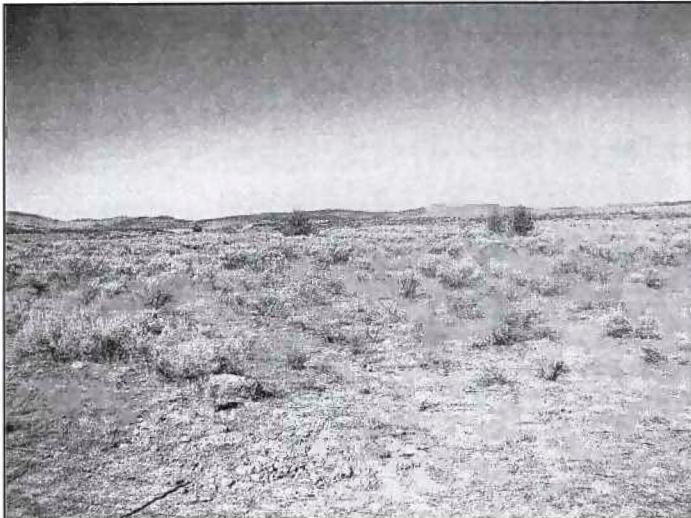
The affected parcel is found at the following descriptions:

Rural Address: 29302 Radar Lane, Burns, OR 97720

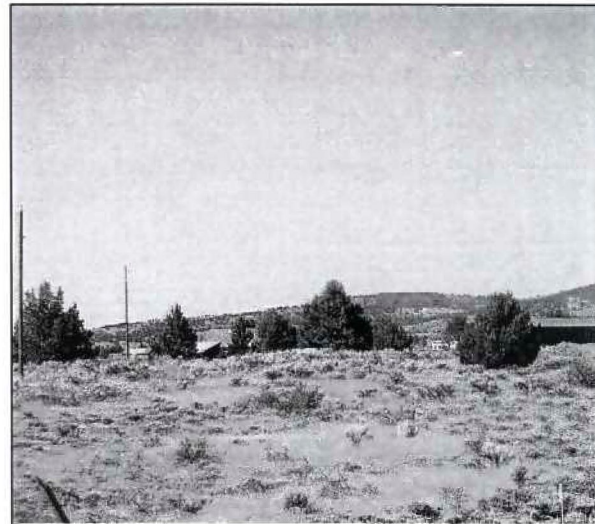
Legal: T23S, R30E, within Section 2 and Tax Lot 500
Consisting of 38.15 acres.

See Map 6a

Photos of proposed exception site, taken July 2006.



Looking southwest across the proposed exception area standing on access road.



Looking southwest toward existing home site from Radar Lane.



Looking north up the existing access road.
(notice a pickup stirring up the dust)



Looking northeast toward adjacent property development standing in front of existing home site.

**PART A, Taking an Exception to Goal 3, Agricultural Lands:
Rezoning Parcels from EFRU-1 to Rural Residential (R-1) In
Harney County**

660-004-0020, Goal 2, Part II(c), Exception Requirements

- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.
- (2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:
 - (a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;
 - (b) "Areas which do not require a new exception cannot reasonably accommodate the use":
 - (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

FINDING: There are a number of areas that are zoned Rural Residential (R-1 Zone) currently in the County (see attached maps). They are:

1. Garland Acres (Map 1a & 1b)
2. Hebener Tracts (Map 2a & 2b)
3. Highland Ranch Estates (Map 3a & 3b)
4. Norris Addition (Map 4a & 4b)
5. North Burns Area (Map 5a & 5b)
6. Radar Lane Rural Area, identifying the proposed exception area (Map 6a & 6a)
7. Choate Addition/Revak Tracts (Map 7a & 7b)
8. Skelton Addition (Map 8a & 8b)

(B) To show why the particular site is justified, it is necessary to discuss why other areas, which do not require a new exception, cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

FINDING: There are a number of R-1 Zones as mentioned above. Each has an area for development and for the most part, each zone has been irrevocably committed with development. There are currently 270 parcels that are contained in the R-1 Zones throughout the County and of those parcels 215 have homes already built or in the process of being built. Thus, 80 percent of the buildable parcels are committed. Of the remaining 55 parcels it is difficult to determine just how many are buildable; why hasn't development occurred on the parcel yet, and whether the property owners want to sell the parcels. These are questions that cannot be answered at this time.

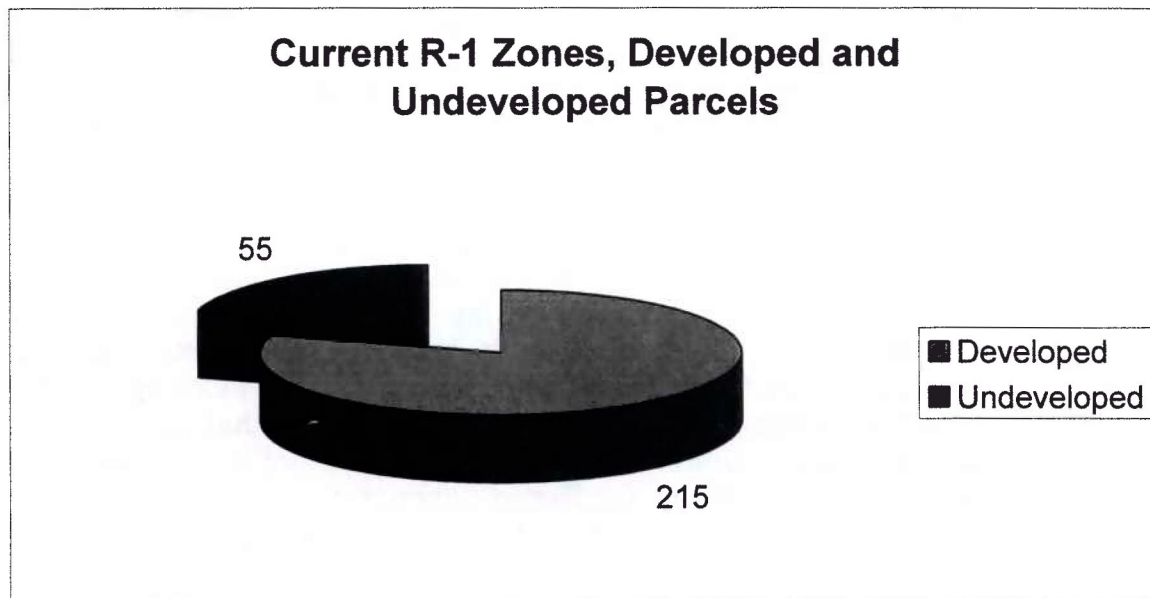
The proposal calls for the creation of three additional parcels to become rural residential. Could the development be located in areas already zoned for rural residential? It is feasible to assume that additional home sites could be located in existing rural residential zones. The unknown factor that causes some doubt, however, is whether the parcels that have not been developed in the current R-1 Zones are available to be developed. There has not been an exhaustive review of each parcel with the current property owners to determine of the 55 parcels that are undeveloped which ones could be sold and/or developed. Some possible reasons for the parcels not being developed may be terrain, soils, or unwillingness by the property owners to sell.

**Current R-1 Zones
Developed and Undeveloped Parcels**

Name of Zone Area	In a UGB?	Number of Acres	Number of Parcels	Number of Developed Parcels	Number of Undeveloped Parcels
Garland Acres	Y	249	55	34	21
Hebener Tracts	N	287.5	36	31	5
Highland Ranch Estates	N	69	34	26	8
Norris Addition	Y	38	64	63	1
North Burns Area	N	109	25	19	6
Radar Lane Rural Area	N	34	3	3	0
Choate Addition & Revak Tracts	Y	31	20	12	8
Skelton Addition	Y	33	33	27	6
		850.5 acres	270 lots	215 lots	55 lots

Table 1 – Current R-1 Zones, Developed and Undeveloped Parcels

1



Graph 1 – Current R-1 Zones, Developed and Undeveloped Parcels

- (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

FINDING: The property that is part of the proposal is irrevocably committed to nonresource uses (currently there is one home site) and the property has little if any tillable soil for resource-oriented activities. The proposal is to create two additional parcels on this property and then each parcel would have a rural non-farm dwelling placed on it. The existing parcel is located in a resource zone and is irrevocably committed to nonresource uses and the development of two additional home sites on separate parcels could be reasonably accommodated. The current size of the parent parcel is 38.5 acres. The proposal would create two 5-acre parcels leaving 28.15 acres. This criterion is met.

- (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

FINDING: Out of the eight R-1 Zones, five are within the Urban Growth Boundary of Burns/Hines (Garland Acres, Choate Addition/Revak Tracts, Norris Addition, Skelton Addition). The proposed use of rural residential development could not be located within the UGB of Burns/Hines. This criterion is met.

There are two rural residential zones adjacent to Burns (Garland Acres and Norris Addition). These two areas are either built out or the property owners do not want to sell making the land unavailable for development at this time. The Norris Addition is made up of 64 lots and only 1 is undeveloped at this time. Garland Acres is much more open with some 21 parcels undeveloped and some of the parcels that are not developed are quite large. Unfortunately, the parcels are not for sale and the larger parcels have not been subdivided although it is possible if there were a desire to do so. The desire of the landowner at this time is not to sell or subdivide the land, thus making these undeveloped parcels impossible to develop. It would be unreasonable to move the proposal to these locations.

There are currently three rural residential zones on the west side of Hines that have some undeveloped parcels (Choate Addition/Revak Tracts and Skelton Addition). However, these parcels are most likely not buildable. The terrain of these parcels is steep and access is limited. The undeveloped parcels will most likely remain undeveloped and so it would be unreasonable to move the proposal to these locations.

- (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

FINDING: The proposal calls for the creation of two additional parcels with home sites to be constructed on each. The only public facility or service would be a septic system for each as well as potable water wells. These systems would be for private use only with no provision of a publicly accessible system. This criterion is met.

- (C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site-specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless another party specifically describes such sites with facts to support the assertion that the sites are more reasonable during the local exceptions proceeding.

- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

FINDING: The exception at the proposed site would have far less impacts on the long-term environmental, economic, social and energy consequences than if it were to be placed on other land also requiring an exception. This criterion is met.

... which resource land is least productive. The parcel in question is not valuable farmland due to soils, terrain and geology. The parcel sits on a rocky, volcanic deposit that has shallow soils. Native vegetation can grow on the parcel but converting it to more valuable agricultural land would be unreasonable (See Map 9, "Soils").

One observation of the property from the photo taken on July 18, 2006 shows the lack of viable vegetation and the shortness of the sagebrush on the property. A rule of thumb states that if the sagebrush is short then there is shallow topsoil. This area along Radar Lane is very rocky and is near impossible to farm.



Looking southwest across the proposed exception area.

... ability to sustain resource uses near the proposed use. There are resource uses or agricultural uses adjacent to this parcel. Grazing cattle and the raising of farm animals are found on adjacent property and the placement of additional home sites on the parcel in question would have minimal impacts. The increased presence of domestic animals (i.e. dogs, cats, etc.) can have the potential of causing disturbances to farm animals. There may be some interference between domestic uses and agricultural uses, but these impacts would be very difficult to determine (both the cause and the magnitude) at this time. On the face of it, the homes and accessory development would not adversely impact agricultural practices on adjacent property. There are a number of homes on other nearby parcels that have been there for several years, which seem to exist without adverse impacts being caused to the nearby agricultural practices. It is feasible to assume that the addition of two additional home sites would not cause undue impacts.

...irreversible removal of the land from the resource base. The long-term economic impact of this property being taken out of the resource base would be non-existent. The reason for this "no impact" determination is because this parcel has not contributed much to the resource base in the past. The soils and terrain do not allow this parcel to be a productive feature of the overall resource base of this area of the County.

- (d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce "adverse impacts". The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

FINDING: The parcel on which the proposal would be placed is compatible with the adjacent areas. There is currently another R-1 Zone nearby (1/4 mile to the east) with very similar size, landscape, soil types and use. There are homes in the immediate vicinity along Radar Lane (See Map 6a & 6b, "Radar Lane Rural Area"). There are farm uses adjacent to this property where animals reside, which have not resulted in adverse impacts. There may be impacts to these uses although the criteria clearly states that "compatible" is not intended as an absolute term meaning no interference or impacts of any type with adjacent uses." Thus, there may be impacts to adjacent property, but not to such a degree as to warrant a prohibition of this property being eligible for an exception. This criterion is met.

- (3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

FINDING: The exception does not include more than one area. The only area would be located on the single parcel of property that is listed in the Land Use Permit Application as T23S, R30E within Section 2 and Tax Lot 500 consisting of 38.15 acres. This criterion is not applicable to this proposal.

- (4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

FINDING: This proposal does not call for an expansion of an Unincorporated Community or for an Urban Unincorporated Community. This criterion is not applicable to this proposal.

660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
 - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either
 - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
 - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

FINDING: The proposed use is provided for in subsequent sections of the rule OAR 660, division 014, which will follow. The use is rural residential and that specific use is covered in Section (2) below. Thus, the remaining criteria in Section (1) do not need to be addressed.

- (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

FINDING: The Harney County Comprehensive Plan was initially adopted in the early 1980s and formulated in the late 1970s. Chapter 5 of the Plan, unfortunately, has not

been updated to reflect more current trends and needs from those expressed in the earlier timeframe. The following comes from page 141 of the Harney County Comprehensive Plan, Chapter 5, subsection 2 entitled, "Outlook".

"5.2 Outlook

The Burns/Hines urban area and most of Harney County can expect little change in the economic outlook over the next few years. Based on historical trends, the overall civilian labor force in all of Harney County can be expected to increase by about 2 to 2.45 percent a year. Normal seasonal patterns will occur including differing employment levels in agriculture, trade, construction, and government. Livestock production, timber harvesting, and weed products are the present major industries of Harney County. There appears to be various opportunities to develop certain types of recreational and tourist facilities within the county. Due to the lack of all modes of transportation, the distance to large markets, and available labor supply, it has been difficult to attract new industries to Harney County. Future socio-economic growth will depend on the expansion of the agricultural and timber industries and the further development of the recreation and tourist industry, which ranks third among the major economic segments of the community."

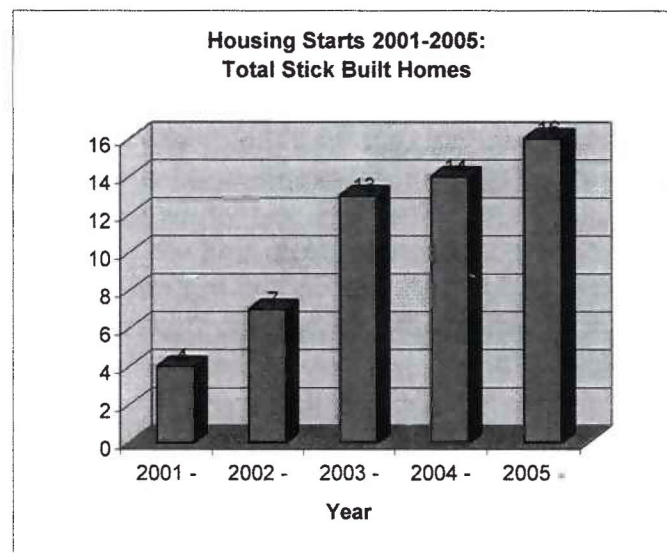
Market trends seem to ebb and flow with the changes in economics and desire. Recently Harney County has experienced a surge in families and individuals moving here for employment, retirement and other similar reasons. Of course, it is difficult to track where people are coming from and why it is that they are moving to the area, but from the following numbers it is shown that there has been a rise in the number of sales over the past several years as well as the number of new homes and manufactured homes being built/placed.

Table 1 shows that from 2001 until the end of 2005 there has been a steady increase in the number of new stick built homes being constructed. The numbers come from monthly reports provided to the County by Inspections, Inc., the contracted County Building Department, of the various permits being issued. Thus, in the year 2001 there were only four new home permits issued and in 2005 there were 16 new home permits issued, which is a 400 percent increase. This trend most likely will continue, in that more and more persons will continue to move here and depending upon housing stock will either move into an existing home or build a new one. New stick built homes are a good indicator of positive trends for an areas growth. Building a new home by the person or a developer shows an interest for long-term residency and eventually a contribution to the local economy. Not only is the home being built and material being purchased locally but also the ones living in the home will more than likely be permanent residents for at least two years and possibly even longer. New homebuyers tend to stay in an area longer than ones that rent, lease or live in less expensive housing.

Housing Starts 2001- 2005 Building Permits for Stick Built Homes

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							1	0	1	2	0	0	4
2002 -	0	1	0	1	0	1	0	0	2	1	0	1	7
2003 -	0	0	0	3	1	2	1	1	0	4	1	0	13
2004 -	0	1	1	2	1	2	2	1	1	0	1	2	14
2005 -	0	0	0	2	0	6	2	0	3	0	1	2	16
													54

Table 2 - Housing Starts 2001-2005: building permits issued for stick built homes



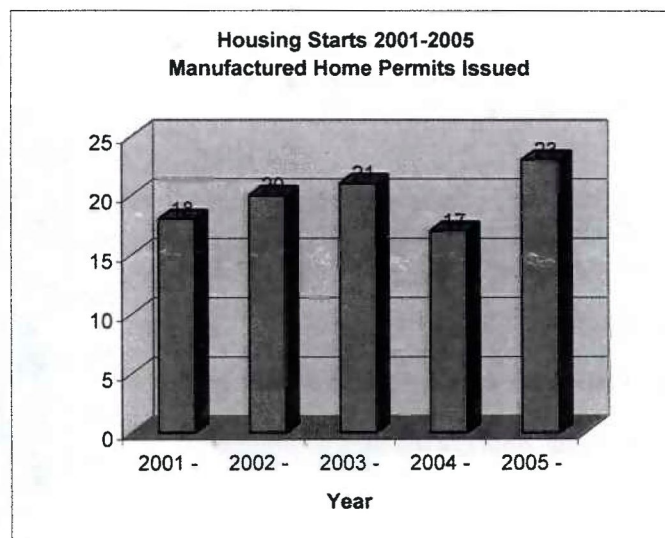
Graph 2 – Housing Starts 2001-2005: building permits issued for stick built homes

Table 2 shows the number of permits that were issued for manufactured homes either new or used from 2001-2005. Similar to the stick built home permits, these permits are issued through Inspections, Inc. and are reported monthly to the County. The number of permits issued over the past several years seems to remain relatively stable with little fluctuation. Manufactured homes, for the most part, are affordable housing and have a much faster construction timeframe. Of course, manufactured homes, although more affordable and predictable, tend to serve a more temporary living experience. Nonetheless, there are a steady number of manufactured homes being set up each year and the probability of these numbers remaining at or above those in previous years are very high.

Housing Starts 2001- 2006
Manufactured Home Placement Permits Issued

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							5	2	2	3	2	4	18
2002 -	0	0	0	2	2	0	6	3	3	0	4	0	20
2003 -	3	1	1	2	1	2	4	1	2	4	0	0	21
2004 -	0	0	3	1	1	1	1	4	2	2	2	0	17
2005 -	1	1	3	2	1	2	3	3	3	1	0	3	23
													99

Table 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.



Graph 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.

The Sales from 2000-2005 also shows an increase in the number of persons possibly relocating to this area and the need for housing. The County Assessor's Office reports the sales data. The numbers reported here are termed "Verified and Confirmed Sales", which means that these sales were via a contract, deed or other instrument for real market value. There has been a steady increase with a spike happening this past year of more than 318 sales. There may be a number of reasons for the increase in sales, but one possibility is that people are moving to this area and using the amiable housing stock. And it is a rule of trends that as the numbers rise they will continue to rise until it reaches a critical mass and levels out the activity. Thus, sales will continue to increase until there is nothing left that is valuable, desirable or is available to sell in terms of housing.

**Total Sales 2000-2005, Verified and Confirmed Sales
By Class Code (types of use)**

Year of Report	Class Code (Type of Use)										Total
	100	101	109	400	401	409	550	551	5509	800	
2000 -	12	53	16	26	6	7	26	13	5	0	164
2001 -	5	55	10	26	2	12	20	9	9	0	148
2002 -	7	59	14	47	4	6	12	9	10	3	171
2003 -	12	71	11	26	1	7	21	11	8	2	170
2004 -	6	76	17	40	3	10	25	19	10	4	210
2005 -	15	118	14	76	6	12	30	20	23	5	319

Table 4 –Total Sales 2000-2005: Verified and Confirmed Sales by Class Code

Taken from a Report generated from County Assessor Database, June 22, 2006

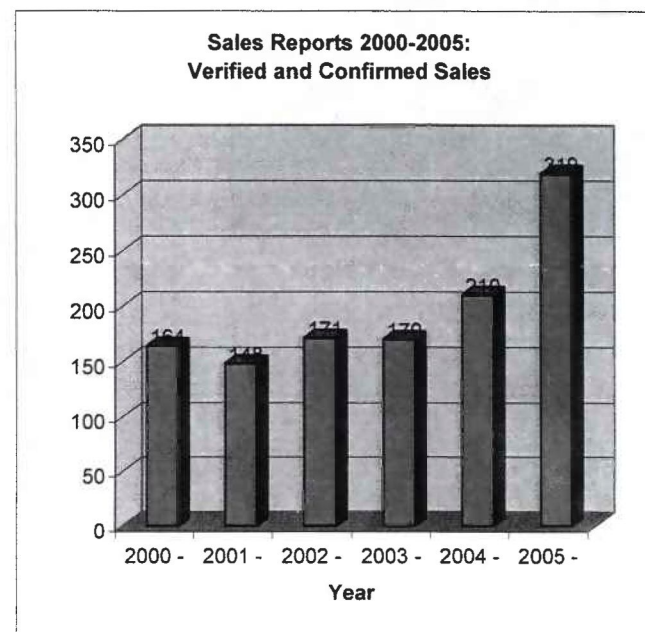
Class Code Legend:

Class 100 – Residential Lot, no improvements
Class 101 – Stick built home on residential lot
Class 109 – Manufactured structure on residential lot

Class 400 – Rural tract no improvements
Class 401 – Rural tract with a stick built home
Class 409 – Rural tract with manufactured home

Class 550 – Farm tract, no improvements
Class 551 – Farm tract with a stick built home
Class 559 – Farm tract with manufactured home

Class 800 – Recreational Lot, no improvements



Graph 4 – Total Sales 2000-2005, Verified and Confirmed Sales by Class Code

The following provisions do not apply to this proposal:

- (3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:
- (4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:
- (5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
- (6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:
- (7) Goal 16 -- Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:
- (8) Goal 16 -- Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:
- (9) Goal 17 -- Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:
- (10) Goal 18 -- Foredune Breaching: A foredune may be breached when the exception demonstrates an existing dwelling located on the foredune is experiencing sand inundation and the grading or removal of sand is:
- (11) Goal 18 -- Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:
- (12) Goal 12 -- Transportation Improvements on Rural Lands. Transportation improvements not allowed on rural lands as provided for in OAR 660-012-0065 require an exception pursuant to OAR 660-012-0070 and this division.

PART B, Taking an Exception to Goal 14 – Urbanization, Rezoning Parcels from EFRU-1 to Rural Residential (R-1) In Harney County

Why are we also taking an exception to Goal 14? The requested rezone from EFRU-1 to R-1 proposes a 5-acre minimum lot size. According to OAR 660-004-0040 (7)(i) the minimum lot size must be at least 10 acres for new rural residential areas unless an exception to Goal 14 is taken. Thus, an exception to Goal 14 is required.

660-014-0040, Establishment of New Urban Development on Undeveloped Rural Lands

(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

FINDING: It is found that the property in question is termed "undeveloped rural land". This property is at least 2 miles from an urban growth boundary and although there is currently a home on the property the development is not at urban densities. This criterion is met.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

FINDING: Harney County has had as the minimum lot size for the established Rural Residential (R-1) Zone of 5 acres since the initial adoption of the Zoning Ordinance in 1983 instead of the requirement of 10 acres for a new rural residential parcel as required by Administrative Rule. The Administrative Rule was modified during the 2001 legislative session that made the minimum lot size for a new parcel in a newly created rural residential zone to be 10 acres. Initially, the County questions whether the difference between the 5-acre minimums to 10 acres minimums constitutes "urban density". Nonetheless, the fact that development on 5 acres constitutes urban density has been set by the State.

The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. **The area is inherently nonresource land.** The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vie "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.
2. **The overall land use pattern will be consistent.** There are six homes that are adjacent to Radar Lane and the addition of this rural residential zone with an additional 2 home sites will fit well within the current land use pattern of the area. There is another R-1 zone that is about ¼ mile to the east of this parcel with very similar soils and uses. Additionally, the Burns Paiute Indian Reservation is adjacent to the "Radar Lane Rural Area" where development is on very small parcels (see Map 6b, "Radar Lane Rural Area").

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

FINDING: The proposal cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensifying the development in existing rural communities. The current R-1 Zones (Choate Addition/Revak Tracts, Garland Acres, Skelton Addition and Norris Addition) that are within the UGB of either Burns or Hines are committed and have very few parcels remaining for development or are available for development. Also, the nearest rural community zone is either Crane (30 miles southeast) or Drewsey (50 miles east). It would not be reasonable to direct this proposal to nearest UGB or to those rural communities.

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

FINDING: The amount of land included within the boundaries of the proposed urban development is appropriate for the specified uses. The desired use is for

home sites and the 5 acres on which the two home sites would be located (5 acres each) would be enough land to accommodate the required services to support these homes. There would be little difference between the suggested 10-acre lot size and the desired 5-acre lot size for this proposal. It would be difficult to locate homes on smaller than 5-acre parcels because of the terrain, soils and availability of topsoil for the septic and drain field. Thus, 5 acres would be the smallest that the parcels should be and so this criterion is met.

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

FINDING: It is found that the air, water, energy and land resources would be available for the proposal and the proposal would not adversely affect these resources. The proposal calls for the creation of two additional home sites, which does require a certain amount of air, water, energy and land for the home sites themselves. This criterion is met.

Air: There would be some disturbance of the air canopy during development and the movement of soil and the like. However, after development occurs there would be no pollutants or other disturbance to the air canopy that is known at this time from these home sites.

Water: The affect of additional potable water wells into the current aquifer is unknown. There is no credible survey or study at this point for the aquifer in this area of the County as to the volume currently used and to the rate of recharge. It would be feasible to assume that the addition of the two homes would not adversely impact the current potable water. Additionally, there is no water right needed for domestic use unless irrigation is being utilized for more than ½ an acre.

Energy: The usage of energy for the proposed home sites would be minimal. Of course, there would be demand for electrical and other low voltage energy systems (cable, phone, etc.). At this time it is assumed that those systems can handle additional loads represented by what two additional home sites would require.

Land: The creation of two parcels of 5 acres each would be enough room to handle the development of home sites and the placement of the services that are required to serve these homes (septic, wells, driveways and open space). Additionally, the soils are shallow and the septic system will require more than the typical area for a working drain field and the replacement area. A shared driveway with recorded easements will be serving all three homes, which will lessen impacts of additional access points being constructed.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

FINDING: It is found that there are no cities or service districts that will be impacted since the proposed site will not receive any services from a city or service district. All services such as water and septic will be provide by the landowner through private systems. Also when reviewing the service district of public safety such as law enforcement and medical it is found that two additional homes would not create undue impacts to where these services would find it more difficult to serve the public. The area of Radar Lane has a good number of homes already in place and is well known and easy to reach by emergency vehicles. This criterion is met.

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

FINDING: The nearby and adjacent resource management practices of adjacent property owners can be continued with a high degree of certainty. The impacts from additional home sites being constructed at this site will have little foreseeable impacts on resource based management practices.

It is difficult to speculate just what impacts there might be due to personal activities or hobbies of those living in the homes resulting from this proposal. There may be some impacts but those impacts such as noise, domestic animals, etc. would be termed "compatible" and could be managed to lessen any impacts felt by adjacent property owners. This criterion is met.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

FINDING: The landowners themselves are actually providing the public facilities and services that would serve these parcels (i.e. water and septic). Thus, the water well and sanitary septic system are not termed "public" in the strictest sense of the word. These systems will only serve the home sites and not other development. There may be some discussion as to the feasibility of one well serving all three homes, but that is still being discussed at this time. If it were found to be feasible then a "water easement" would be recorded to ensure that the home sites would be served with potable water far into the future.

Also, the other public facilities and services such as emergency services would be provided in a timely fashion as these services are able to handle additional development at this time. This criterion is met.

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

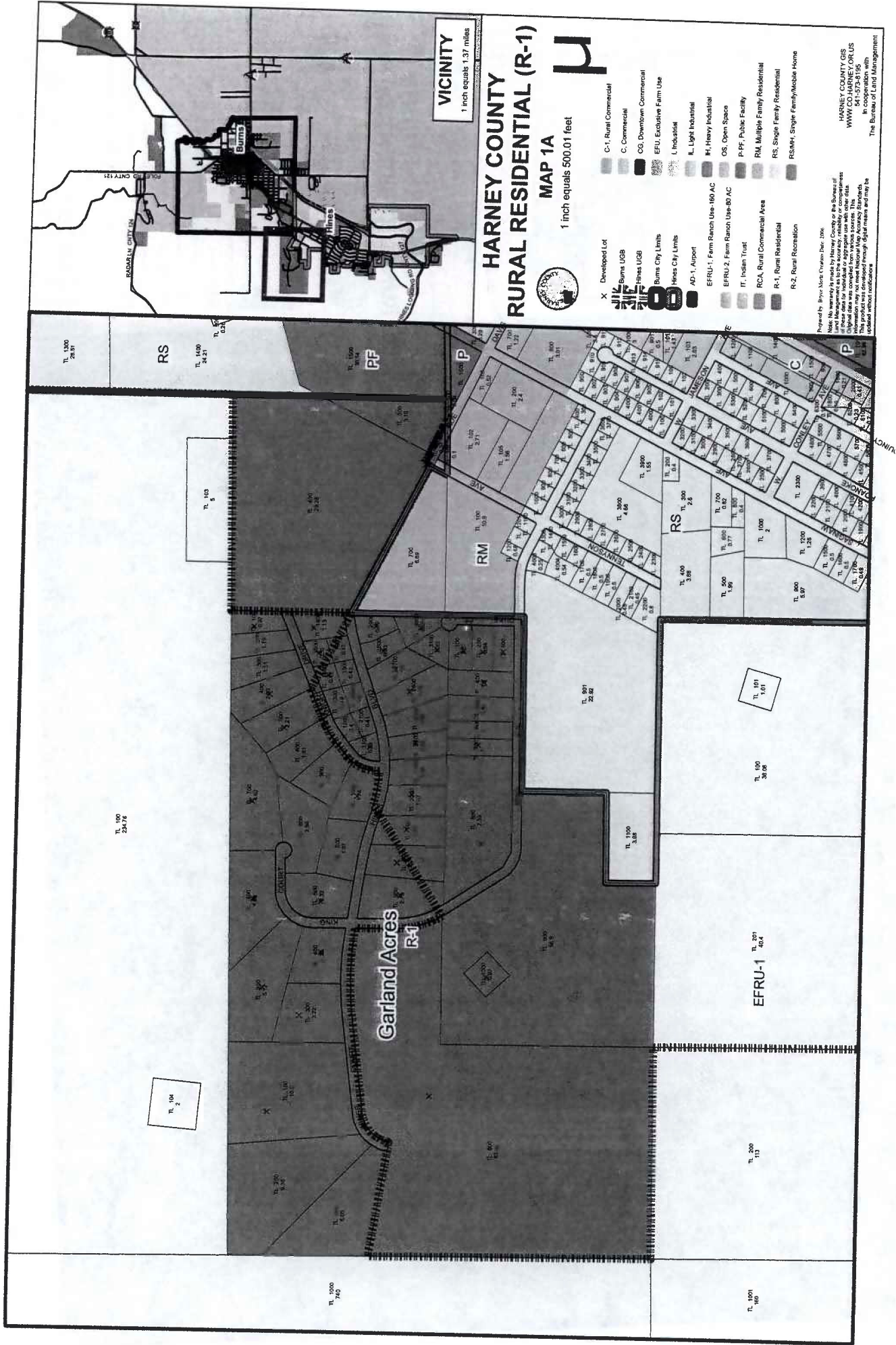
FINDING: It is found that the establishment of new urban development on undeveloped rural land is coordinated and consistent with the Harney County Comprehensive Plan, which is the guiding document for this development area. The Harney County Comprehensive Plan makes clear statements as to the overall intent and need to provide rural non-farm housing on either resource or nonresource land. A portion of the text found in Section 7.4 "Rural Residential Exceptions to Goal 3 - Agriculture " is as follows:

"The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements." (Emphasis added)

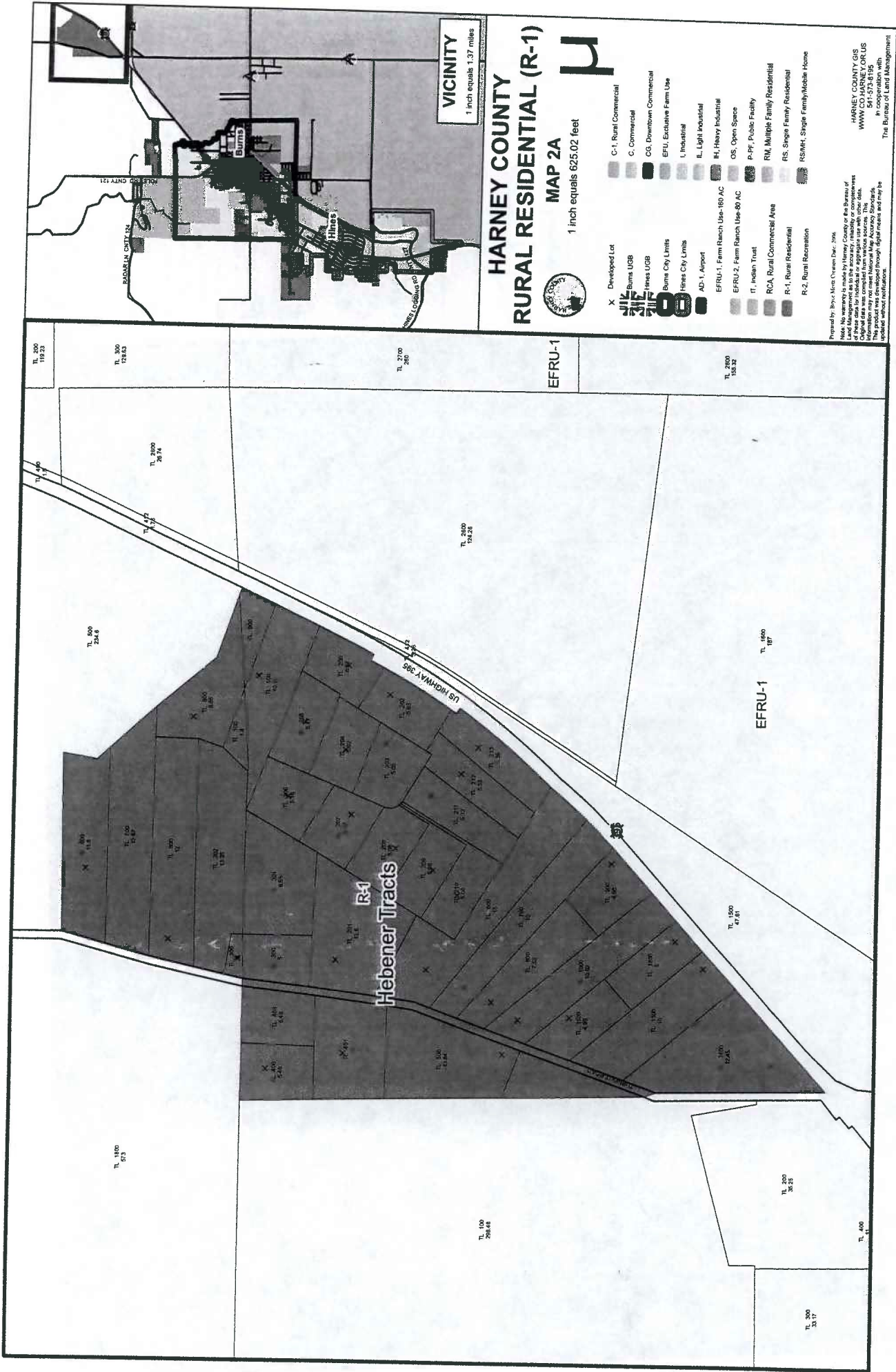
Thus, the creation of a new rural residential area is consistent with the Harney County Comprehensive Plan and the determination that there is a need for rural development in the County when the review criteria are met. This criterion is met.

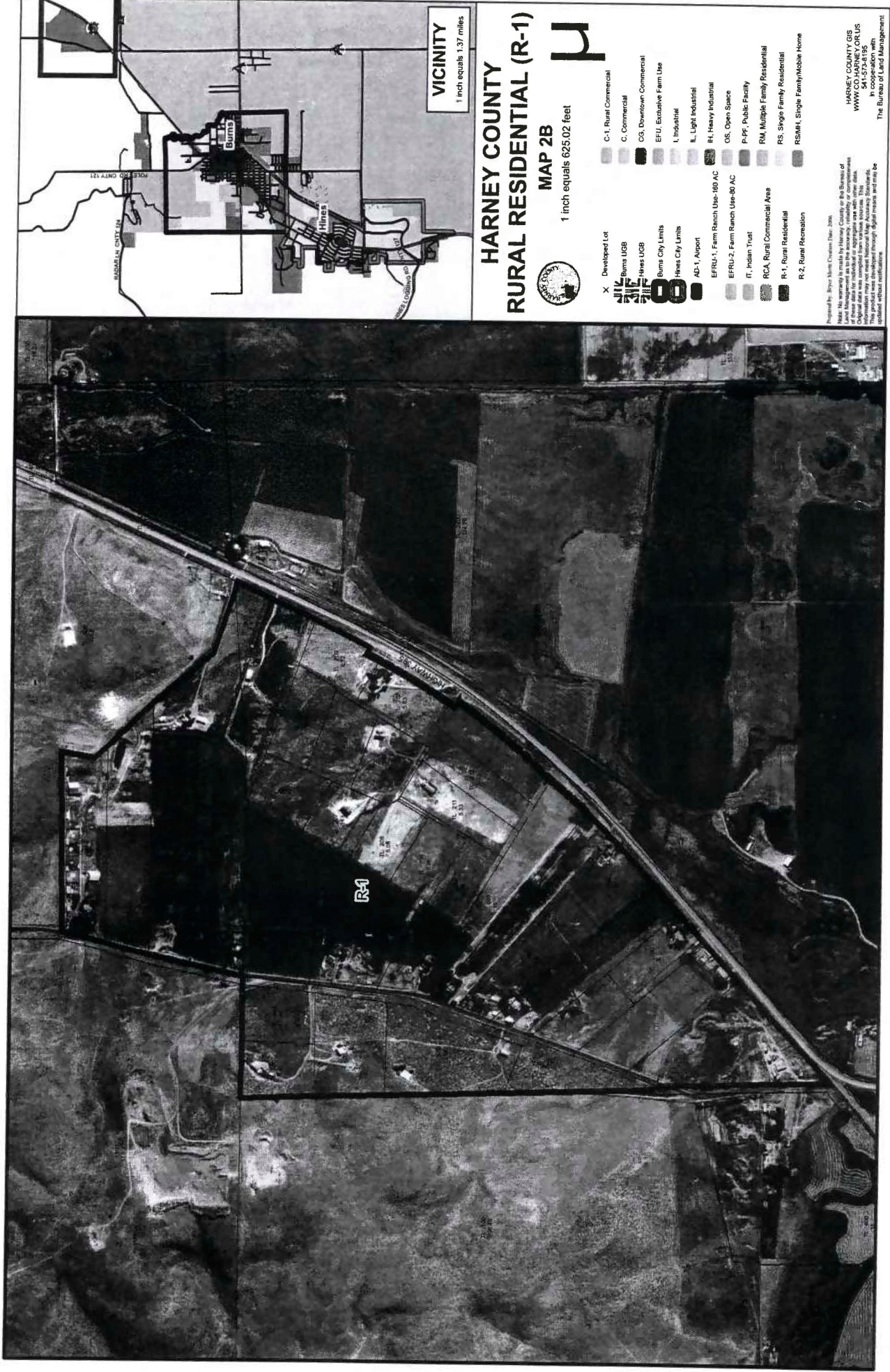
(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

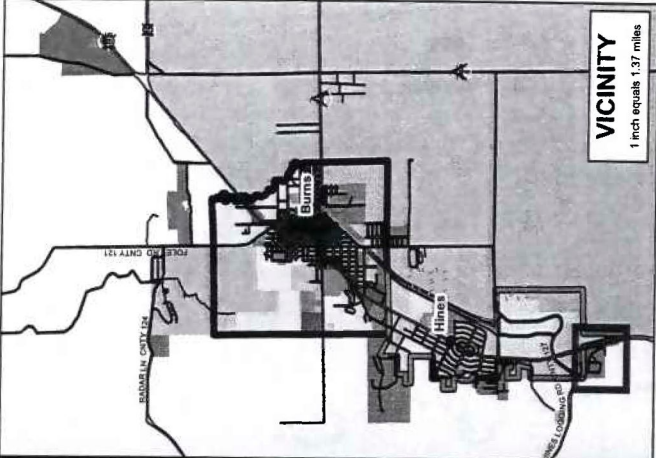
FINDING: The criterion is not applicable to this proposal. The development is for rural residential and not for rural industrial development.









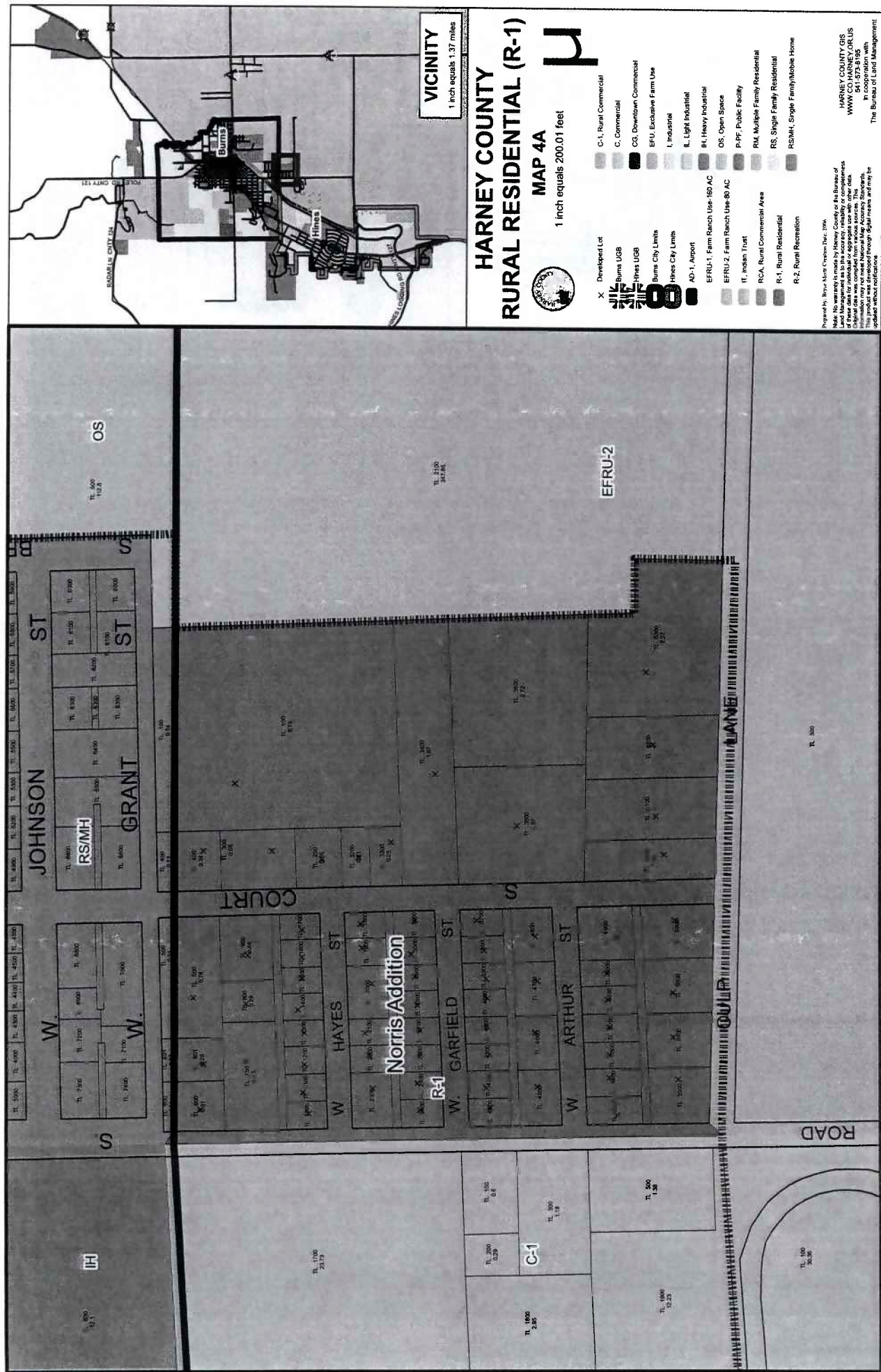


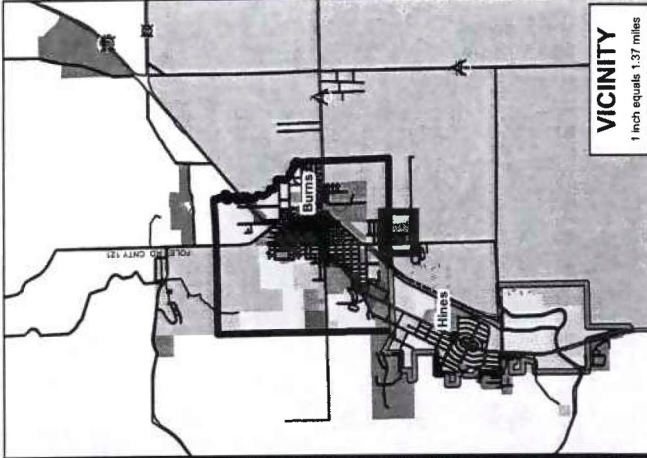
HARNEY COUNTY RURAL RESIDENTIAL (R-1)

MAP 3B
1 inch equals 300.01 feet

- X Developed Lot
- Sum UGB
- Hines UGB
- Burns City Limits
- Hines City Limits
- AD-1, Airport
- EFRL-1, Farm Ranch Use-180 AC
- EFRL-2, Farm Ranch Use-80 AC
- IT, Indian Trust
- RCA, Rural Commercial Area
- R-1, Rural Residential
- R-2, Rural Recreation
- C-1, Rural Commercial
- C, Commercial
- CG, Downtown Commercial
- EFU, Exclusive Farm Use
- I, Industrial
- IL, Light Industrial
- RI, Heavy Industrial
- OS, Open Space
- P-F, Public Facility
- RM, Multiple Family Residential
- RS, Single Family Residential
- RS/M, Single Family/Mobile Home

Prepared by: Bryan M. Cramer, Director, 2006
Harney County GIS
WYOMING COUNTY GIS
541-574-1100
In cooperation with
The Bureau of Land Management





HARNEY COUNTY RURAL RESIDENTIAL (R-1)

MAP 4B

1 inch equals 200.01 feet

1 inch equals 1.37 miles

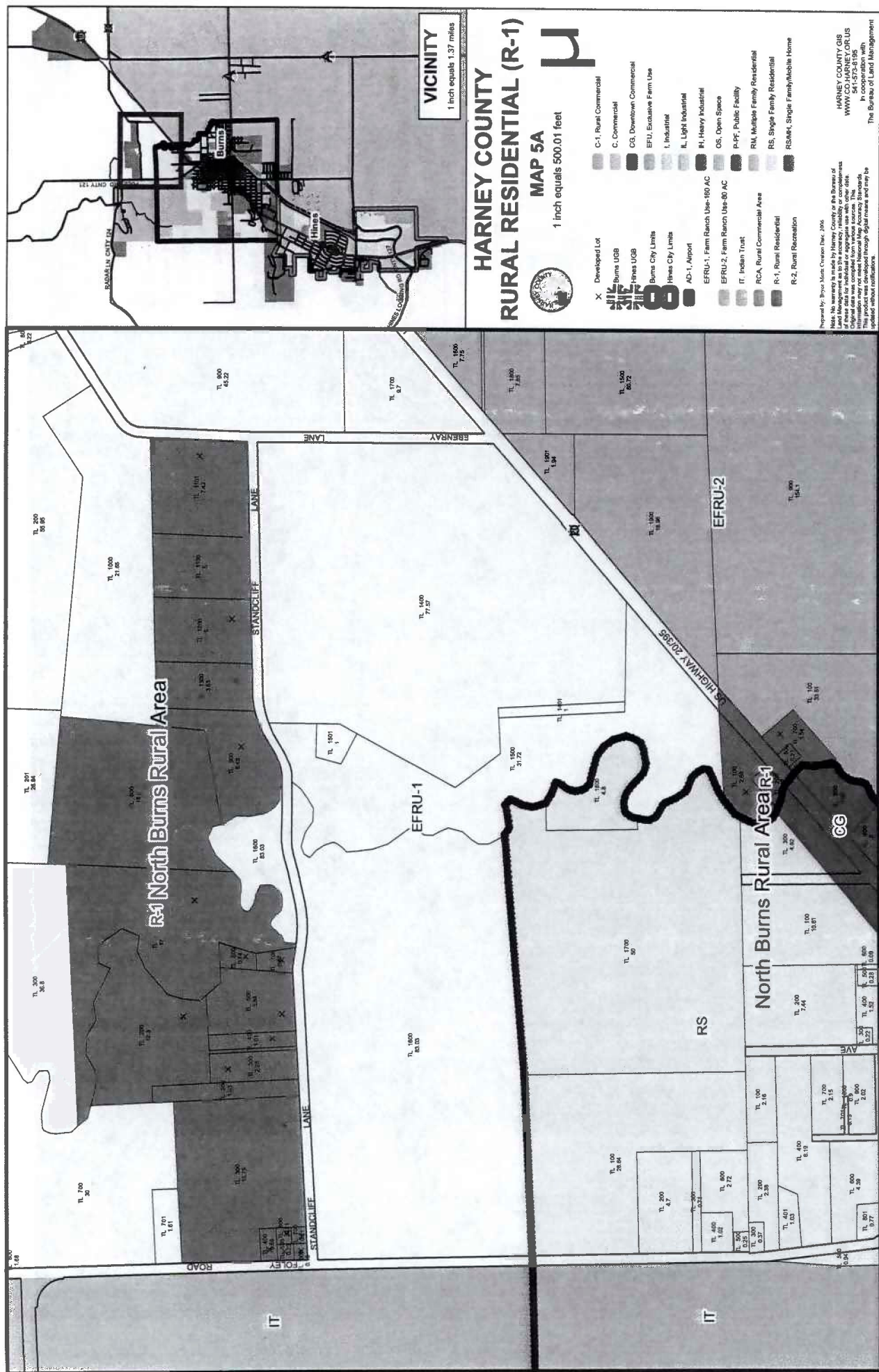
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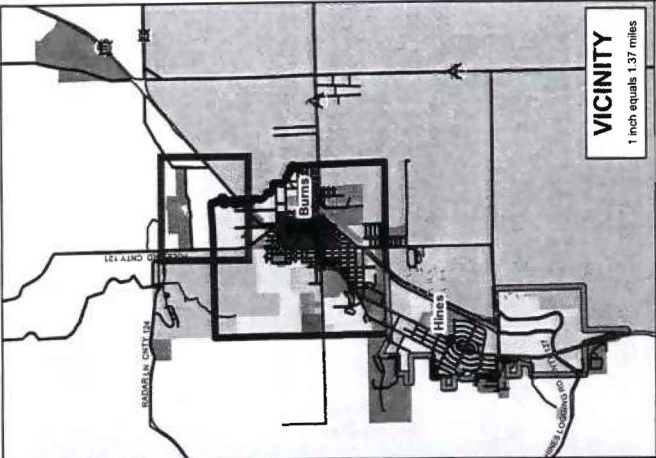
- X Developed Lot
- Burns UGB
- Hines UGB
- Burns City Limits
- Hines City Limits
- AD-1, Airport
- EFRL-1, Farm Ranch Use-160 AC
- EFRL-2, Farm Ranch Use-80 AC
- IT, Indian Trust
- RCA, Rural Commercial Area
- R-1, Rural Residential
- R-2, Rural Recreation
- C-1, Rural Commercial
- C, Commercial
- CG, Downtown Commercial
- EFU, Exclusive Farm Use
- I, Industrial
- L, Light Industrial
- RI, Heavy Industrial
- OS, Open Space
- P-PF, Public Facility
- RM, Multiple Family Residential
- RS, Single Family Residential
- RS/MH, Single Family/Mobile Home

Scale: 1 inch equals 200.01 feet

Vicinity: 1 inch equals 1.37 miles

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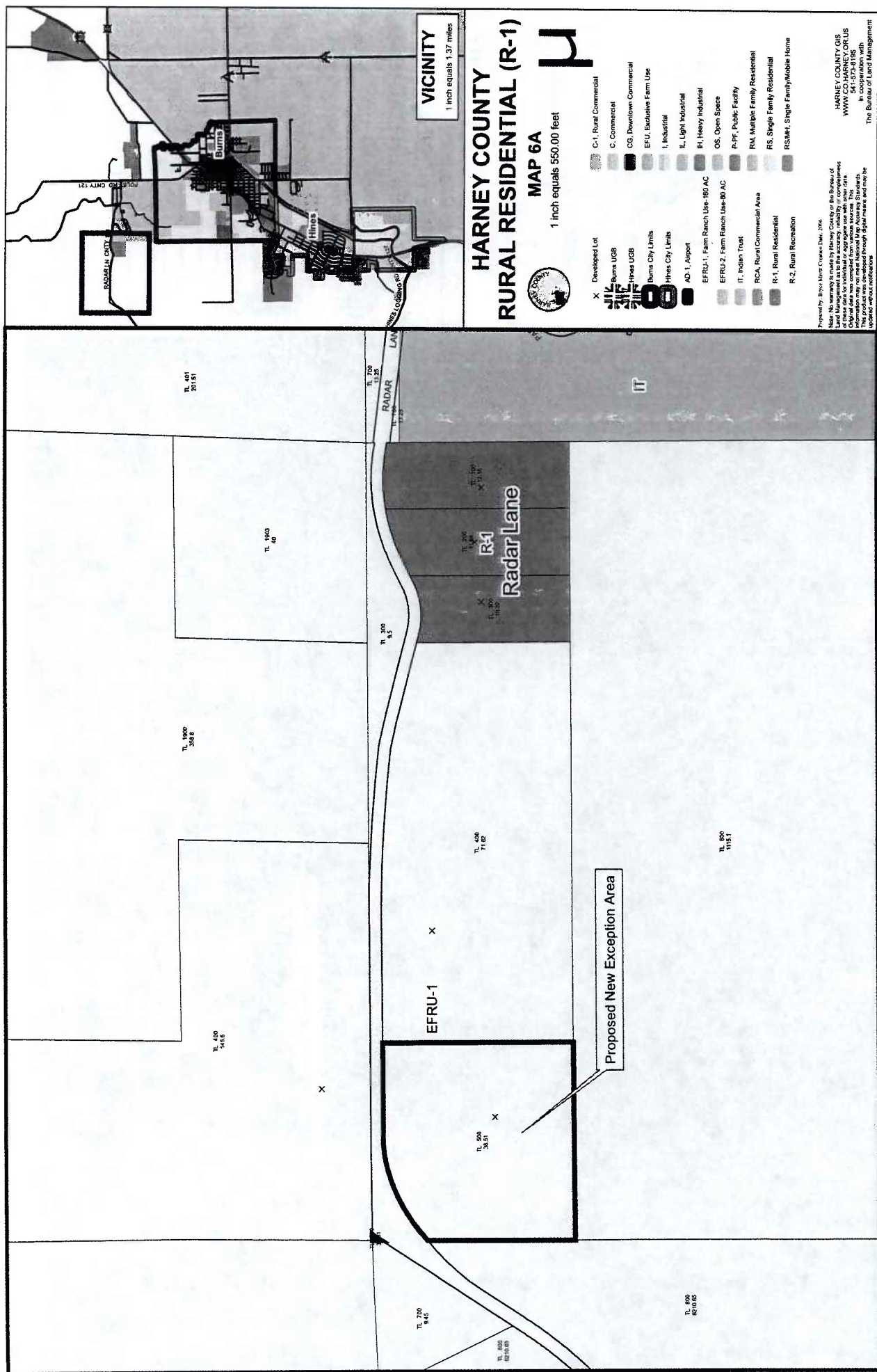


HARNEY COUNTY RURAL RESIDENTIAL (R-1)

MAP 5B
1 inch equals 500.01 feet

- Developed Lot
- Summit UGB
- Hines UGB
- Burns City Limits
- Hines City Limits
- AD-1, Airport
- EFRL-1, Farm Ranch Use-160 AC
- EFRL-2, Farm Ranch Use-80 AC
- IT, Indian Trust
- RCA, Rural Commercial Area
- R-1, Rural Residential
- R-2, Rural Recreation
- C-1, Rural Commercial
- C, Commercial
- CG, Downtown Commercial
- EFU, Exclusive Farm Use
- I, Industrial
- IL, Light Industrial
- IM, Heavy Industrial
- OS, Open Space
- P-PF, Public Facility
- RM, Multiple Family Residential
- RS, Single Family Residential
- RSNH, Single Family/Mobile Home

Prepared by: Bruce Kent-Crease Dec. 2006
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HARNEY COUNTY
RURAL RESIDENTIAL (R-1)

MAP 6B
1 inch equals 550.00 feet

VICINITY
1 inch equals 1.37 miles

Legend

X. Developed Lot

■ Burns USB

■ Hines USB

■ Burns City Limits

■ Hines City Limits

■ AD-1, Airport

■ EFRU-1, Farm Ranch Use-160 AC

■ EFRU-2, Farm Ranch Use-80 AC

■ IT, Indian Trust

■ RCA, Rural Commercial Area

■ R-1, Rural Residential

■ R-2, Rural Recreation

■ C-1, Rural Commercial

■ C, Commercial

■ CS, Downtown Commercial

■ EFLU, Exclusive Farm Use

■ Industrial

■ IL, Light Industrial

■ IH, Heavy Industrial

■ OS, Open Space

■ P-PF, Public Facility

■ RM, Multiple Family Residential

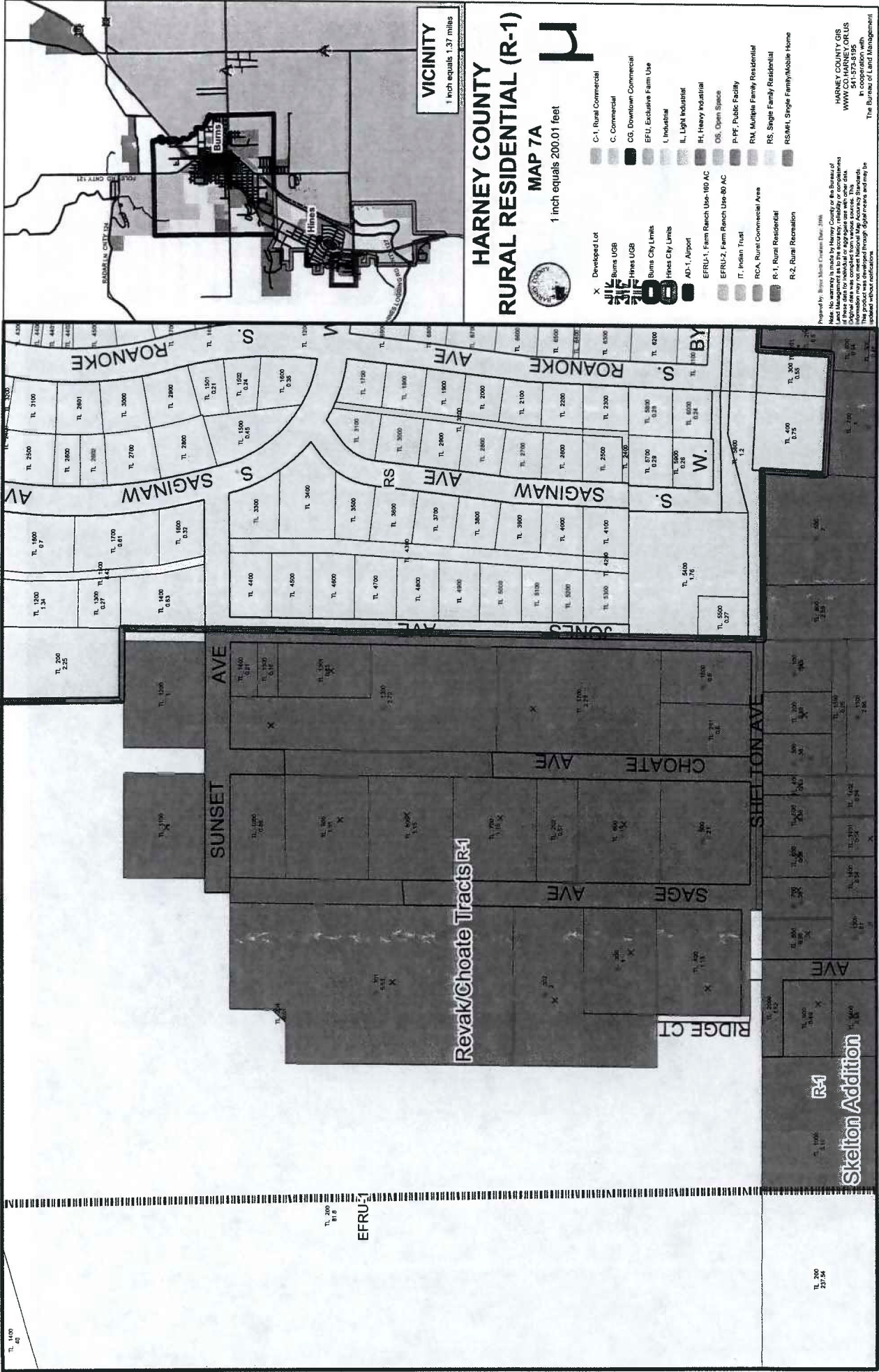
■ RS, Single Family Residential

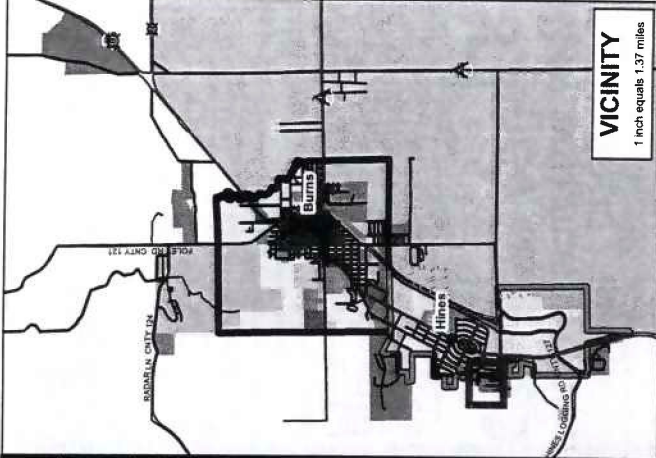
■ RSMM, Single Family/Mobile Home

Prepared by: Bruce Mack Creative Dec. 2006

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HARNEY COUNTY

RURAL RESIDENTIAL (R-1)

MAP 7B

1 inch equals 200.01 feet

1 inch equals 1.37 miles

VICINITY

X Developed Lot

UTL Burns UGB

UTL Hines UGB

UTL Burns City Limits

UTL Hines City Limits

AD-1, Airport

EFRL-1, Farm Ranch Use-160 AC

EFRL-2, Farm Ranch Use-80 AC

IT, Indian Trust

RCA, Rural Commercial Area

R-1, Rural Residential

R-2, Rural Recreation

C-1, Rural Commercial

C, Commercial

CG, Downtown Commercial

EFU, Exclusive Farm Use

I, Industrial

IL, Light Industrial

IH, Heavy Industrial

OS, Open Space

P-PF, Public Facility

RM, Multiple Family Residential

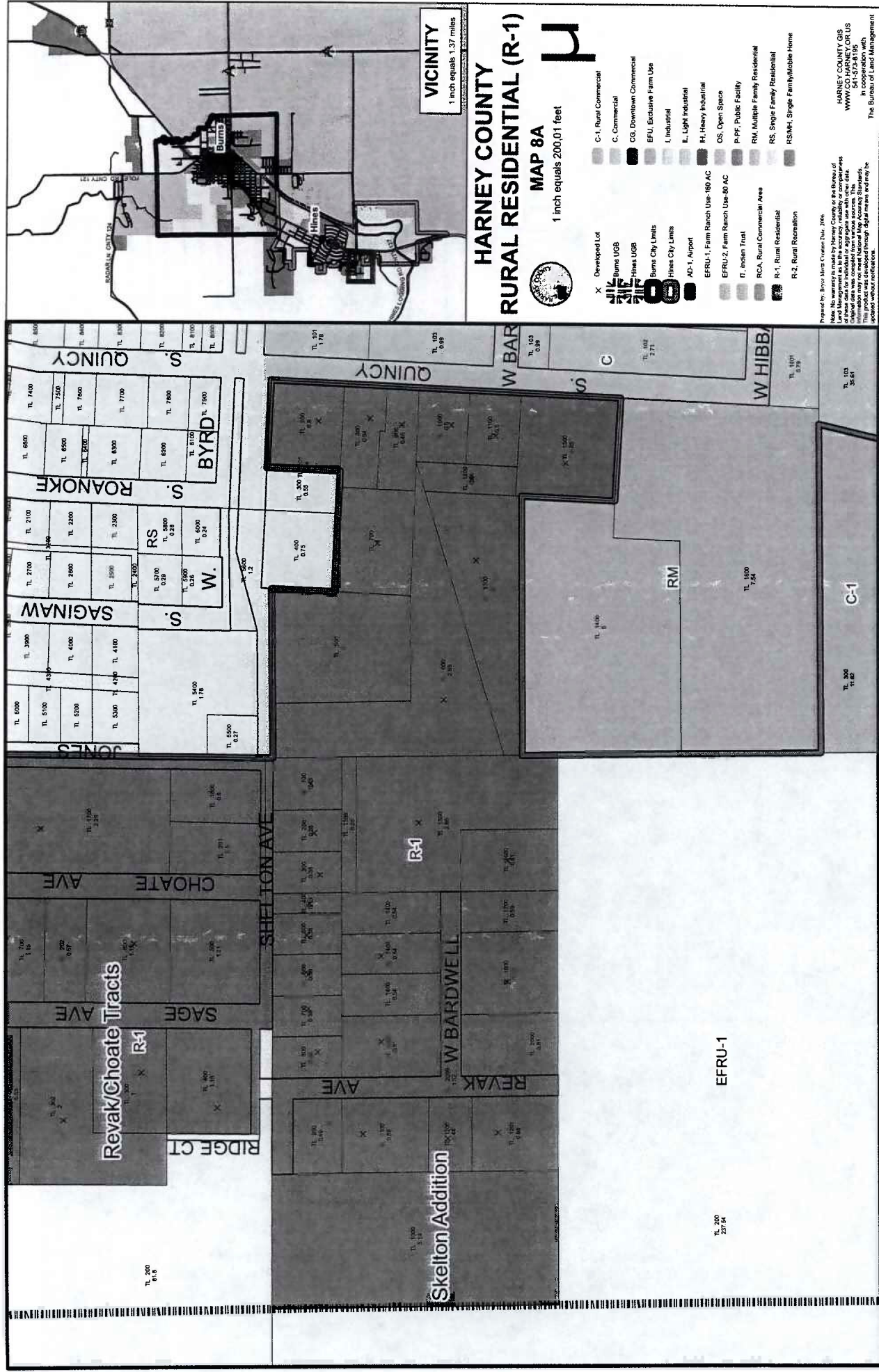
RS, Single Family Residential

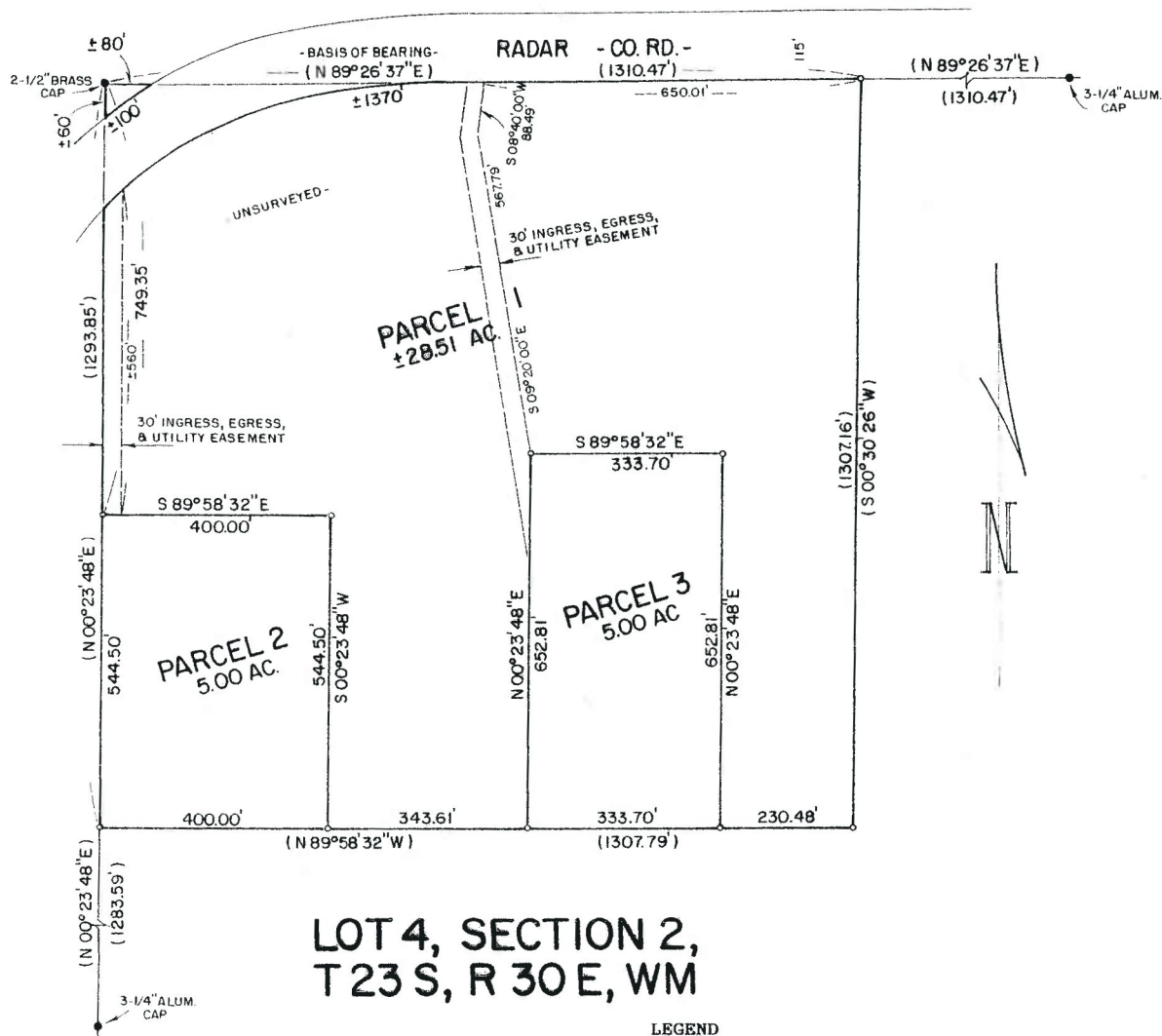
RSMH, Single Family/Mobile Home

Prepared by: Blythe Hunt, Oregon Dec. 2006

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NARRATIVE

1. This Partition Plat was done at the request of Dennis & Betty Dunn.
2. Previous surveys of record:
 - A. The GLO Survey in 1873.
 - B. County Survey No. 615 filed on March 17, 1997.

APPROVALS

Approved this 17th day of May, 2006.

Robert F. Callaghan
Lake County Surveyor

Approved this 22 day of Jan, 2006.

Mark M. McArthur
Harney County Planning Director

I hereby certify that all ad valorem taxes and special assessments, fees, and other charges required by law to be placed upon the tax roll which have become a lien on the partition and that are now due and payable have been paid.

Karen Zabala, Deputy
Harney County Tax Collector

Jan. 23, 2006.