



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

May 22, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Medford Plan Amendment
DLCD File Number 005-08

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: June 10, 2008

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: Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner
Cheryl Adams, City of Medford

<paa> ya/

FOR 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DEPT OF

MAY 22 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Medford**

Local file number: **ZC-08-026**

Date of Adoption: **5/8/2008**

Date Mailed: **5/19/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/17/2008**

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

Approval of a consolidated application for a land division and zone change from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of the Jacksonville Highway. More specifically Township 37 Range 2W Section 24, Tax Lot 701.

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

Plan Map Changed from:

to:

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

to: **I-G**

Location: **WC of N. Central Ave & Jacksonville Highway**

Acres Involved: **9.84**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☒	☒	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD # 005-08 (16782)

DLCD file No. _____

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

Local Contact: Cheryl Adams

Phone: (541) 774-2398 Extension:

Address: 200 S Ivy Street

Fax Number: 541-618-1708

City: Medford

Zip: 97501-

E-mail Address:

cheryl.adams@cityofmedford.org

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE MEDFORD PLANNING COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF PLANNING COMMISSION FILE)
ZC-08-026 APPLICATION FOR A ZONE CHANGE SUBMITTED) **ORDER**
BY BLACK SILVER, LLC)

ORDER granting approval of a request for changing the zoning from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of Jacksonville Highway.

WHEREAS, the City Planning Commission in the public interest has given consideration to changing the zoning of real property described below from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of Jacksonville Highway; and

WHEREAS, the City Planning Commission has given notice of, and held, a public hearing, and after considering all the evidence presented hereby adopts the Planning Commission Report dated April 24, 2008, Applicant's Findings – Exhibit "A," and Legal Description – Exhibit "B" attached hereto and hereby incorporated by reference; now, therefore,

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

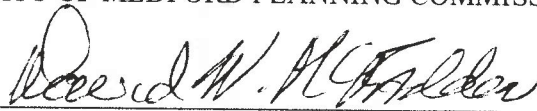
The zoning of the following described area within the City of Medford, Oregon:

37 2W 24 Tax Lot 701

is hereby changed from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay).

Accepted and approved this 8th day of May, 2008.

CITY OF MEDFORD PLANNING COMMISSION


Planning Commission Chair

ATTEST:


Planning Department Representative

BEFORE THE MEDFORD PLANNING COMMISSION

STATE OF OREGON, CITY OF MEDFORD

IN THE MATTER OF TENTATIVE PLAT APPROVAL OF)

BLACK SILVER, LLC [LDP-08-025])

ORDER

ORDER granting approval of a request for tentative plat approval of File No. LDP-08-025.

WHEREAS:

1. The Planning Commission has duly accepted the application filed in accordance with the Medford Land Development Code, Section 10.261 and 10.265 through 10.267; and
2. The Medford Planning Commission has duly held a public hearing on the request for consideration of tentative plat approval for a consolidated application for a land division and zone change from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of Jacksonville Highway, with a public hearing a matter of record of the Planning Commission on April 24, 2008; and
3. At the public hearing on said tentative plat, evidence and recommendations were received and presented by the developer and Planning Department Staff; and
4. At the conclusion of said hearing, after consideration and discussion, the Medford Planning Commission, upon a motion duly seconded granted tentative plat approval and directed staff to prepare a final order with all conditions and findings set forth for the granting of the tentative plat approval.

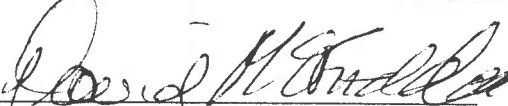
THEREFORE LET IT BE HEREBY ORDERED that the tentative plat for Black Silver, LLC, stands approved per the Planning Commission Report dated April 24, 2008, and subject to compliance with all conditions contained therein.

AND LET IT FURTHER BE OF RECORD, that the action of the Planning Commission in approving this request for tentative plat approval is hereafter supported by the findings referenced in the Planning Commission Report dated April 24, 2008.

BASED UPON THE ABOVE, the Planning Commission determined that the tentative plat is in conformity with the provisions of law and Section 10.270 Land Division Criteria of the Land Development Code of the City of Medford.

Accepted and approved this 10th day of May, 2008.

CITY OF MEDFORD PLANNING COMMISSION


Planning Commission Chair

ATTEST:


Planning Department Representative



CITY OF MEDFORD

PLANNING DEPARTMENT

PLANNING COMMISSION REPORT

Date: April 24, 2008

Subject: Black Silver Zone Change & Land Partition (ZC-08-026/ LDP-08-025)
Black Silver, LLC, Applicant (CSA Planning, LTD, Agent)

Background

Proposal

Consideration of a consolidated application for a land division and zone change from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (Limited Industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of the Jacksonville Highway, (Township 37 Range 2W Section 24, Tax Lot 701).

Subject Site Zoning, GLUP Designation and Existing Uses

The Medford General Land Use Plan (GLUP) Map designation for the subject property is HI (Heavy Industrial). The subject property is vacant.

Surrounding Property Zoning and Uses

North: Vacant land zoned I-G (General Industrial) I-L (Light Industrial), better known as the Northgate Centre Development. Northgate had a recent zone change from I-G to I-L C-R (Regional Commercial) and C-SP (Service and Professional Office) approved by the Planning Commission on November 9, 2006 (ZC-06-066).

South: Developed land zoned I-G.

East: Vacant Land zoned C-R (Northgate Centre – ZC-06-066).

West: Developed land zoned I-G.

Applicable Criteria

Section 10.227 of the Land Development Code (Exhibit "D")
Section 10.270 of the Land Development Code (Exhibit "D")

Issues/Analysis

Staff has reviewed the zone change request and found that it meets the approval criteria listed in *Medford Land Development Code* Section 10.227(d). There are adequate infrastructure facilities available to serve the site with the exception of the storm drainage as noted below. A traffic study was not required.

This site lies within the Bear Creek West Drainage Basin. The City's current Drainage Master Plan indicates improvements are required in the downstream storm drainage system to meet current design standards for this basin (Exhibit "F"). Prior to issuance of a development permit or building permit, an engineer registered in the State of Oregon shall prepare a report which includes testing, plans and calculations necessary to demonstrate a controlled storm water release. A condition for compliance with the Engineering Division regarding storm drainage is included in this report.

The applicant has requested the change of zone with a Limited Industrial District Overlay. The purpose of the Limited Industrial Overlay District is to limit the number of vehicle trips in the City industrial zones to that which would be generated under the comparable County industrial zoning designation. This is accomplished by disallowing commercial uses that are otherwise permitted in the City industrial zones such as food vendors, banks, business offices, and medical laboratories, until such time where adequacy tests demonstrate that facilities are sufficient in supporting commercial uses permitted by the City industrial zone. The full list of disallowed uses may be found in Section 10.337 of the *Medford Land Development Code*.

No other issues were identified by staff.

Land Division

Staff has reviewed the proposed partition and has determined that it meets the approval criteria listed in the *Medford Land Development Code* Section 10.270, as well as the applicable site development standards.

Public Works Department

The required dedications and improvements to both Highway 238 and to Central Avenue are already in place. However, street lights are required of the development along the Central Avenue frontage. (Exhibit "G").

Fire Department

Per Exhibit "I", the report from Medford Fire/Rescue, the Fire Department turn-around as shown on the tentative plat (Exhibit "B"), is required to be a minimum of 60' from the centerline of the turn-around. A condition is included requiring the final plat to show the centerline of the turnaround to be a minimum of 60 feet from the end of the street.

Wetlands

"Exhibit M" submitted by the applicant, identifies an area in the northeast portion of the site as wetlands, as identified by Jackson County GIS services. However, the *City of Medford Local Wetland Inventory*, adopted by City Council on April 17, 2003 in accordance with Goal 5 of the Oregon State wide Planning Goals, does not recognize any portion of the subject site as either a "Locally Significant Wetland" or "Wetland" area. The applicant's findings indicate that the Jackson County wetland mapping pre-dates the construction improvements of Highway 238 in which ODOT mitigated existing wetlands on site. Compliance with state wetland regulations is the responsibility of the property owners. Prior to any grading of the site staff recommends that the applicant verify if State wetland permit requirements apply to the subject area.

No other issues were identified by Staff.

ACTION TAKEN

Directed staff to prepare a Final Order for approval of LDS-08-021 per the Planning Commission Report dated April 24, 2008, including Exhibits A through O.

EXHIBITS

- A Conditions of Approval dated April 17, 2008;
- B Tentative Plat received February 27, 2008;
- C Preliminary Utility & Grading Plan received February 27, 2008;
- D Approval Criteria;
- E Applicant's *Findings of Fact* for the zone change and land partition received February 27, 2008;
- F Memorandum from Public Works (regarding zone change) dated March 31, 2008;
- G Recommendations from Public Works (regarding partition) dated March 31, 2008;
- H Memorandum from the Medford Water Commission dated March 31, 2008;
- I Land Development Report from Medford Fire/Rescue dated March 31, 2008;
- J Tax Assessor's Map;
- K GLUP Map;
- L Zoning Map;
- M Wetlands Vernal Pool & Floodplain Map;
- N Aerial Photograph;
- O Draft Environmental Assessment for Highway 238 pertaining wetland conditions of site, received April 24, 2008;
Vicinity Map

MEDFORD PLANNING COMMISSION



David McFadden, Chair

PLANNING COMMISSION AGENDA: **APRIL 24, 2008**
 MAY 8, 2008

Notes

- A preliminary draft of the final plat shall be submitted at the same time construction plans are submitted. No lot number or lot line changes on the plat will be allowed after that time, unless approved by the City and all utility companies.
- The applicant shall contact DSL for the approval or clearance of said development with regard to wetlands and/or waterways if they are present on the subject property.
- The applicant shall address all floodway issues with the proper agencies and acquire all necessary permits for work within the floodway.
- **Please include reference to the file number of this proposed development in all subsequent submittals to City of Medford departments.**



CITY OF MEDFORD

PLANNING DEPARTMENT

EXHIBIT "A"
ZC-08-026/LDP-08-025
CODE-REQUIRED CONDITIONS OF APPROVAL
April 17, 2008

Zone Change

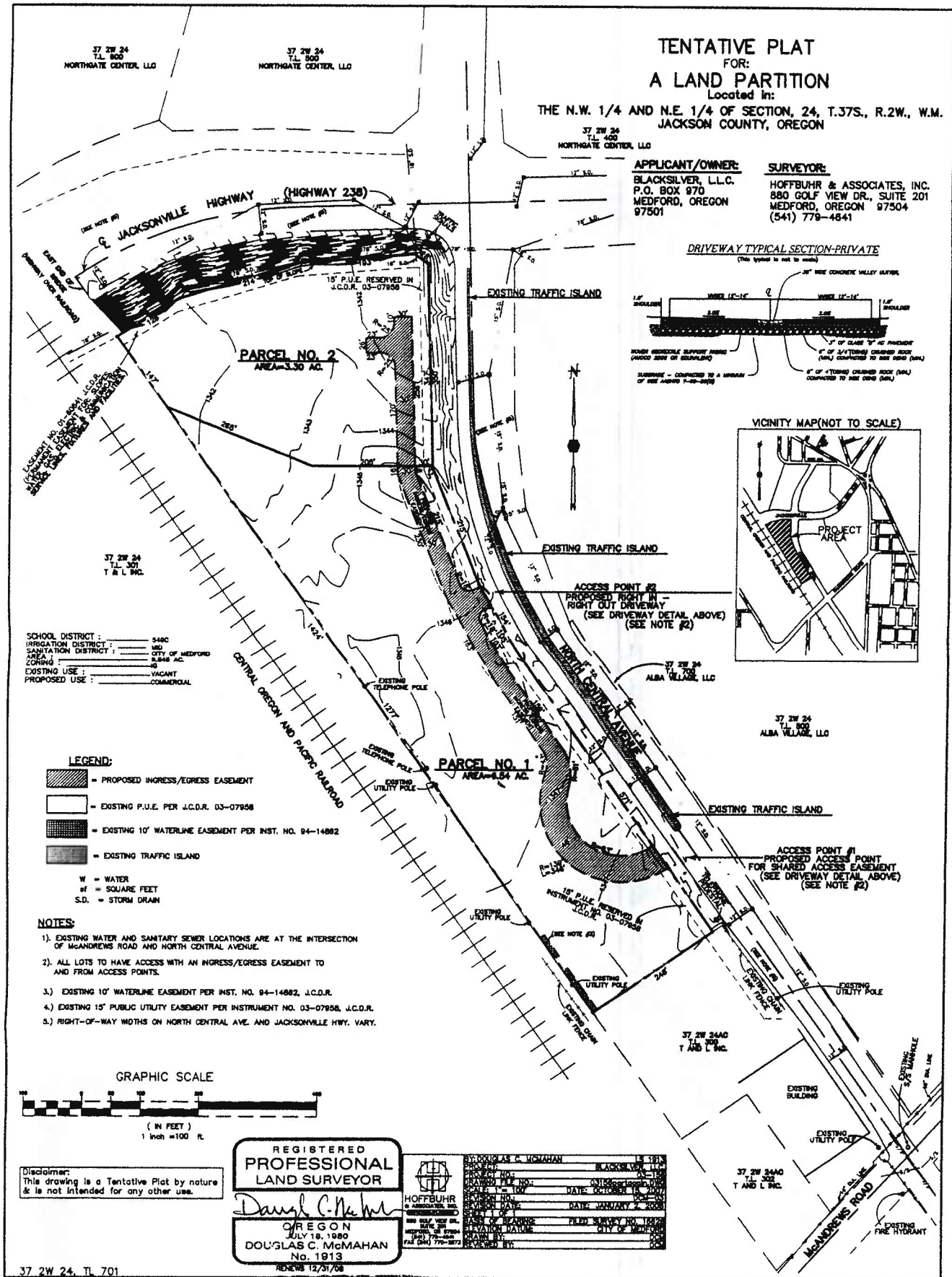
1. This site lies within the Bear Creek Drainage Basin. The City's current Drainage Master Plan indicates improvements are required in the downstream storm drainage system to meet current design standards for this basin. As a zone change is not allowable without adequate storm drain facilities, the following criteria must be met prior to issuance of a development permit or a building permit:
 - a. An engineer registered in the State of Oregon shall prepare a report which includes testing, plans and calculations necessary to demonstrate a controlled storm water release of no more than 0.25 C.F.S. per acre of development for the 10-year storm. The report shall be submitted to the City of Medford Engineering Division for review and approval (Exhibit "F").

Land Division

1. Prior to final plat approval, the applicant shall comply with the:
 - a. Recommendations from Public Works Department dated March 31, 2008 (Exhibit "G");
 - b. Medford Water Commission Staff Memo dated March 31, 2008 (Exhibit "H");
 - c. Medford Fire/Rescue Land Development Report dated March 31, 2008 (Exhibit "I").

A
ZC 08-026/LDP-08-025

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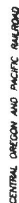
FEB 27 2008

Planning Dept.

B 2 1/2
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2C-0X-026

EXHIBIT 6

- Contours shown are of original ground. The contour interval is 1 foot.



UPON INDIVIDUAL LOT DEVELOPMENT EACH INDIVIDUAL LOT SHALL FOLLOW EXISTING DRAINAGE PATTERN EASTERLY

RENEWAL DATE: 12/31/2007

37 2W 24 7L 701

DRAWN BY:	job
DATE:	12/18/07
	REVISIONS

**THORNTON
ENGINEERING INC.**
p.o. box 476 • 260 north 3rd street
jacksonville, oregon 97530
(541) 899-1489 (541) 899-3419 fax
r/f: BAS-WP-2

PRELIMINARY UTILITY/GRADING PLAN
BLACKSILVER INDUSTRIAL PARK

RECEIVED

FEB 27 2008

Planning Dept.

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CITY OF MEDFORD

PLANNING DEPARTMENT

EXHIBIT "D"

Approval Criteria

ZC-08-026

The zone change criteria that is not relevant to this application is hereby omitted from the following citation. Section 10.227 of the *Medford Land Development Code (MLDC)* states the following:

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

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

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

- (ii) *The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L) and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.*

- (e) *For purposes of (1)(c) and (1)(d) above, a zone change may be found to be 'suitable' where compliance is demonstrated with one or more of the following criteria:*

- (i) *The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows for only one zone;*
(ii) *At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above;*
(iii) *At least 50% of the subject property's boundaries abut properties that contain one or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or*

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2008-08-025
2008-08-026

(iv) Notwithstanding the definition of "abutting" in MLDC 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.

(2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan 'Public Facilities Element.'

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one of the following ways:

(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or

(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or

(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:

(a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

(b) when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits.

(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the



CITY OF MEDFORD

PLANNING DEPARTMENT

EXHIBIT "D" **Approval Criteria** **LDP-08-025**

Medford Land Development Code Section 10.270

The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that, the proposed land division together with the provisions for its design and improvement:

1. Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;
2. Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;
3. Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;
4. If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property unless the approving authority determines it is in the public interest to modify the street pattern;
5. If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;
6. Contains streets, if applicable, and lots which are oriented to make maximum effective use of passive solar energy; exceptions to this provision may be granted whenever it is impractical to comply due to (a) The configuration or orientation of the property; (b) The nature of surrounding circulations patterns, or other existing physical features of the site such as topography;
7. Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

[Amd. Sec. 4, Ord. No. 2004-259, Dec. 16, 2004.]

D
LDP-08-025
20-08-16

applicant that the improvement(s) will make the street adequate in condition and capacity.

(c) In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:

(i) Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,

(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule,

(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.

[Amd. Ord. No. 7036, Dec, 5, 1991; Amd. Sec. 1, Ord. No. 1999-88, June 3, 1999; Amd. Sec. 1, Ord. No. 2003-37, Feb. 6, 2003; Amd. Ord. No. 2004-59, March 18, 2004.]

BEFORE THE PLANNING COMMISSION

FOR THE CITY OF MEDFORD

JACKSON COUNTY, OREGON

IN THE MATTER OF A CONSOLIDATED)
APPLICATION FOR A LAND DIVISION)
AND ZONE CHANGE FROM COUNTY)
GENERAL INDUSTRIAL (GI) TO CITY)
GENERAL INDUSTRIAL (I-G) WITH A)
LIMITED INDUSTRIAL OVERLAY (I-00))
ON A 9.84 ACRE PARCEL LOCATED)
ON THE WEST SIDE OF NORTH)
CENTRAL AVENUE, ON THE EAST)
SIDE OF THE CENTRAL OREGON)
PACIFIC RAILROAD RIGHT-OF-WAY,)
AND ON THE SOUTH SIDE OF)
JACKSONVILLE HIGHWAY (HIGHWAY)
238) WITHIN THE CORPORATE LIMITS)
OF THE CITY OF MEDFORD, JACKSON)
COUNTY, OREGON)

Owner/Applicant: Blacksilver, LLC)
Agent of Record: CSA Planning, Ltd.)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Applicants' Exhibit 1

RECEIVED

FEB 27 2008

NATURE AND SCOPE OF APPLICATION; BACKGROUND Planning Dept.

Applicant Blacksilver LLC, seeks a Land Division, Zone Change, and a Zoning Overlay for a 9.84-acre parcel located within the corporate limits of the City of Medford.¹ The subject property, identified as Tax Lot 701 on Assessor's Map 37-2W-24, was annexed to Medford as a result of the Oregon Department of Transportation (ODOT) project that extended Jacksonville Highway (Highway 238) to connect with Crater Lake Highway (Highway 62) and connection of Table Rock Road to North Central Avenue. Historically, this has been commonly referred to as the "Big X" and was formerly part of the Medco/Medite Mill site with the western boundary of the parcel adjacent to the Central Oregon/Pacific Railroad right-of-way. The subject parcel has retained its Jackson County General Industrial (GI) zoning following annexation to the city. The intent of this application is to request City General Industrial (I-G) Zoning comparable to the previous County General Industrial (GI)

¹ According to the Jackson County Assessor, the subject property has 9.77 acres, although the most recent survey as conducted by professional land surveyor, Doug McMahan of Hoffbuhr & Associates, Inc. surveyed the property and determined that it has 9.84 acres. Applicant has relied upon the accuracy of this survey and will utilize 9.84 acres throughout this document.



LDP-08-025
20-08-26

zoning.² While the intended uses could potentially be authorized under the prevailing county zoning (GI), Applicant seeks to change the zone to the municipal city General Industrial (I-G) zone at the request of Planning Department, with application of a Limited Industrial District Overlay (I-00) while concurrently supplying a tentative plat for land division into two legal parcels. The Medford General Land Use Plan (GLUP) Map designates the subject parcel as Heavy Industrial. The proposed zone change is consistent with the City of Medford Comprehensive Plan. The property is situated on the corner of North Central Avenue and Jacksonville Highway (Hwy 238).

II

EVIDENCE SUBMITTED WITH APPLICATION

Applicant herewith submits the following evidence with its zone change and land division applications:

- Exhibit 1.** The proposed findings of fact and conclusions of law, demonstrating how the land division, zone change, and zoning overlay proposal complies with the applicable substantive criteria of the City of Medford and State of Oregon
- Exhibit 2.** Jackson County Assessor plat map 37-2W-24 which contains the property
- Exhibit 3.** City of Medford General Land Use Plan (GLUP)
- Exhibit 4.** City of Medford Zoning Map on Aerial Photograph
- Exhibit 5.** City of Medford Proposed Zoning Map on Aerial Photograph
- Exhibit 6.** Tentative Plat prepared by Hoffbuhr & Associates, Inc.
- Exhibit 7.** Conceptual Grading and Drainage Plan prepared by Thornton Engineering, Inc.
- Exhibit 8.** Wetlands Map
- Exhibit 9.** Warranty Deed (03-07958) of record for the subject property
- Exhibit 10.** Legal Description of Zone Change Area
- Exhibit 11.** Completed land division and zone change application forms with written authorization from Blacksilver LLC.

² **MLDC 10.198 Zoning of Annexed Property.** At the time of annexation, the City will apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential - one dwelling unit per existing lot) zone will be applied.

III

RELEVANT SUBSTANTIVE APPROVAL CRITERIA

The criteria under which a zone change application must be considered are in the Medford Land Development Code (MLDC) and the Oregon Transportation Planning Rule (OAR 660-012-0060). The approval criteria is recited verbatim below:

City of Medford Approval Criteria

MLDC 10.227 ZONE CHANGE CRITERIA (Inapplicable Provisions Omitted)

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

- (1) The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford's Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.
 - (d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
 - (i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one or more of the following criteria: (i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows for only one zone; (ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above; (iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or (iv) Notwithstanding the definition of "abutting" in MLDC 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.
- (2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan "Public Facilities Element."
 - (a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.
 - (b) Adequate streets and street capacity must be provided in one of the following ways: (i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or (ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or (iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs: (a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or (b) when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines,

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for reasons of public safety, that the improvement must be constructed prior to issuance of building permits. (iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.

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

MLDC 10.270 LAND DIVISION CRITERIA

The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that, the proposed land division together with the provisions for its design and improvement:

- (1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;
- (2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;
- (3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;
- (4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property unless the approving authority determines it is in the public interest to modify the street pattern;
- (5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;
- (6) Contains streets, if applicable, and lots which are oriented to make maximum effective use of passive solar energy; exceptions to this provision may be granted whenever it is impractical to comply due to: (a) The configuration or orientation of the property; (b) The nature of surrounding circulation patterns, or other existing physical features of the site such as topography;
- (7) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

State of Oregon Approval Criteria

OREGON TRANSPORTATION PLANNING RULE
Oregon Administrative Rules Chapter 660, Division 12

Section 660-012-0060 Plan and Land Use Regulation Amendments

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

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- (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
- (2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:
- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
 - (e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.
- (3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
- (a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;
 - (b) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;
 - (c) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
 - (d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and
 - (e) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.
- (4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.
- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.
 - (b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:
 - (A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.
 - (B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

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- (C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.
 - (D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.
 - (E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.
- (c) Within interstate interchange areas, the improvements included in (b)(A)-(C) are considered planned facilities, improvements and services, except where:
- (A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or
 - (B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.
- (d) As used in this section and section (3):
- (A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;
 - (B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and
 - (C) Interstate interchange area means:
 - (i) Property within one-half mile of an existing or planned interchange on an Interstate Highway as measured from the center point of the interchange; or
 - (ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.
- (e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).
- (6) In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in 0060(1) and (2), local governments shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in (a)-(d) below;
- (a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% reduction allowed for by this section shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;
 - (b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% reduction required in (a);
 - (c) Where a local government assumes or estimates lower vehicle trip generation as provided in (a) or (b) above, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in 0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with 0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure compliance with these rule requirements at the time of development approval; and
 - (d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to (a) above. The Commission

concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

- (8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:
- (a) Any one of the following:
 - (A) An existing central business district or downtown;
 - (B) An area designated as a central city, regional center, town center or main street in the Portland Metro 2040 Regional Growth Concept;
 - (C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or
 - (D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.
 - (b) An area other than those listed in (a) which includes or is planned to include the following characteristics:
 - (A) A concentration of a variety of land uses in a well-defined area, including the following:
 - (i) Medium to high density residential development (12 or more units per acre);
 - (ii) Offices or office buildings;
 - (iii) Retail stores and services;
 - (iv) Restaurants; and
 - (v) Public open space or private open space which is available for public use, such as a park or plaza.
 - (B) Generally include civic or cultural uses;
 - (C) A core commercial area where multi-story buildings are permitted;
 - (D) Buildings and building entrances oriented to streets;
 - (E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;
 - (F) A network of streets and, where appropriate, access ways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;
 - (G) One or more transit stops (in urban areas with fixed route transit service); and
 - (H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

IV

FINDINGS OF FACT

The Planning Commission reaches the following findings of fact and finds them to be true with respect to this matter:

1. **Property Location:** The property is located at the southwest corner of Jacksonville Highway (Highway 238) and North Central Avenue. The property is within the corporate limits of the City of Medford and its adopted and acknowledged urban growth boundary.
2. **Subject Property Description, Acreage and Ownership:** The subject property is identified in the records of the Jackson County Assessor as Tax Lot 701 in Township 37 South Range 2 West in Section 24 (37-2W-24). The property has approximately 9.84

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acres and is owned by Blacksilver, LLC. Neither Blacksilver, LLC nor its principals own other abutting land.

3. **Existing Land Use:** The subject property is vacant and contains no significant physical development.
4. **Existing General Land use Plan (GLUP) Map Designation and Zoning :** The Medford General Land Use Plan (GLUP) Map designates the subject parcel as Heavy Industrial. The property is presently covered by a Jackson County General Industrial (GI) zone.
5. **Intended Land Use:** Contemporaneously filed applications for zone change and land division are contained in this application package. Applicant intends to utilize the subject property for industrial uses as permitted under the requested I-G zone and I-00 zoning overlay. A *minor* zoning map amendment is sought which, if approved, would change the zoning from Jackson County General Industrial (GI) to City of Medford General Industrial (I-G) and would apply the I-00 zoning overlay. The zone change is provided at the request of the City of Medford Planning Department to place the subject property in a municipal industrial zoning district before the property is developed. The commercial use limitations contained in MLDC 10.348 clearly establish the particular commercial uses which cannot be permitted if within the I-00 overlay.³

³ **10.348 Limited Industrial Overlay District, I-00:** The purpose of the Limited Industrial Overlay District is to limit the number of vehicle trips in the City industrial zones to that which would be generated under the comparable County industrial zoning designations. This shall be accomplished by disallowing commercial uses that are otherwise permitted in the City industrial zones until the appropriate facility adequacy tests have been completed. Once facilities have been shown to be adequate or have been made adequate to support the types of commercial uses permitted by the underlying City industrial zone, the Limited Industrial Overlay may be removed according to the zone change procedure outlined in Section 10.225 through 10.227.

The following uses, as listed in MLDC Section 10.337, shall not be permitted within the Limited Industrial Overlay District:

523 Paint Glass and Wallpaper Stores
554 Gasoline Service Stations
581 Eating and Drinking Places, excluding Temporary Food Vendors ad Small Food Vendors
60 Banking
61 Credit Agencies Other than Banks
62 Security, Commodity Brokers and Services
63 Insurance Carriers
64 Insurance Agents, Brokers, and Service
65 Real Estate
67 Holding and other Investment Offices
726 Funeral Service and Crematories
731 Advertising
736 Personnel Supply Services
737 Computer and Data Processing Services
751 Automotive Rentals, without drivers
794 Commercial Sports
799 Misc. Amusement, Recreational Services
807 Medical and Dental Laboratories
82 Educational Services
86 Membership Organizations



6. **Topography:** The site is relatively flat and does not does not contain significant topographic relief.
7. **Wetlands and Floodplain:** The subject property is located within the Elk Creek Drainage Basin. The property is nearly flat valley with approximately 9.363-acres of developed wetlands, identified by the Jackson County GIS data and US Fish and Wildlife services as PUBKHx (Palustrine, Unconsolidated Bottom, Artificially Flooded, Permanently Flooded, and Excavated). *See*, Exhibit 8. However, the Exhibit 8 wetlands mapping predates construction of the Highway 238 extension that happened a few years earlier. As part of that highway construction project, wetlands that earlier existed on the subject property were mitigated by ODOT and no longer exist.
8. **Surrounding Land Uses:** The zoning and GLUP maps accurately depict the pattern of land partitioning and development in the surrounding area. *See*, Exhibits 3 and 4. Existing land uses that surround the property are:
 - A. **North:** This area is zoned General Industrial (I-G) and Light Industrial (I-L) with a GLUP designation of Heavy Industrial and General Industrial. The property is owned by Northgate Centre, LLC. Northgate Centre, consisting of a Retail Center, Business Park and Industrial Park was approved by the City of Medford in 2006 with project development anticipated in the near future.
 - B. **East:** Land located on the opposite side of North Central Avenue are zoned Regional Commercial (C-R) and designated Commercial on the GLUP map. This property is also part of Northgate Centre (Alba Village) and is intended and approved for retail commercial use.
 - C. **West and South:** Land to the south is zoned County General Industrial (GI) and is designated Heavy Industrial (HI) on the Medford GLUP map. These lands are outside of incorporated Medford and are developed as a heavy industrial timber mill. This land is inside Medford's UGB.
9. **Essential (Category "A") Public Facilities:** The comprehensive plan defines Category "A" public facilities to be: (1) Sanitary sewage collection and treatment; (2) Storm Drainage; (3) Water Service; (4) Transportation Facilities. The Planning Commission finds the following facts with respect to each of the Category "A" public facilities:

87 Engineering, Accounting, and Miscellaneous Professional and Management Services
89 Miscellaneous Services
94 Administration of Human Resources
95 Administration of Environmental Quality and Housing

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- A. **Sanitary Sewer Service (Collection):** Sanitary sewer service is provided by Rogue Valley Sewer Service (RVSS), with a 12-inch sanitary sewer line located along North Central Avenue. The existing system is adequate in capacity to serve the proposed development.
- B. **Sanitary Sewer Service (Treatment):** According to Jim Hill of the Medford Engineering Department, sewage wastewater collected and transported by the Bear Creek Interceptor is treated at the Medford Regional Water Reclamation Plant. Mr. Hill serves as the principal staff person in charge of operations at the regional plant, which is located near Bybee Bridge where Table Rock Road crosses the Rogue River. A portion of the service charges levied on customers is allocated to treatment costs. The Regional Rate Committee as established in the September 23, 1985 Regional Sewer Agreement is authorized to set treatment charges and rates for the regional system. The Regional Rate Committee reviews the charges and rate structures annually, and rate adjustments are made as necessary. Systems development charges are allocated to plant expansion. Monthly service charges levied on customers are allocated to treatment costs, equipment repair and replacement, and plant upgrades to meet changing regulations.

The regional treatment plant was constructed in 1969-1970. The present average dry weather plant capacity is 20.0 million gallons per day (MGD). The peak hydraulic capacity is 60 MGD. Plant capacity was doubled between years 1980-1990 through several incremental expansions. A treatment plant facilities plan, developed in 1992, established a capital improvement program to meet growth need to Year 2010.

Average dry weather flow into the treatment plant was 13.2 MGD in 1988, increasing to 14.1 MGD in 1994. Flows in 1997 were estimated to be approximately 18.0 MGD. The population receiving sewer service in 1988 was 77,475. Sewer connections since 1988 have increased the residential population served by sewers to approximately 94,000. The regional plant has a capacity for a population equivalent of approximately 115,000, including commercial and industrial flows. The population forecasts by consulting engineers Brown and Caldwell, including analysis of rural as well as urban population densities, estimate the ultimate population that the plant would serve at 190,800.

- C. **Storm Drainage:** This area is located in the Bear Creek West drainage basin. With future development to the north and west of subject parcel a grading and Thorton engineering has prepared drainage plan. See, Exhibit 7. There is an existing 12-inch line within North Central Avenue. Future lot development will tie directly to proposed storm drain system pursuant to the requirements of the City of Medford.
- D. **Water Distribution Lines:** Water is available to the property via a 10-inch cast iron water line located within North Central Avenue. This line is available to serve the subject property.

- E. **Water Supply:** According to the Medford Water Commission Manager, the Medford water system presently serves a population of $\pm 80,000$. The present maximum daily use is 45 million gallons per day, (MGD). The present source and distribution system has an existing capacity of 56.5 MGD. There is an additional water source capability of 35 MGD available. The Water Commissioner expects present facilities will be adequate to accommodate growth until around the Year 2050.
- F. **Streets and Traffic:** MLDC 10.461(3) provides that a Transportation Impact Analysis is required: "If a proposed application has the potential of generating more than 250 net average daily trips (ADT) or the Public Works Department has concerns due to operations or accident history, a TIA will be required to evaluate development impacts to the transportation system. The Public Works Department may waive a TIA if it is concluded that the impacts are not substantial."

The traffic impacts from these applications will be neither significant nor substantial because, pursuant to the I-00 overlay zone, commercial uses are limited in ways that the permitted uses for any city industrial zone are equivalent to those permitted under Jackson County's GI zone. As such, the proposed zone change from county GI to city I-G will produce no additional levels of traffic. As such, representatives of the Medford Public Works Department have waived the requirement for a Traffic Impact Analysis.

As to access, the proposed land division plan (Exhibit 6) depicts two access points off North Central Avenue. Ingress and egress will take place from access point #1 to the southeast of subject property, while access point #2, a proposed right in/out driveway is located roughly at the midpoint of the subject property's frontage on North Central Avenue.

As to functional street classification, North Central Avenue east of the subject property is classified as a major arterial which ranges in width from 63 to 75 feet in right-of-way width, while Jacksonville Highway (Highway 238) is a state highway.

V

CONCLUSIONS OF LAW

The Planning Commission reaches the following conclusions of law with respect to the approval standards for zone change (including application of the I-00 zoning overlay) and land division:

ZONE CHANGE

MLDC 10.227 ZONE CHANGE CRITERIA

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

Zone Change Criterion 1

- (1) The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford's Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below (inapplicable standards omitted).
- (d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
 - (ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
- (e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one or more of the following criteria: (i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows for only one zone; (ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above; (iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or (iv) Notwithstanding the definition of "abutting" in MLDC 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.

Discussion; Conclusions of Law: Subsection 1 of the applicable zone change criteria (Criterion 1) is threefold — consistency with the Oregon Transportation Planning Rule, consistency with the General Land Use Plan Map, and consistency with the locational standards (which guides where specific zoning districts may be located). The Planning Commission addresses each of these three sub criteria separately below:

1. **Oregon Transportation Planning Rule.** The Commission concludes that the Oregon Transportation Planning Rule is contained in Oregon Administrative Rules (OAR) Chapter 660, Division 012 and specifically in OAR 660-012-0060 and this section is recited verbatim in Section III hereinabove. The provisions of OAR 660-012-0060 which are relevant in this instance are contained in Subsection 1 which provides:

- (1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

The Commission concludes that this zone change does not violate (and, therefore, complies) with the Oregon Transportation Planning Rule generally and OAR 660-012-0060(1) specifically because this zoning amendment — the zone change from county GI to city I-G *and* application of the I-00 overlay — will **not**:

- significantly affect any existing or planned transportation facility because the zoning actions thus sought will not permit a wider range of industrial uses than presently permitted under the existing county GI zone and will specifically preclude commercial uses that are capable of producing additional levels of traffic;
- change the functional classification of any existing or planned transportation facility;
- change standards implementing a functional classification system; and
- as measured at the end of the planning period identified in Medford's adopted transportation system plan, allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility, reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standards in the TSP or comprehensive plan, nor worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Findings of Fact and Conclusions of Law

Zone Change, Land Division, Zoning Overlay Application
Blacksilver, LLC.. Owner/Applicant

2. **General Land Use Plan (GLUP) Map.** By the expressed language in the comprehensive plan's General Land Use Plan Element at page 3, the Heavy Industrial GLUP map designation corresponds to both the sought I-G and I-H zoning districts. As such, the Commission concludes that the proposed zone change from county GI to city I-G is consistent with the GLUP map.
3. **Locational Standards.** The Planning Commission concludes that the "locational standards" applicable to General Industrial (I-G) zone changes are in MLDC 10.227 (1) (d) (ii).⁴ This subsection states that the [proposed] I-G zone may abut the C-H, I-L and I-H zones; the subject property abuts I-G and I-L zoning to the north. This subsection also states "The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below." As the subject property "abuts" (across North Central Avenue) the C-R zone — a zone ordinarily considered unsuitable — the Commission next turns to the four alternative tests in MLDC 10.227 (1) (e) and concludes as follows:
 1. As to MLDC 10.227 (1) (e) (i), because the Heavy Industrial GLUP map designation permits two zones — I-H and I-G — the Commission concludes that Applicant is foreclosed and cannot comply under this alternative standard.
 2. Regarding MLDC 10.227 (1) (e) (ii), Exhibit 4 shows city zoning on abutting lands but does not show county zoning which prevails on lands to the west owned by Timber Products which is zoned county GI. Because *no* county zones are "expressly allowed" under MLDC 10.227 (1) (e), the Commission cannot conclude that this application is consistent therewith.
 3. Regarding MLDC 10.227 (1) (e) (iii) the Commission concludes that slightly less than 50% of the subject property's boundaries abut properties that contain uses that are permitted or condition uses in the I-G zone proposed by Applicant. Therefore, this application cannot comply with MLDC 10.227 (1) (e) (iii).
 4. As to MLDC 10.227 (1) (e) (iv) the Commission concludes the only "unsuitable zone" that abuts the subject property is the C-R zone to the northeast and it is separated by the right-of-way of North Central Avenue. Based upon the findings of fact in Section IV, North Central is an arterial street the right-of-way width for which ranges from 63 to 75 feet along the subject property frontage. As such, the Commission concludes, notwithstanding the definition of "abutting" that the subject property is separated from the "ordinarily unsuitable" C-R zone by the public right-of-way of North Central Avenue which is at least 60 feet in width.

⁴ MLDC 10.227 (1) (d) (ii) further provides, if necessary, that suitability can be alternatively demonstrated through compliance with MLDC 10.227 (1) (e) which, itself, contains four alternatives (i through iv), compliance with any one of which is sufficient to establish consistency with MLDC 10.227 (1) (e) and MLDC 10.227 (1) (d).

Therefore, the Planning Commission concludes that this application is consistent with the additional locational standards in MLDC 10.227 (1) (d) because Applicant has shown, by reason of compliance with MLDC 10.227 (1) (e) (iv), that the proposed zone change will be and is suitable.

Based upon the foregoing findings of fact and conclusions of law, the Planning Commission concludes that the application is consistent with the requirements of Zone Change Criterion 1.

* * * * *

Zone Change Criterion 2

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

Findings of Fact and Conclusions of Law

Zone Change, Land Division, Zoning Overlay Application
Blacksilver, LLC.. Owner/Applicant

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

Discussion; Conclusions of Law: Goal 3 and Policy 1 of the Public Facilities Element were deleted from Medford Comprehensive Plan by the City Council and no longer exist. The zone change criteria for determining the adequacy of Category A public facilities, consistent with the Public Facilities Element, now reside solely in MLDC 10.227(2). The Planning Commission reaches the following conclusions of law with respect to each of the Category "A" infrastructure components:

Wastewater Collection and Treatment: Based upon the findings of fact in Section IV, the Planning Commission concludes that wastewater collection and treatment facilities are sufficient to serve potential development consistent with the proposed General Industrial zoning district to accommodate projected peak flows for that specific gravity flow service area as determined by the city engineer, and that these facilities are available to adequately serve the property. The Commission also concludes that sanitary sewer service provided by Rogue Valley Sewer Service (RVSS) by way of a 12-inch sanitary sewer line located along North Central Avenue is immediately available and adequate in capacity to serve the proposed I-G zone and intended industrial development.

Storm Drainage System: Based upon the findings of fact in Section IV, the Planning Commission concludes storm drainage facilities are available for connection by the subject property. Anticipated development of subject property will not produce an unplanned or unexpected increase in stormwater flows pursuant to the *Comprehensive Medford Area Drainage Master Plan* (1996). Therefore, the Commission concludes that storm drainage facilities are already available and adequate in condition, capacity and location to serve the subject property under the proposed I-G zone.

Water System: Based upon the findings of fact in Section IV, the Planning Commission concludes that the water system is sufficient to provide the subject property with a permanent water supply having adequate water pressure and volume for projected residential fire control needs consistent with the GLUP designation as determined by the water utility manager, and that these facilities are available to adequately serve the property under the proposed I-G zone.

Findings of Fact and Conclusions of Law

Zone Change, Land Division, Zoning Overlay Application
Blacksilver, LLC.: Owner/Applicant

Streets and Transportation: The Commission concludes that the Findings of Fact in Section IV include all appropriate and relevant facts needed to properly consider this zone change with respect to traffic pursuant to Zone Change Criterion 2. The Commission also concludes that it has properly addressed the Oregon Transportation Planning Rule under Zone Change Criterion 1, the findings of fact and conclusions of law for which is herewith incorporated and adopted. The Commission next addresses the portion of Criterion 2 that deals with streets, which provides alternative paths to compliance. The first alternative states:

- (i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or

The Commission observes that the above language from Zone Change Criterion 2 references [MLDC] Section 10.461(2) which states:

(2) Extent of Study Area:

The study area shall be defined by the Public Works Department in the scoping letter and shall address at least the following areas: (a) All proposed site access points; (b) *Any intersection where the proposed development can be expected to contribute 25 or more trips during the analysis peak period. Impacts of less than 25 peak period trips are not substantial and will not be included in the study area.* This volume may be adjusted, at the discretion of the Public Works Department, for safety or unusual situations; and (c) Any intersections directly adjacent to the subject property.

The Public Works Department may, at its discretion, waive the study of certain intersections when it is concluded that the impacts are not substantial.

(emphasis added)

Above MLDC 10.461 (2)(b) clearly provides that [traffic] impacts of less than 25 peak period vehicle trips are not deemed substantial and need not be studied. In this instance, Applicant has agreed to restrict development of the subject property to those uses described in MLDC 10.348 upon approval of Limited Industrial Overlay (I-00) covering the subject property. The same will assure that uses permitted on this property, after it is rezoned to I-G and covered by an I-00 overlay, will be equivalent to uses and traffic levels permitted under existing Jackson County (GI) zoning. As such, *the proposed zone change will produce no additional traffic loading in comparison to levels that can now be generated under existing GI county zoning.* As such, the Commission concludes, as it consistently has under similar circumstances, that the City's transportation system is adequate to support the proposed zone change to city General Industrial (I-G) because the change in zoning will have no impact on traffic loading on North Central Avenue (and there are no intersections that are directly adjacent to the property). The Planning Commission further concludes that imposition of the proposed Limited Industrial Overlay (I-00) — and monitored through Site Plan and Architectural Review for all future industrial uses that will occupy the subject property — is sufficient to assure that uses which would otherwise produce additional traffic are not approved on this property.

Based upon the foregoing findings of fact and conclusions of law, the Planning Commission concludes that the application is consistent with the requirements of Zone Change Criterion 2.

Summary Conclusions of Law for Zone Change: Based upon the foregoing findings of fact and conclusions of law, the Planning Commission concludes that this zone change to I-G is consistent with the zone change approval standards in MLDC 10.227. The Commission also concludes that application of the Limited Industrial District Overlay (I-00) to the subject property is further deemed appropriate pursuant to MLDC 10.348.

* * * * *

LAND DIVISION

MLDC 10.270 LAND DIVISION CRITERIA

The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that, the proposed land division together with the provisions for its design and improvement:

Land Division Criterion 1

- (1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;

Discussion; Conclusions of Law: In addressing Zone Change Criterion 1 hereinabove, the Commission determined that this zone change was consistent with the comprehensive plan map (also called the GLUP map). The Commission herewith incorporates and adopts its findings of fact and conclusions of law for Zone Change Criterion 1 in concluding that the proposed zone change is consistent with the comprehensive plan (GLUP) map.

As to the comprehensive plan's goals and policies — the only provisions that *may* operate as approval standards — the Commission notes the guidance provided in *Bennett v. City of Dallas*, 17 Or LUBA 450, *aff'd* 96 Or App 645 (1989). In that case the court held that approval criteria requiring compliance with a comprehensive plan does not automatically transform all comprehensive plan goals and policies into decisional criteria. The court further held that a determination of whether particular plan policies are approval criteria must be based on the language used in the policies and the context in which the policies appear. The Commission has examined the plan and concludes there are no goals or policies which by their language and context were intended by the City to operate as independent approval criteria for the division of land in an I-G zone. Moreover, there are no other applicable specific plans, including Neighborhood Circulation Plans, which apply to the subject property.

Regarding the applicable design standards in MLDC Articles IV and V, Applicant relies upon Exhibit 6, the tentative plat for the land division prepared by surveyors Hoffbuhr & Associates, Inc. and Exhibit 7, the Conceptual Grading and Drainage Plan prepared by civil engineers Thornton Engineering, Inc. The Commission agrees and concludes that the Exhibits 6 and 7 evidence compliance with all of the relevant design standards in MLDC Articles IV and V.

Therefore, the proposed land division is concluded to be consistent with Land Division

Criterion 1.

* * * * *

Land Division Criterion 2

- (2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

Discussion; Conclusions of Law: The Commission concludes from the Exhibit 6 Tentative Plat that access is to be provided by two access points on Parcel 1 which will provide access to both parcels. Access to the property in any other way is infeasible due to the raised island in North Central Avenue and steep embankment adjacent to access-controlled Highway 238. Applicant owns no other property which abuts the subject property. While additional parcels are possible, future access points on North Central Avenue will depend upon the granting of right-in/out access only and/or a breach in the raised concrete island. In any event, the Commission concludes that proposed land division is developable and nothing in this plan for land division will prevent development of this property or any adjoining land or access thereto pursuant to the MLDC. In reaching this conclusion the Commission also observes that it would be infeasible for to extend streets west off North Central Avenue and through the subject property because of the railroad right-of-way which extends along the entire westerly boundary of the property. Moreover, land immediately south is developed with industrial buildings and that, along with the subject property's relatively narrow width (and other access constraints) prevent a street network from being extended north/south through the property. Based upon the foregoing findings of fact and conclusions of law, the Commission concludes that the application is consistent with the requirements of Land Division Criterion 2.

* * * * *

Land Division Criterion 3

- (3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;

Discussion; Conclusions of Law: The Commission concludes that this criterion is inapplicable by reason that names are not given for other than divisions that involve the creation of a public street(s).

* * * * *

Land Division Criterion 4

- (4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property unless the approving authority determines it is in the public interest to modify the street pattern;

Discussion; Conclusions of Law: The Commission concludes that this criterion is inapplicable by reason that this land division does not involve the creation of a public street(s).

* * * * *

Land Division Criterion 5

- (5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

Discussion; Conclusions of Law: The Commission concludes that no streets or alleys are to be held for private use, other than the private driveway that will provide access to both parcels from two connections/access points to North Central Avenue, both of which are on parcel 1. The driveway will function as an easement benefitting the future owner of Parcel 2 and the same is set forth on the Exhibit 6 tentative plat. Therefore, the Commission concludes that this land division is consistent with Land Division Criterion 5.

* * * * *

Land Division Criterion 6

- (6) Contains streets, if applicable, and lots which are oriented to make maximum effective use of passive solar energy; exceptions to this provision may be granted whenever it is impractical to comply due to: (a) The configuration or orientation of the property; (b) The nature of surrounding circulation patterns, or other existing physical features of the site such as topography;

Discussion; Conclusions of Law: The Commission concludes from Exhibit 6 that industrial buildings that will occupy the subject parcels will not be limited in orientation other than by the width of the subject property and this will afford proper opportunities to make use of passive solar energy. If an exception to this standard is warranted, the Commission believes that it can *also* be concluded that the configuration, orientation and width of the property, along with the raised island in North Central Avenue and steep embankment along Highway 238 combine as features of the site which dictate its design and which otherwise prevent compliance with the street orientation standard of Land Division Criterion 6. For these alternative reasons, the Commission concludes that this land division is consistent with Land Division Criterion 6.

* * * * *

Land Division Criterion 7

- (7) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

Discussion; Conclusions of Law: Based upon Exhibits 3, 4 and 5, the Commission concludes there are no adjoining agricultural lands zoned EFU. Therefore, the Commission concludes for compliance with Land Division Criterion 7.

Summary Conclusions of Law for Zone Land Division: Based upon the foregoing findings of fact and conclusions of law, the Planning Commission concludes that this zone land division is consistent with the land division approval standards in MLDC 10.270.

VI

AGREED TO STIPULATIONS

Applicant herewith agrees to stipulate to the following matters to which it agrees to comply if the same are made conditions attached to the approval of either or both land use applications:

1. Applicant will restrict development to those allowed uses as described in MLDC 10.348 upon approval of Limited Industrial Overlay (I-00) for the subject property and the same will be assured through Site Plan and Architectural Review.
2. Applicant will provide a detailed street landscape plan at the time of Site Plan and Architectural Review application(s).

VII

ULTIMATE CONCLUSIONS

Based upon the preceding findings of fact and conclusions of law, the Planning Commission ultimately concludes:

1. The case for a zone change from existing County General Industrial (GI) to City General Industrial (I-G) with a Limited Industrial Overlay (I-00) is consistent with all of the relevant approval criteria in MLDC 10.227 because: 1) the proposed change is consistent with relevant goals and policies of the comprehensive plan, 2) that proposed change is consistent with the comprehensive plan (GLUP) map, 3) that Category "A" urban services and facilities are available to adequately serve the property, and 4) the zone change has been found to be compliant with the Oregon Transportation Planning Rule (OAR 660-12-060).

and

2. The case for land division is consistent with all of the relevant approval criteria in MLDC 10.270.

Findings of Fact and Conclusions of Law
Zone Change, Land Division, Zoning Overlay Application
Blacksilver, LLC. Owner/Applicant

Respectfully submitted on behalf of Applicant Blacksilver, LLC:

CSA Planning, Ltd.



Craig A. Stone
Consulting Urban Planner

Dated: February 28, 2008

CITY OF MEDFORD
INTER - OFFICE MEMORANDUM

TO: Planning Department

FROM: Engineering Division

SUBJECT: Zone Change Request, File No. ZC-08-026

DATE: March 31, 2008

1. Sanitary Services:

A. Currently serviced by: This site lies within the Rogue Valley Sewer Service area. Contact Rogue Valley Sewer Service for sanitary sewer issues.

2. Streets:

A. Current condition of nearest streets:

North Central Avenue, an existing Major Arterial Street is paved with curb and gutter along the frontage of this site.

Jacksonville Highway, an existing State Highway is paved with curb and gutter along the frontage of this site.

B: Who has maintenance responsibilities:

North Central Avenue - City of Medford
Jacksonville Highway - ODOT

C: Traffic analysis including potential impact of nearby and anticipated improvements required:

Land Development Code Section 10.461 governs traffic impact analyses (TIA) required to determine development impacts on the street system. The proposed zone change from County G-I (County General Industrial) to City I-G (General Industrial), on 9.84 acres has the potential to generate 1968 average daily trips (ADT) or produce a net increase of 0 ADT to the transportation system. Based on this and code sections 10.460 and 10.461, a traffic impact analysis (TIA) isn't required.

At the time of any site development the City of Medford will recommend any necessary

improvements and/or dedications along this proposed zone change's frontage on North Central Avenue.

3. Drainage:

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

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

Date: March 31, 2008

RECOMMENDATIONS FROM THE PUBLIC WORKS DEPARTMENT

LDP-08-025

(W. side of N. Central Ave. S. side of Jacksonville Hwy.)

1. This development lies within the Rogue Valley Sanitary Sewer Service area. There are existing sanitary sewer laterals to each proposed parcel.
2. There are existing storm drainage laterals to each proposed parcel.
3. The existing slope, water line and utility easements on proposed Parcel 1 shall be shown on the Final Plat.
4. All street lights and signing for public streets shall be installed to City of Medford specifications. The following street lighting installations on the North Central Avenue frontage are required:

A. 7 – 310W street lights with a base mounted cabinet

The street lights shall be operating and turned on prior to issuance of building permits for vertical construction. If the developer chooses to construct the street lights after the issuance of building permits for vertical construction. Then a deposit of 120% cash security shall be posted.

5. All survey monumentation shall be in place, field-checked, and approved by the City Surveyor prior to approval of the Final Plat.



BOARD OF WATER COMMISSIONERS

Staff Memo

TO: Planning Department, City of Medford
FROM: Rodney Grehn P.E., Water Commission Staff Engineer
SUBJECT: LDP-08-025 & ZC-08-026
PROJECT: Consideration of a consolidated application for a land division and zone change from County G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of the Jacksonville Highway; Black Silver, LLC., Applicant (CSA Planning, Ltd., Agent). Desmond McGeough, Planner

PARCEL ID: 372W24 TL 701

DATE: March 31, 2008

I have reviewed the above plan authorization application as requested. Conditions for approval and comments are as follows:

CONDITIONS

1. The water facility planning/design/construction process will be done in accordance with the Medford Water Commission (MWC) "Regulations Governing Water Service" and "Standards For Water Facilities/Fire Protection Systems/Backflow Prevention Devices."
2. All parcels/lots of proposed property divisions will be required to have metered water service prior to recordation of final map, unless otherwise arranged with MWC.
3. Proposed parcel 1 will require water service installation as water meters were deferred from initial construction so that appropriate size of water meter could be installed based on future owners water needs.
4. Proposed parcel 2 will require water service installation as water meters were deferred from initial construction so that appropriate size of water meter could be installed based on future owners water needs.
5. Installation of water meters for each parcel is required, or a note on final map is required for each parcel that states "No Domestic Water Service Available per ORS 92.090 (c)".
6. The recorded easements per (OR. 2007-020194) for the recent installation of the new waterline stubs into parcel 1 and 2 are required to be relected on the final map.

COMMENTS

1. All required water lines and fire hydrants for this development are installed, but minor adjustments remain to be completed by owner's contractor. (See Comment 2 below)

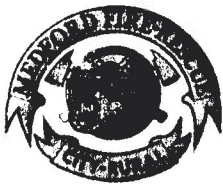
H
ZC-08-026
LDP-08-025



Staff Memo

Continued from previous page

2. Owner's contractor shall coordinate with MWC inspector to oversee and approve adjustment of fire hydrants to finish grade. Once hydrants are adjusted to grade the original water line installation project can be finalized by MWC.
3. Parcel 1 has four (4) - 8" water lines stubbed into parcel 1 with a fire hydrant on each of the four water line stubs. Future water meters to be installed on these existing water line stubs to avoid cutting paved access road. (See Condition 4 above)
4. Parcel 2 has an 8" water line that is stubbed into the parcel along with a fire hydrant on the south side of entrance. Future water meter to be installed on this existing water line stub to avoid cutting paved access road. (See Condition 5 above)
5. The existing water line easement noted as (Waterline Inst. No. 94-14862) at the south corner of parcel 1 is not on record with MWC. MWC does not have, or need a waterline in this location. Owner shall confirm the existence and intended occupant of this easement. If proof of easement was originally intended for water line purposes, the owner is encouraged to coordinate with MWC engineering department to have this easement quit claimed so that this parcel is not encumbered by such easement. If the easement is found to be recorded for another utility, the final map for this subdivision shall reflect the intended occupant and use, and all reference to a waterline easement shall be removed from map.



Medford Fire/Rescue

200 S. Ivy Street, Room #257
Medford, OR 97501
Phone: 774-2300; Fax: 541-774-2514;
E-mail www.fire@ci.medford.or.us

LAND DEVELOPMENT REPORT - PLANNING

To: Desmond McGeough

LD Meeting Date: 04/02/2008

From: Kleinberg, Greg

Report Prepared: 03/31/2008

Applicant: Black Silver, LLC., Applicant (CSA Planning, Ltd., Agent).

File #: LDP - 08 - 25

Associated File #'s: ZC - 08 - 26

Site Name/Description:

Consideration of a consolidated application for a land division and zone change from County ZC-08-026 G-I (County General Industrial) to City I-G (General Industrial) with an I-00 zoning overlay (limited industrial overlay) for a 9.84 acre parcel located on the west side of North Central Avenue, and south side of the Jacksonville Highway; Black Silver, LLC., Applicant (CSA Planning, Ltd., Agent). Desmond McGeough, Planner

DESCRIPTION OF CORRECTIONS	REFERENCE
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Required	FIRE DEPARTMENT TURN AROUND REQUIRED	OFC	503.2.5
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The length of the top (North) portion of the fire department turn-around must be minimum 60' from the centerline of the turn-around.

Dead-end Fire Apparatus access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

The Determination has been made that all or part of the fire apparatus access means of approach serving this Development does not meet the local standards adopted in accordance with the applicable fire code and state building code requirements. Therefore an approved alternate method must be requested from the Medford Building Department. Where approved this alternative must be recorded on the property deed as a requirement for future construction. Ref.OAR 918-480-0100 thru 0120, OFC Section 503 and Appendix D.

Required	ADDRESS IDENTIFICATION	OFC	505.1
----------	------------------------	-----	-------

Building numbers shall be placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background.

Temporary signs shall be installed at each street intersection when construction of new roadways allows passage of vehicles.

Required	PRIVATE FIRE DEPARTMENT ACCESS PARKING RESTRICTION	OFC	503.4
----------	--	-----	-------

Fire apparatus access roads 20-26' wide shall be posted on both sides as a fire lane. Fire apparatus access roads more than 26' to 32' wide shall be posted on one side as a fire lane (OFC D103.6.1).

Where parking is prohibited for fire department vehicle access purposes, curbs shall be painted red along the entire distance of the fire department access. White letters stating "NO PARKING-FIRE LANE" shall be painted on the curb



Medford Fire/Rescue

200 S. Ivy Street, Room #257
Medford, OR 97501
Phone: 774-2300; Fax: 541-774-2514;
E-mail www.fire@ci.medford.or.us

LAND DEVELOPMENT REPORT - PLANNING

To: Desmond McGeough

LD Meeting Date: 04/02/2008

From: Kleinberg, Greg

Report Prepared: 03/31/2008

Applicant: Black Silver, LLC., Applicant (CSA Planning, Ltd., Agent).

File #: LDP - 08 - 25

Associated File #'s: ZC - 08 - 26

Site Name/Description:

every 20'. NO PARKING signs shall be spaced at 100' intervals and at fire department designated turn-around's. The signs shall have red letters on a white background stating "NO PARKING FIRE LANE TOW AWAY ZONE ORS 98.810 to 98.812" (See handout).

Where there is a main entrance to a complex, a main sign stating the no-parking requirements may be used at the approval of the Fire Marshal in lieu of some of the above requirements.

An agreement with a private towing company is required to enforce the no parking areas as tow-away zones. A copy of the agreement with the private towing company shall be provided to the fire department.

Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths (20' wide) and clearances (13' 6" vertical) shall be maintained at all times (OFC 503.4; ORS 98.810-12).

Required FD APPARATUS ACCESS ROAD DESIGN

OFC 503.2.1

Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and unobstructed vertical clearance of not less than 13 feet 6 inches. The required width of a fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under section 503.2.1, shall be maintained at all times. The fire apparatus access road shall be constructed as asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

(See also OFC 503.4; D102.1)

The turning radius on fire department access roads shall meet Medford Fire Department requirements (OFC 503.2.4).

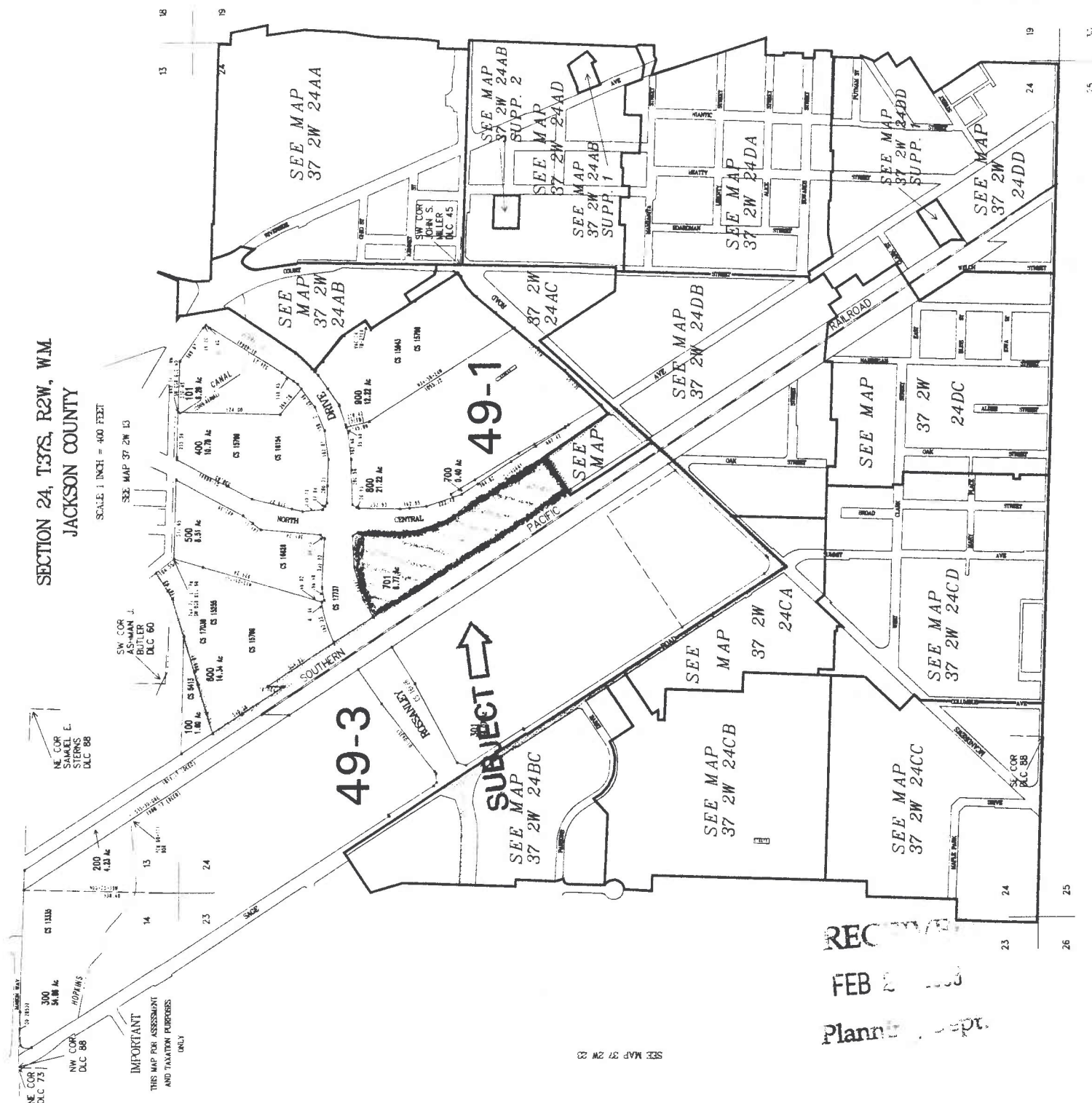
Development shall comply with access and water supply requirements in accordance with the Fire Code in affect at the time of development submittal.

Fire apparatus access roads are required to be installed and made servicable prior to the time of construction. Water supply for fire protection is required to be installed and made serviceable prior to the time of vertical combustible construction.

Specific fire protection systems may be required in accordance with the Oregon Fire Code.

This plan review shall not prevent the correction of errors or violations that are found to exist during construction. This plan review is based on the information provided only.

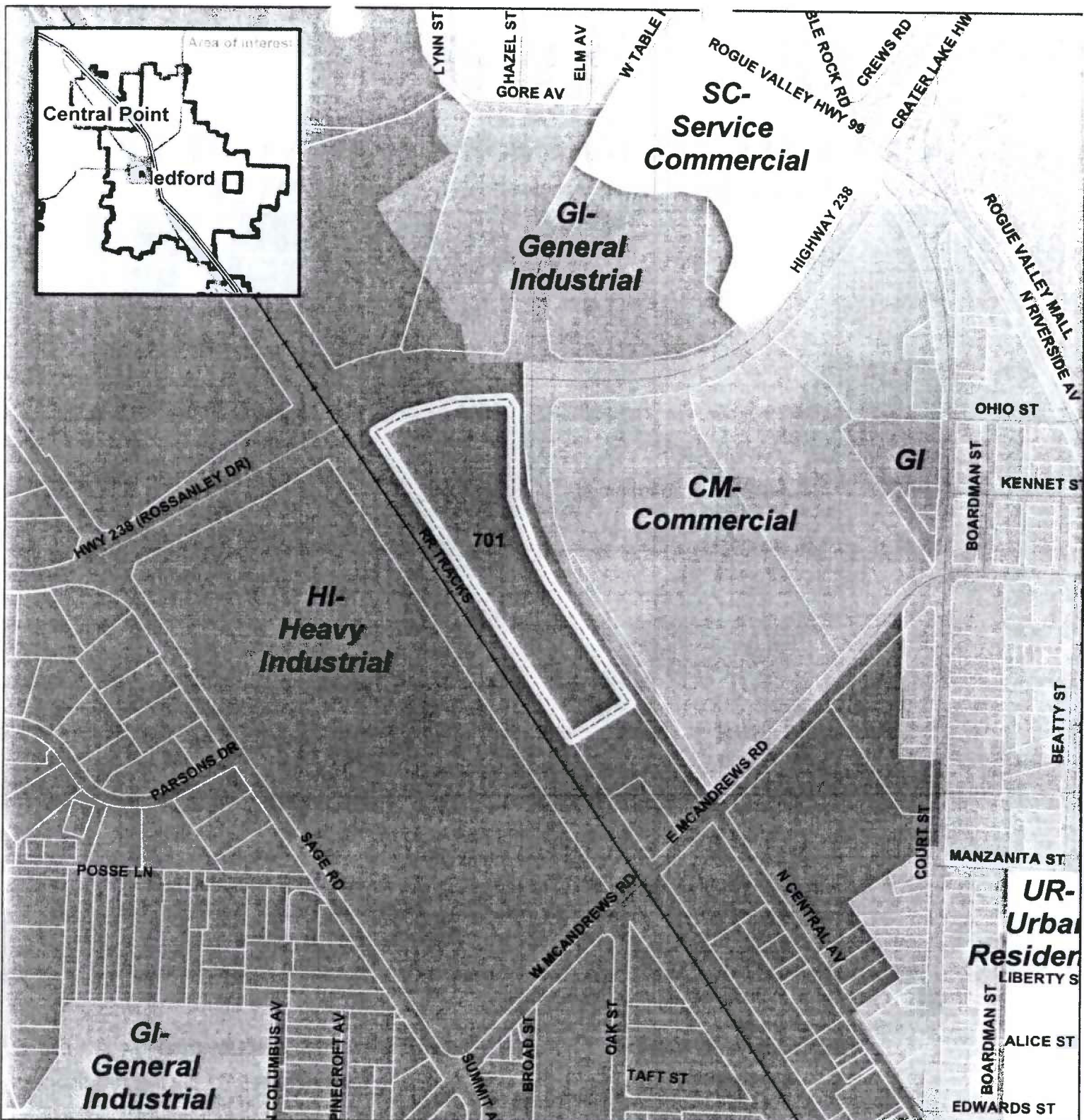
Design and installation shall meet the Oregon requirements of the IBC, IFC, IMC and NFPA standards.



REC'D
FEB 2 1963
Planning Dept.

LD 08 025
20-08-026

EXHIBIT 2



Legend

Subject Properties Tax Lots

GLUP Designations

- UR-Urban Residential
- CM-Commercial
- SC-Service Commercial
- GI-General Industrial
- HI-Heavy Industrial

City of Medford

General Land Use Plan (GLUP)

RECEIVED
Land Division and Zone Change
Blacksilver, LLC
FEB 27 2008
Planning Dept.
December 10, 2007

Exhibit 3

1 DP 03025
ZC-03-026

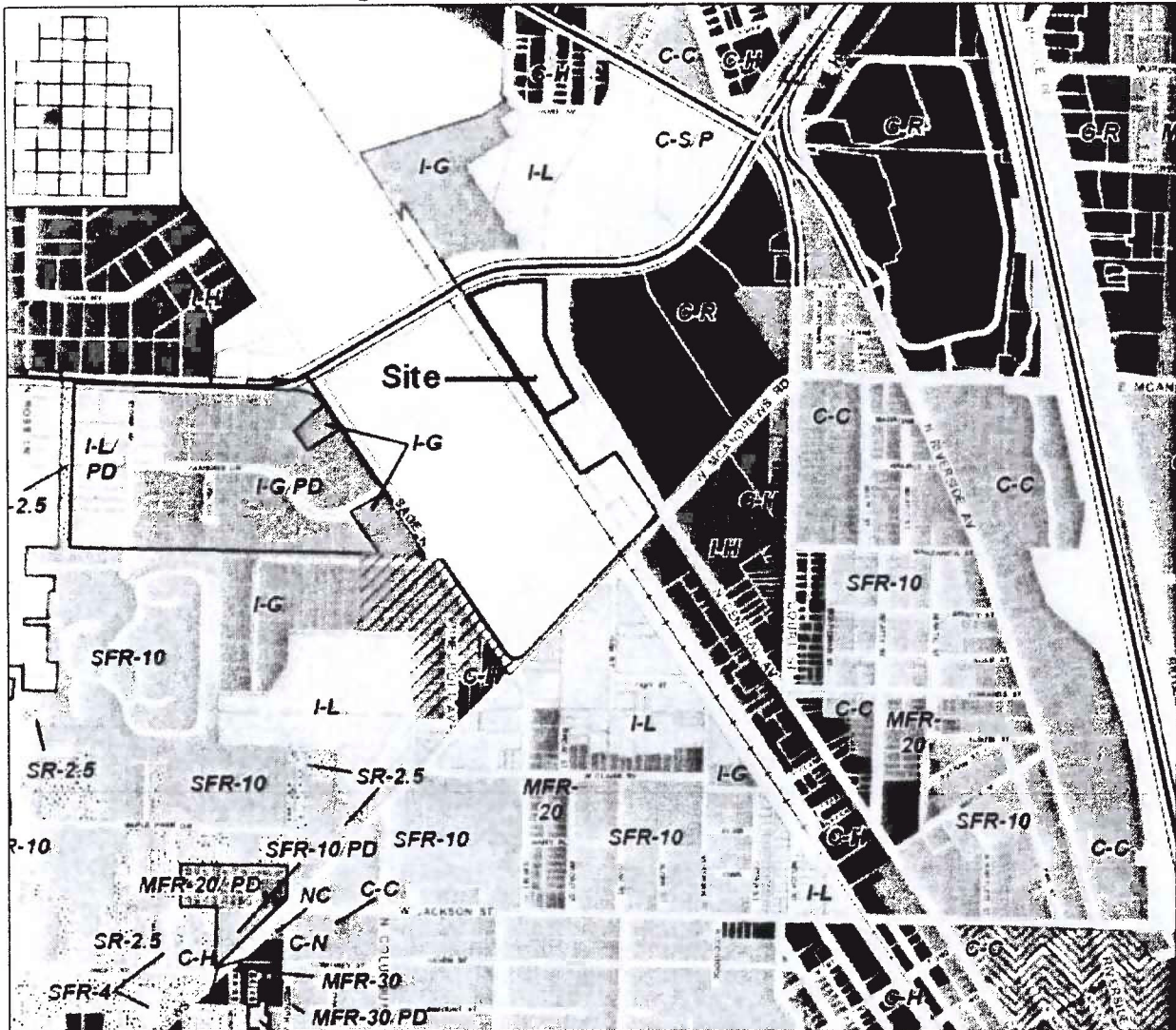
250 0 250 500 750 Feet

1 inch equals 500 feet

CSA Planning, Ltd. Source: City of Medford and Jackson County GIS Services

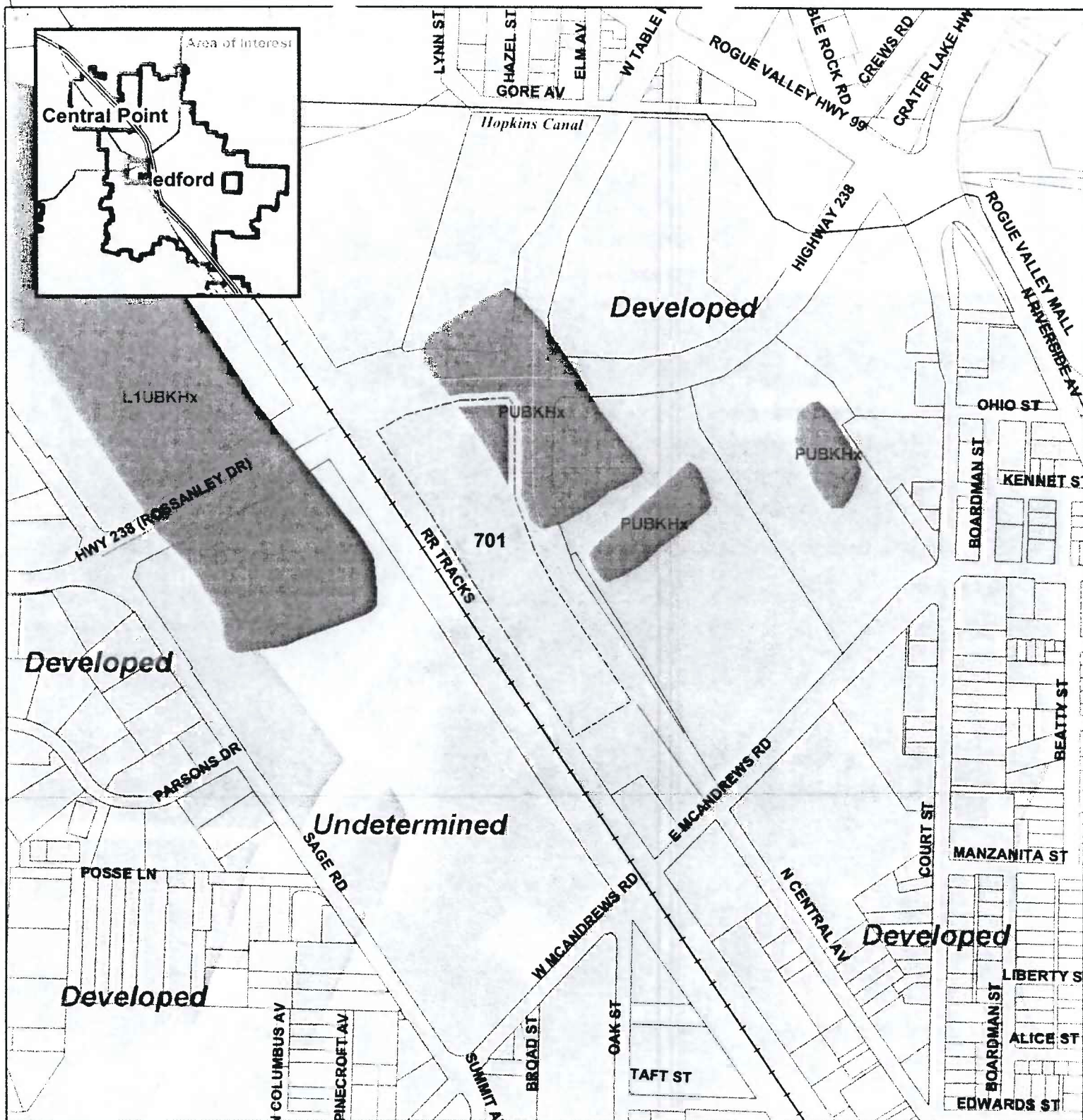
CITY OF MEDFORD ZONING MAP

Township, Range and Section: 372W24



MEDFORD CITY ZONES		COUNTY ZONES IN MEDFORD	
Residential - Multi-Family - 20 Units/Acre (MFR-20) - Multi-Family - 10 Units/Acre (MFR-10) - Multi-Family - 5 Units/Acre (MFR-5) - Single Family - 5 Units/Acre (SFR-5) - Single Family - 4 Units/Acre (SFR-4) - Single Family - 3 Units/Acre (SFR-3) - Single Family - 2 Units/Acre (SFR-2) - Single Family - 1 Unit/Lot (SFR-1)		Residential - Suburban - 1 Acre Minimum (SR-1) - Suburban - 2.5 Acre Minimum (SR-2.5) - Rural - 5 Acre Minimum (RR-5) - Farm - 5 Acre Minimum (FR-5)	
Commercial - Heavy (C-H) - Regional (C-R) - Community (C-C) - Neighborhood (C-N) - Service/Professional (C-S/P)		Commercial - General (C-C) - Neighborhood (C-N)	
Industrial - Heavy (I-H) - General (I-G) - Light (I-L)		Resource - Exclusive Farm Use (EFU) - Open Space Reserve (OSR)	
		Industrial - General (I-G) - Light (I-L) - Neighborhood (I-N) - Medium (I-M) - Neighborhood (I-N)	

L
20-48-02C
20P 05-025



Legend



Subject Properties

Tax Lots

Streams

Floodplain

100-Year

500-Year

Wetlands

RECEIVED

FEB 27 2008

Planning Dept.
Vernal Pool

City of Medford

Wetlands, Vernal Pool & Floodplain Map

Land Division and Zone Change
Blacksilver, LLC

December 10, 2007

CSA Planning, Ltd.

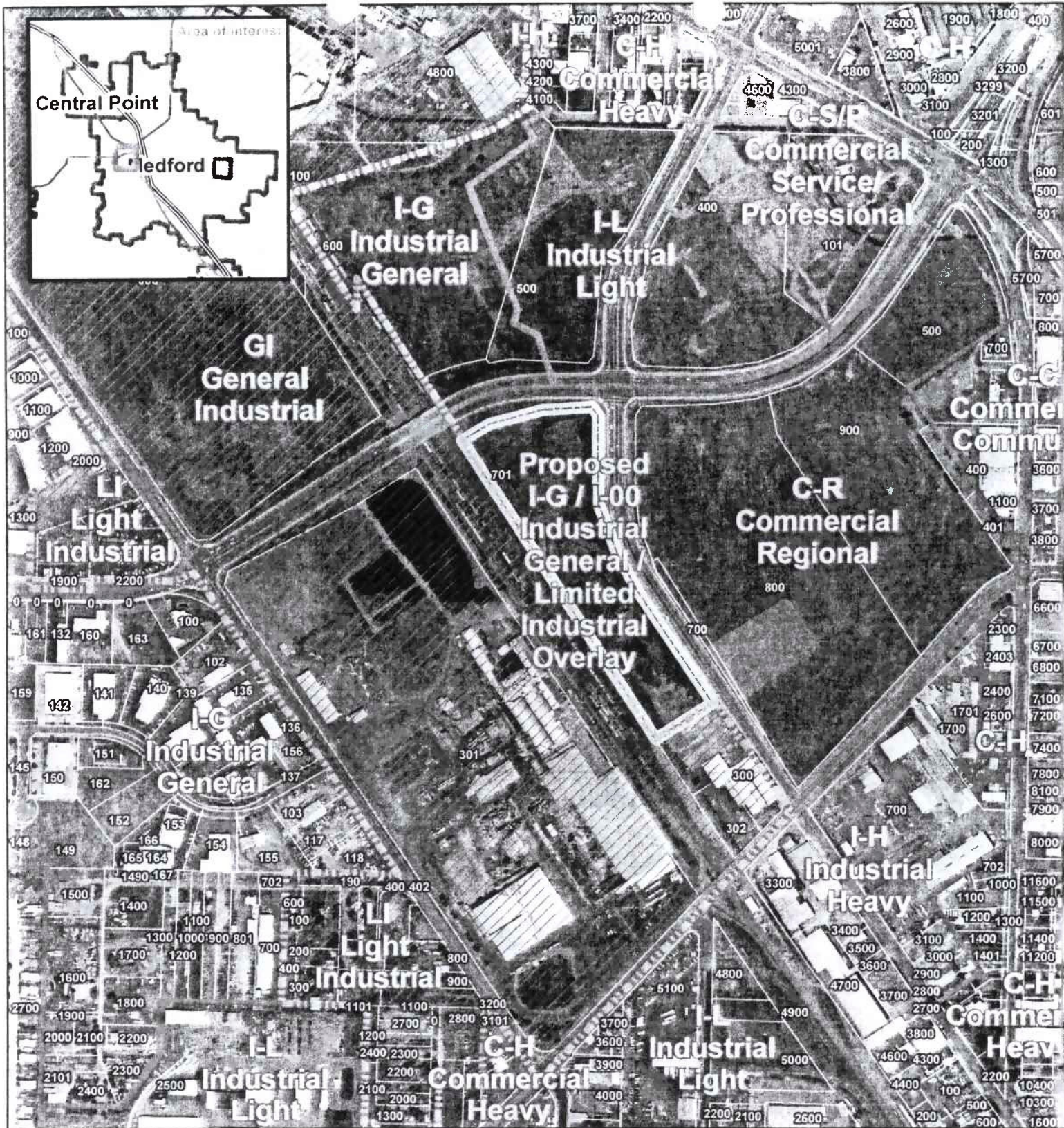
Exhibit 8



250 0 250 500 750 Feet

1 inch equals 500 feet

Source: City of Medford and Jackson County GIS Services



Legend

- Proposed Zoning Change Area
- Tax Lots
- City Limits
- City Zoning
- County Zoning

City of Medford

Proposed Zoning Map on Aerial

Land Division and Zone Change
Blacksilver, LLC

December 10, 2007

CSA Planning, Ltd.

Exhibit 5



250 0 250 500 750 Feet

1 inch equals 500 feet

Source: City of Medford and Jackson County GIS Services

RECEIVED

APR 24 2008

PLANNING DEPT.



CSA Planning, Ltd

4497 Brownridge, Suite 101
Medford, OR 97504

Telephone 541.779.0569
Fax 541.779.0114

Sarrah@CSAplanning.net

Memorandum

To: Medford Planning Commission

Date: April 24, 2008

Subject: LDP-08-025 and ZC-08-026

Page three of the Medford Planning Department Staff Report for the above listed file No. describes wetlands as they pertain to the subject property. Applicant's Agent supplied a "Wetlands, Vernal Pool, and Floodplain Map, Exhibit 8" addressed within the Staff Report as "Exhibit M" for the subject property with written Findings of Fact addressing the Exhibit in terms of it's current status and relevance. This information was provided to the Planning Department in case they found the same wetland information in the processing of this application. It was the intention of the applicant to provide additional information to the Planning Department to augment County GIS data, as such has not been updated to reflect the most current information.

As identified in the Staff Report, the Applicant's Findings of Fact indicate that the Jackson County wetland mapping pre-dates the construction improvements of Highway 238 and Central Avenue in which ODOT mitigated existing wetlands on site. Documents enclosed within this memorandum are from the Oregon Department of Transportation (ODOT) regarding the existence, or non-existence rather, of these wetlands.

Page 71, in attached documents, under Wetlands reads:

The wet areas in Unit 1 [see, attached map] are not jurisdictional wetlands because they consist of irrigation canals and filled-in log ponds (at the Medite site). ODOT scientists performed field surveys and found no natural or artificially created wetlands that are jurisdictional under the US Army Corps of Engineers definition. These wet areas have been created to carry or hold water for an agricultural or industrial purpose.

Medford Planning Staff recommends the applicant verify if state wetland permit requirements apply to the subject area. As demonstrated in the above outlined text, prior to extension of Highway 238 by ODOT the subject area did not contain jurisdictional wetlands and therefore was not recognized by the Army Corps of Engineers. Any wet areas identified have been filled by ODOT.

Therefore the Applicant requests that the conditional language recommended in this staff report be removed as Applicant has hereby demonstrated that jurisdictional wetlands do not exist on the subject property.

Sincerely,

CSA Planning, Ltd.

A handwritten signature in dark ink, appearing to read 'Sarrah E. LeMoss', is written over a horizontal line.

Sarrah E. LeMoss
Community Outreach Coordinator

0
ZC-08-026
LDP 08-025

Enclosures (5): Fax cover page from Oregon Department of Transportation 4.22.08
Highway 238 Maps—Unit 1 and Unit 2
Fax cover page from Oregon Department of Transportation 4.16.08
Highway 238—Jacksonville Street Environmental Assessment cover page
Natural Resource Impacts section of the same document beginning at
page 65 ending with page 73.



OREGON DEPT OF TRANSPORTATION
ROGUE VALLEY TECH CENTER
100 ANTELOPE ROAD
WHITE CITY, OR 97503

Phone: (541) 774-6299 Fax: (541) 774-6397
odot.state.or.us

FAX TRANSMITTAL

To: Sarah LeMoss

Fax #: 774-004

From: Jerry Marmion

Date: 4-22-08

Subject: Hwy 230 EA maps - Unit 1 & 2

Pages: (2) Including Cover

NOTES:

143298.04.C1 Highway 238 "1g011h5" 04/24/98 cvo/ama

- Build Alternative
- - - No-Build Alternative
- City of Medford
- Medford Urban Growth Boundary

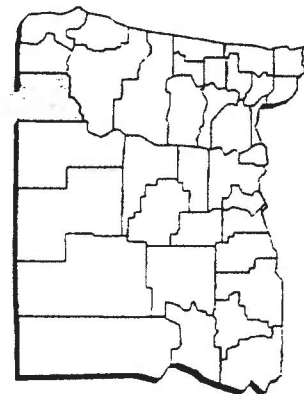
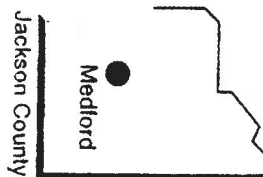
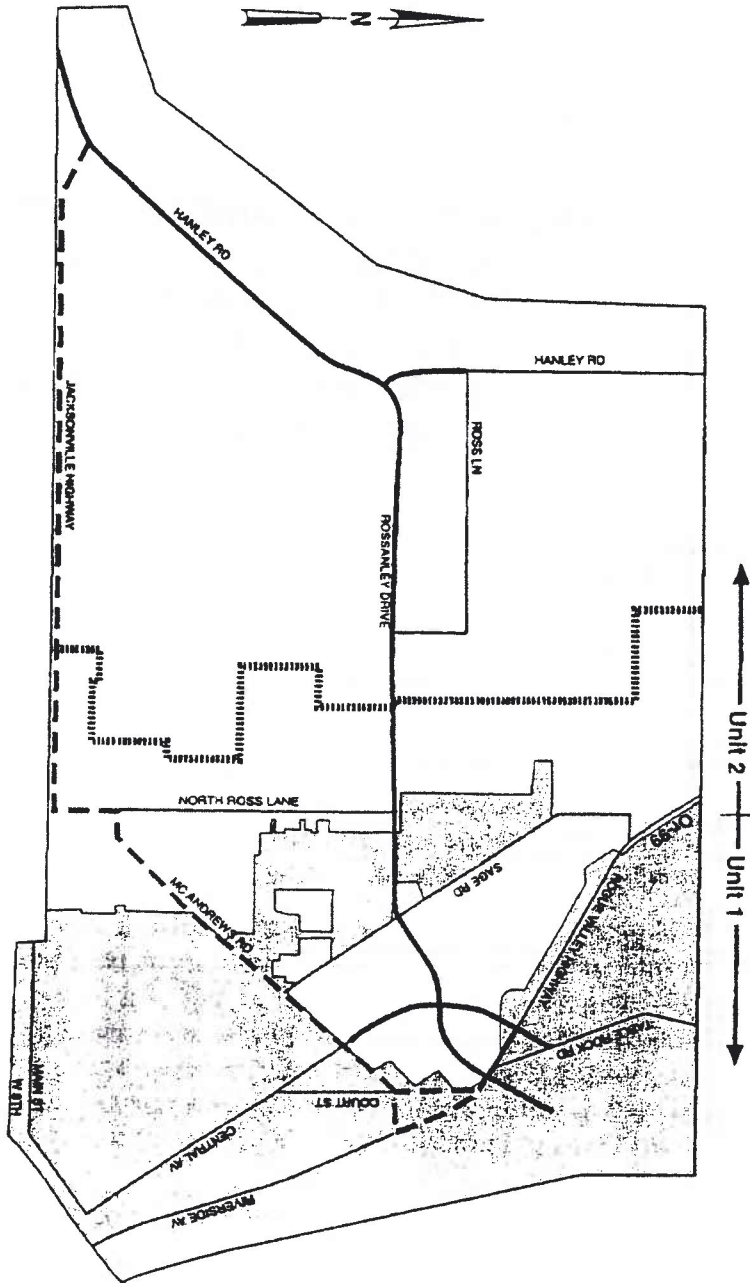


Figure 1
Project Vicinity
Highway 238 - Jackson Street



OREGON DEPT OF TRANSPORTATION
ROGUE VALLEY TECH CENTER
100 ANTELOPE ROAD
WHITE CITY, OR 97503
Phone: (541) 774-6299 Fax: (541) 774-6397
odot.state.or.us

FAX TRANSMITTAL

To: Sarah LeMoss

Fax #: 779-0114

From: Jerry Marmon

Date: 4-16-08

Subject: WY 238 EA

Pages: ~~(2)~~ Including Cover
11

NOTES:

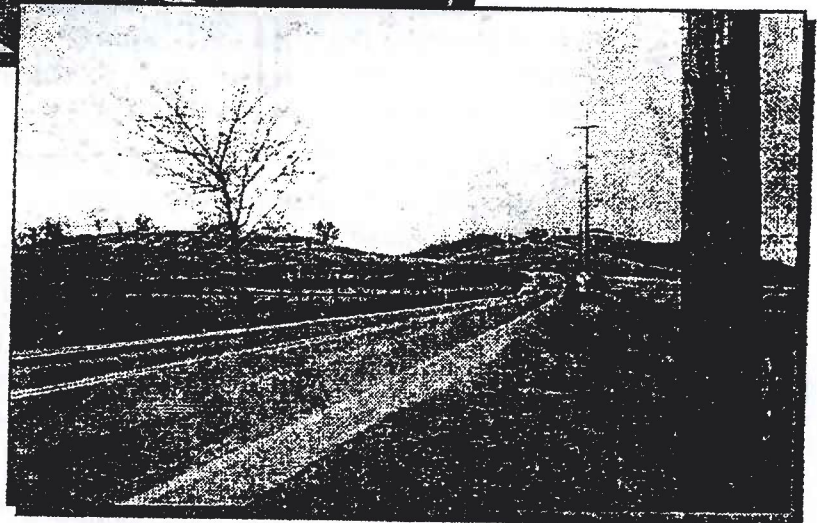
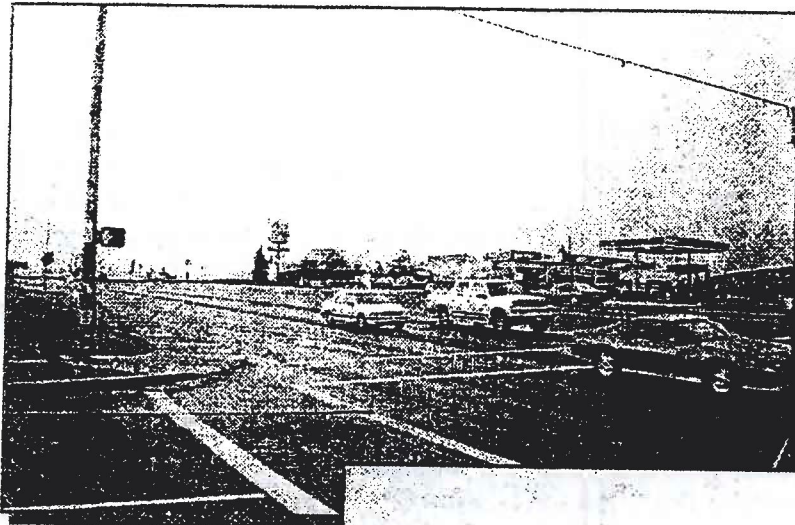
See Wetlands Section - P 71

Jerry

Draft
Environmental Assessment

PUBLIC HEARING NOTICE
Hwy 238 to Jackson Project
North Medford High School Cafeteria
1900 North Keene Way Dr. Medford, OR 97501
Tuesday, Sept 1, 1998 -- 5:00 PM to 7:30 PM

Highway 238 – Jackson Street



Jacksonville Highway
Jackson County

Oregon Department of Transportation
Federal Highway Administration

July 1998

Natural Resource Impacts

The project vicinity lies within a broad alluvial plain drained by Bear Creek, a tributary to the Rogue River, which flows near the eastern boundary of the proposed project. The Rogue River and its tributaries support up to five anadromous fish species as well as many resident fish and wildlife species. The vicinity surrounding Unit 1 is primarily urban, while land use in Unit 2 is dominated by agriculture. Only traces of the native landscape remain.

Streams

Two streams cross through Unit 2 of the project area: Jackson Creek, which parallels Hanley Road, and Griffin Creek, which crosses under Rossanley Drive east of Hanley Hill. Drainage from the urbanized part of Unit 1, technically in the Elk Creek subdrainage, is directed to Bear Creek, east of the project area. Beneficial uses of the streams include irrigation and aquatic habitat. Bear Creek supports spawning runs of steelhead which are also reported to use Jackson and Griffin creeks for part of their life cycle. Bear Creek also has an aesthetic and recreational use.

The segment of Jackson Creek within the project area has been channelized and cement-lined in many areas. Its bed is comprised primarily of sand and fine gravel with some coarse gravel and cobbles. It has some riffles, glides, and pools, but they are rarely deeper than 30 cm at low flow. Peak flows in Jackson Creek occur between late October and April following the irrigation season. Very little woody debris, alcoves, or other valuable habitat features are found in this section of creek.

Oregon Department of Fish and Wildlife (ODFW) classifies Jackson Creek as poor to moderate fish habitat. Resident cutthroat trout use portions of Jackson Creek (Testa, 1997). ODFW has indicated that this reach of Jackson Creek historically has had runs of native, naturally reproducing winter steelhead trout. Summer runs of steelhead, which currently migrate up from Bear Creek, probably also used Jackson Creek. Most usage by adult fish is from January to March while juvenile fish are likely to be in the system the entire year if appropriate water temperature and volume are available. Summertime habitat and snorkel surveys conducted by ODOT in 1996 and 1997 detected no evidence of usage by any fish species.

Blackberry thickets and vigorous stands of reed canary grass dominate the entire segment of creek from Bybee Corner north to Hanley Road. A scattered overstory of trees is primarily composed of cottonwood, ash, oak, and alder trees scattered along the creek channel.

Griffin Creek serves as part of the Rogue Valley irrigation system and as a result its flow is highly regulated during irrigation season (April to October). According to ODFW biologists, Griffin Creek serves as a migration corridor for adult winter run steelhead trout during the month of December. Overall, fish habitat in this reach is limited and of low quality. The existing riparian zone in the immediate vicinity of this crossing is about 5 meters (16.4 feet) wide on either side of the creek, and is composed of blackberries, reed canary grass, and

NATURAL RESOURCE IMPACTS

willow and cottonwood trees, which provide shading for the creek. The existing structure over Griffin Creek supports swallow nests. Tracks indicate that the creek is serving as a travel route for small mammals.

The project proposes rechannelization of Jackson Creek near Bybee Corner and also in the vicinity of the Hanley Farm, for a total of approximately 750 meters (2,460 feet). Impacts would include loss of approximately 0.41 ha (1.01 acres) of riparian vegetation and 0.23 ha (0.57 acres) of open water. The new channel would be created and vegetation established before the old channel was abandoned and water redirected (see Figure 11). The new channel would add approximately 58 meters (190 feet) to the low-water channel length and would have vegetation established in it before the old channel was abandoned and water redirected.

Since stream enhancement is built into the project description, no additional stream restoration is recommended for Jackson Creek. Project construction would include the following enhancement of habitat for salmonid fish in the relocated Jackson Creek channel:

- Provide fish spawning and rearing habitat, including placement of gravel and cobble substrates
- Increase low-flow channel length and sinuosity
- Add in-stream complexity (pools, riffles, variable depth and length) and design flow characteristics for fish habitat
- Create riparian terraces and increased vegetative cover, as shown in Figure 11.

Mitigation

The work area for road widening near Griffin Creek will be narrowed to the minimum necessary for construction, and any soils bared by construction will be replanted with native riparian species. Design of the crossing structure should include an open bottom, and provide suitable substrate for swallow nesting.

For Jackson and Griffin creeks, in-water work will be conducted from June 15 through September 15.

ODOT will coordinate with ODFW regarding irrigation structure placement and design to reduce impacts to habitat, particularly for steelhead.

Water Quality

Existing Water Quality

The project area is entirely within the watershed of Bear Creek, a tributary of the Rogue River. Bear, Jackson, Griffin, and Elk creeks flow through the project area.

All of the creeks in the project area have been severely altered by human use. Not only is irrigation water withdrawn from them, drastically altering their hydrology during the irrigation season, but they have been constrained to a greater or lesser degree. Jackson Creek is probably the most constrained, having been placed in a straight ditch along the highway,

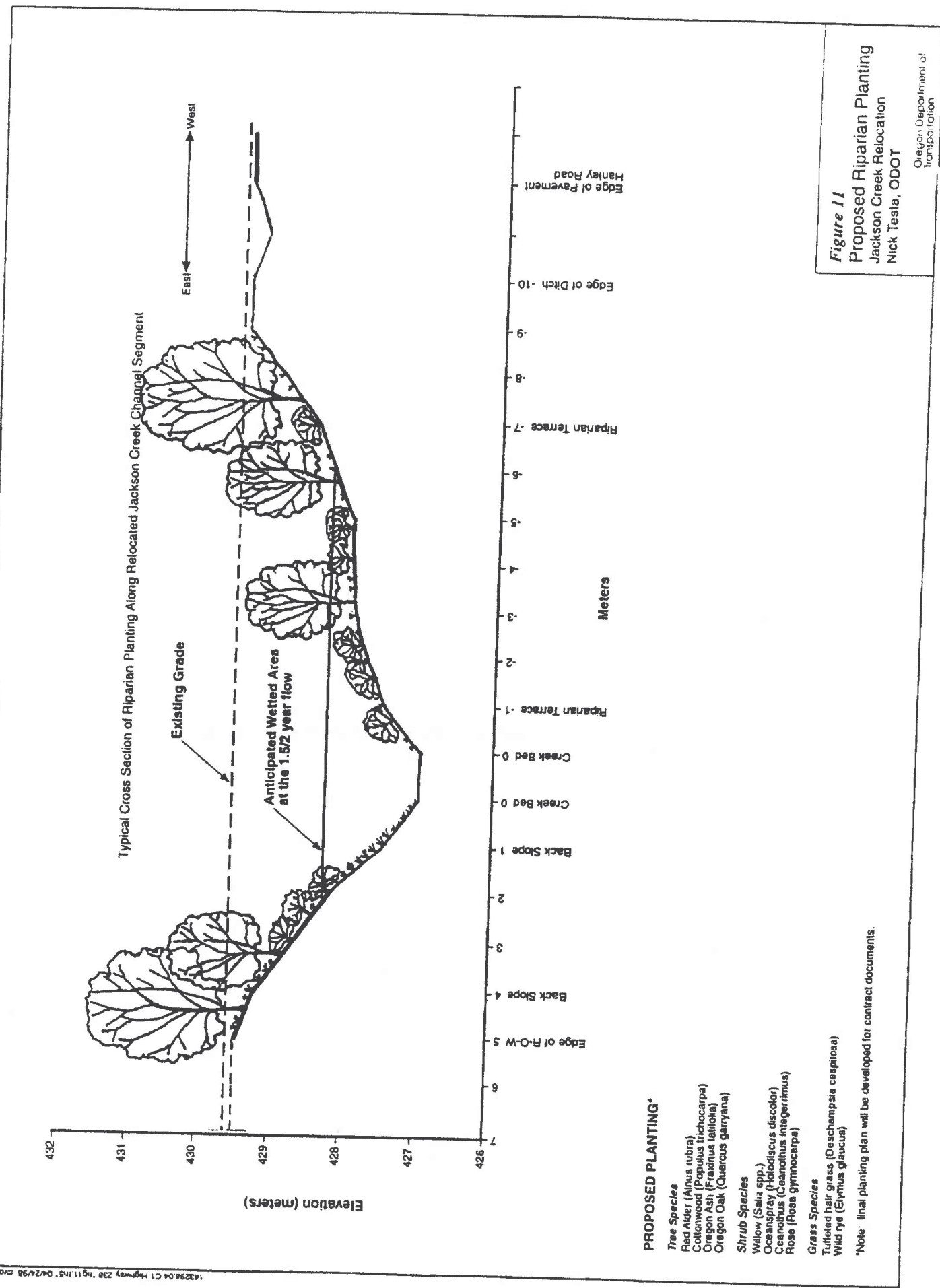


Figure 11
Proposed Riparian Planting
 Jackson Creek Relocation
 Nick Testa, ODOT

Oregon Department of
 Transportation



with portions contained in a concrete channel. Both Griffin and Jackson creeks have irrigation diversion dams, behind which fine sediments accumulate. Opening the dams at the end of the irrigation season probably sends plumes of turbidity swirling downstream. Irrigation return flows contribute to increased water temperatures during the warmer months, and may carry with them nutrients and pesticides. Elk Creek, on the other hand, has a mostly symbolic existence, flowing through roadside drainage ditches, across fields, and, in general, through poorly defined channels.

Beneficial uses of the three main streams include irrigation and aquatic habitat. Bear Creek supports spawning runs of steelhead, and steelhead are also reported to use Jackson and Griffin creeks for part of their life cycle. Bear Creek also has an aesthetic and recreational use.

Bear Creek, Griffin Creek, and Jackson Creek are all listed by the DEQ as water quality limited streams. Bear Creek is listed for excessive summer temperatures, fecal coliform in fall to spring and summer, flow modification, and habitat modification. Other concerns, though either not severe or well-documented enough to meet listing criteria, include nutrients, sedimentation, toxins, algae, dissolved oxygen, pH, and aquatic weeds. Griffin Creek and Jackson Creek are both listed for summer temperatures and fecal coliform. Flow modification, habitat modification, and nutrients are also concerns in those creeks. Elk Creek is not listed, probably because it barely exists as a stream. Runoff from its watershed probably carries a considerable load of typical urban and suburban pollutants (that is, oil and grease, metals, nutrients from garden and lawn fertilizers) possibly some industrial chemicals, as well as some agricultural pollutants.

Project Impacts

Impacts to water quality may occur during project construction and operation. Potential construction impacts to water quality include increased turbidity and sedimentation due to erosion, loss of shading and filtering effects of vegetation due to loss of buffer zones to water bodies, and chemical pollution due to spills. The erosion and pollution control plans required by National Pollution Discharge Elimination System (NPDES) regulations and ODOT policy minimize the chance of these problems occurring. Operational impacts to water quality generally come from two sources; highway runoff, and hazardous spills.

Construction Impacts

The potential for construction impacts is low for all of Unit 1 and for Unit 2 east of Griffin Creek due to the flat landscape with limited cut and fill, and the low number of water bodies. Construction impacts are more likely in Unit 2 around Griffin Creek, the cut and fill sections around Hanley Hill, and along Jackson Creek. Work at Hanley Hill would not only expose a considerable amount of soil to erosion, but ground on the north side would drain directly to Griffin Creek.

Jackson Creek could be affected by roadwork immediately adjacent to its banks and by channel relocation. The proximity of the highway to the creek means that stormwater would discharge almost directly into the stream, with little room for sediment retention features. Channel relocation would result in temporary increases in turbidity. If the new channel is built away from the existing channel, increased sediment load would occur only after the

opening of the new channel to flow, and only for a limited time. Construction of the new channel within the existing ditch would result in more occurrences of increased turbidity. These increases would be due primarily to in-water work, but could also happen during rain events due to runoff down disturbed slopes or increased staging resulting in flow over uncured banks and bed.

Riparian impacts at Griffin Creek should be minor because of the perpendicular crossing by the highway. Shading loss due to vegetation removal would be largely counterbalanced by the shade provided by the wider bridge, but that would not compensate for other lost riparian functions. The existing riparian vegetation along the stretch of Jackson Creek adjacent to Hanley Road does not provide much shade over the creek. Realigning the creek into an enhanced channel would likely only raise water temperature slightly for a few years because the deeper water and greater riparian vegetation cover would offset the loss of the existing low-quality cover. However, project plantings should eventually replace existing vegetation and could result in an improvement over existing conditions.

The danger posed by chemical spills during construction is directly related to the proximity to open water. Assuming that standard safeguards are implemented, there should be little threat to the water resources in the project area.

Operational Impacts

Highway Runoff

Unit 1 would see the addition of approximately 4.9 ha (12.2 acres) of new impervious surface area, all within the Elk Creek watershed. Unit 2 would have only a nominal net increase in impervious surface area. The Build Alternative would result in more traffic on the Unit 2 road segments (Hanley Road and Rossanley Drive) than with the No-Build Alternative. This should translate into somewhat greater pollutant loading. Over the project area, which includes roads not physically affected by the project but that may have changes in traffic, there is predicted to be about a 10 percent increase in vehicle miles. This would probably result in a small increase in total pollutant load.

Toxic pollutant loadings would increase due to the added impervious surface area throughout the project area, and the increases in traffic on Unit 2. In no case would the project lead to highway runoff-induced exceedances of water quality criteria for metals more frequently than once every 3 years. However, considering that Bear Creek has identified problems with toxics, even though it is not listed for them, some level of treatment would be justified. The presence of sensitive fish species adds weight to that conclusion.

The increases in fecal coliform (and *e. coli*) in runoff due to the new roadway and impervious surface area are not associated with the sources of concern (leaking or inefficient sewage systems, animal lots, etc.). Facilities designed to reduce the concentrations of bacteria are not justified.

Hazardous Material Spills

The potential for hazardous material spills depends on the volume of hazardous material traffic, the accident rate on a section of highway, and the proximity of sensitive resources to

NATURAL RESOURCE IMPACTS

the highway. Unit 1 has the highest traffic volumes in the project area but little in the way of directly vulnerable water resources. The alignment crosses a couple of ditches or irrigation canals, but does not run parallel to them, thus limiting their exposure. However, because of the new alignment through the Medite property, this exposure is new and an increase over existing conditions. Traffic volumes in Unit 2 would increase with the Build Alternative and the risk of an accident occurring would also increase. However, wider travel lanes and paved shoulders would improve safety over existing conditions.

The impact of a spill would depend on the type of material spilled, the quantity reaching the water body, and the discharge and resource use of the receiving water at the time of the spill. Considerable damage could be done to fisheries in Bear, Griffin, and Jackson Creek.

The project would increase the potential for hazardous material spills affecting the major streams in the project area, though only slightly. This is because of the limited exposure of water resources in Unit 1, and the low traffic volume on Unit 2, despite the presence of one very exposed and one slightly exposed stream.

Mitigation

Construction Impacts Mitigation

An erosion and sediment control plan, and a pollution control plan for the containment of hazardous construction materials will be developed as required by the NPDES 1200-CA permit held by ODOT Region 3. Monitoring of the erosion and sediment control facilities will occur at least once every 7 days, and within 24 hours of precipitation exceeding 13 mm (0.5 inches) over a 24-hour period. Poorly installed, damaged, or poorly functioning measures will be immediately repaired or upgraded.

Bare or disturbed ground will be revegetated as soon as work is completed. If seasonal climatic factors make immediate revegetation inappropriate, temporary cover will be provided until conditions improve. Cover will be provided for all disturbed ground where work will be or has been temporarily halted for more than 14 days.

Construction work in Jackson Creek will be limited to the approved in-water work period (June 15 to September 15). The channel realignment and tying the existing channel to the new enhanced channel will require substantial in-water work. This work will require best management practices to limit sediment entering the creek to the least amount possible as well as tight control over contractors performing the work. Work in the flowing water will be minimized to the maximum extent practicable, and equipment will be kept out of the water except for essential tasks. If extensive in-water work is necessary, downstream sediment controls will be used to trap as much stirred up sediment as possible. Techniques that may be considered include cross-channel silt fences or temporary in-channel impoundments. Trapped sediment will be removed before removing any such barrier. If cross-channel silt fences or impoundments are to be in place for an extended period of time, ODOT and ODFW biologists will be consulted to ensure that there are no unacceptable effects. Where excavation or fill is necessary close to the stream, sediment barriers will be in place between the flowing water and the disturbed ground, and will remain in place until adequate ground cover is in place. Where the new channel is constructed away from the existing channel, no flow will be allowed in the new channel until ground cover is

established. Water will be let into the new channel from the downstream end first to avoid erosion from the initial rush of water.

Highway Runoff Mitigation

Roads in Unit 1 will be provided with low-cost runoff treatment facilities. Vegetated swales will be considered if they can function hydraulically. Should vegetated swales not be practical, runoff will still be routed through vegetation for some level of filtration. If vegetative filtration is not possible, sedimentation manholes will be considered. Detention basins or other large, expensive treatment facilities are not justified by the estimated impact.

Runoff discharging into Griffin Creek will be routed through vegetated ditches as a matter of course, but no special treatment will be provided. Because the stream is listed for temperature, riparian vegetation removed because of the project will be replaced at a 1.5:1 ratio, with emphasis given to shrubs and trees that will provide shade as they reach maturity.

Runoff collecting on the side of the road away from Jackson Creek will be routed through vegetated swales. If possible, runoff on the stream side will not be concentrated, but will be allowed to flow over vegetated banks down into the stream channel.

Hazardous Material Spills Mitigation

The primary defense against traffic accident related hazardous material spills is to design highways for safe driving. The expansion of the paved surface, with wide shoulders and expanded travel lanes will improve safety in Unit 2 over existing conditions. Guardrails will be used where appropriate to prevent vehicles from landing in either Griffin or Jackson creeks.

Vegetated swales will be considered to provide an extra margin of safety should a spill occur on the pavement.

Floodplains

The existing channelized section of Jackson Creek in the project area cannot carry a 50 year flood. Currently, flood waters leave the channel and flood surrounding lands. The proposed project includes the relocation of Jackson Creek which will be designed to better accommodate flood events.

Wetlands



The wet areas in Unit 1 are not jurisdictional wetlands because they consist of irrigation canals and filled-in log ponds (at the Medite site). ODOT scientists performed field surveys and found no natural or artificially created wetlands that are jurisdictional under the US Army Corps of Engineers definition. These wet areas have been created to carry or hold water for an agricultural or industrial purpose.

Jurisdictional wetlands associated with Unit 2 of the project area are almost entirely associated with natural drainages—primarily Jackson and Griffin creeks, and a small, unnamed drainage near North Ross Lane. Hydric soils show on Soil Survey maps in north-

south swales throughout the agricultural lands. Although many sites were tested for the presence of hydric soils and appropriate hydrology, suitable conditions were only found associated with the drainages.

Area wetlands provide habitat diversity to support a moderate range of wildlife and vegetation communities; these wetlands help in groundwater recharge and the reduction of flood flow impacts; and they stabilize bank soils which would otherwise be subject to erosion, and provide zones for sedimentation of water-borne silts. The vegetation in wetland areas assists in water quality enhancement by the take-up of nutrients and breakdown of toxicants in the aquatic system.

Unit 1 would involve no direct impacts to jurisdictional wetlands. Direct impacts to jurisdictional wetlands associated with Unit 2 would range from 0.30 hectares (0.75 acres) to 0.51 hectares (1.25 acres).

These impacts will be mitigated with wetland replacement during stream enhancement. The amount of wetlands created will be approved by the U.S. Army Corps of Engineers and Division of State Lands. Created wetlands will be designed to be self-sustaining, requiring a minimum of maintenance intervention. Monitoring and maintenance to remove noxious invasive plant species will be conducted by ODOT. In addition, the compensatory mitigation sites will be signed to specify maintenance activities that are appropriate for zones that require environmental resource sensitivity.

Uplands

Uplands in the project area consist of agricultural and forested habitat. The forested habitat is mostly confined to the Hanley Hill area, where a closed-canopy oak forest with a grassy understory persists. Most of this habitat is actively grazed by llamas. Habitat structure is very good, with a layered canopy and evidence of cavity-nesting species (birds, rodents, and probably bats). The Hanley Hill forested uplands represent an "island" of habitat primarily surrounded by agricultural uplands, with some connectivity to the Jackson and Griffin creek corridors.

Project construction would remove about 1.93 ha (4.77 acres) of forested upland, primarily in the Hanley Hill area. In final design, ODOT will seek to narrow the road corridor in the Hanley Hill area by steepening cut slopes to the extent feasible.

Mitigation

Nesting and habitat boxes will be placed for bird and bat species to replace the loss of cavity habitat in the trees.

Threatened and Endangered Species

Onsite evaluation of the study area indicated that two listed or candidate plant and animal species could potentially occupy habitats found in the project area. These taxa are:

- Northwestern pond turtle, a federal candidate (C2) species
- Steelhead trout, a federally proposed threatened species

Potentially affected habitats are restricted to narrow roadside irrigation ditches, creek crossings, and creek realignments. No vernal pool habitat was encountered in the entire project area.

Scoping activities indicated that there might be a slight potential for the presence of the Agate Desert lomatium and the Southern Oregon buttercup; however, populations of these plants growing in the highly disturbed habitats found in the project area would be unlikely.

The following actions are recommended as mitigation for potential impacts to special status species:

- For pond turtle migration, oversize culverts and provide for a natural substrate bottom.
- For steelhead trout, oversize culverts and provided for a natural substrate bottom to allow all culverts to pass fish.

Indirect or Cumulative Impacts to Water Quality, Wetlands, Threatened and Endangered Species

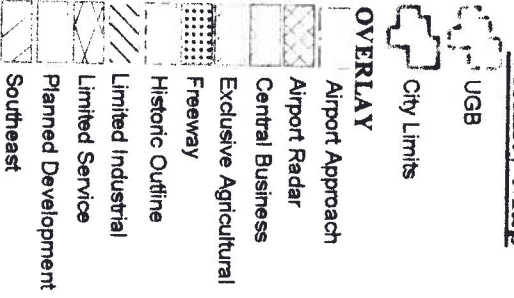
The effects to water quality and wetlands are integral to effects on steelhead, so the cumulative effects will be discussed together.

The North Medford Interchange and the realignment of the Lozier Lane, North Ross Lane, and Main Street intersection are within or adjacent to the project area. The North Medford Interchange is a major project and is presented in an EA that describes the impacts to water quality, wetlands, and threatened and endangered species. The intersection of Lozier Lane, North Ross Lane, and Main Street is a small cooperative project between ODOT and Jackson County and has negligible impact to natural resources.

Although the North Medford Interchange lies close to Unit 1, the cumulative impacts are minor because the effects of each project barely overlap in area or duration. The interchange project affects Bear Creek directly by temporarily reducing riparian vegetation, but it enhances other riparian areas immediately upstream. Unit 1 construction affects the drainage of what used to be Elk Creek, but the area is largely urban and industrialized, with indirect drainage to Bear Creek. The combined effects are minor. Unit 2 would be built at a later date and has a more direct impact on these resources because of the realignment and enhancement work on Jackson Creek, a tributary of Bear Creek. The two projects would cause an increase in sediment loading to Bear Creek, far upstream and below the confluence of the two streams. It is expected that the mitigation for the North Medford Interchange will be in place and reducing impacts from that project before Unit 2 temporarily would increase sediment loading to Bear Creek (indirectly).

The steelhead runs in Bear Creek would not likely be affected by either project individually or cumulatively, because the effects of in-stream work are staggered and the mitigation from one would effectively reduce the effects before the second project's effects occur.

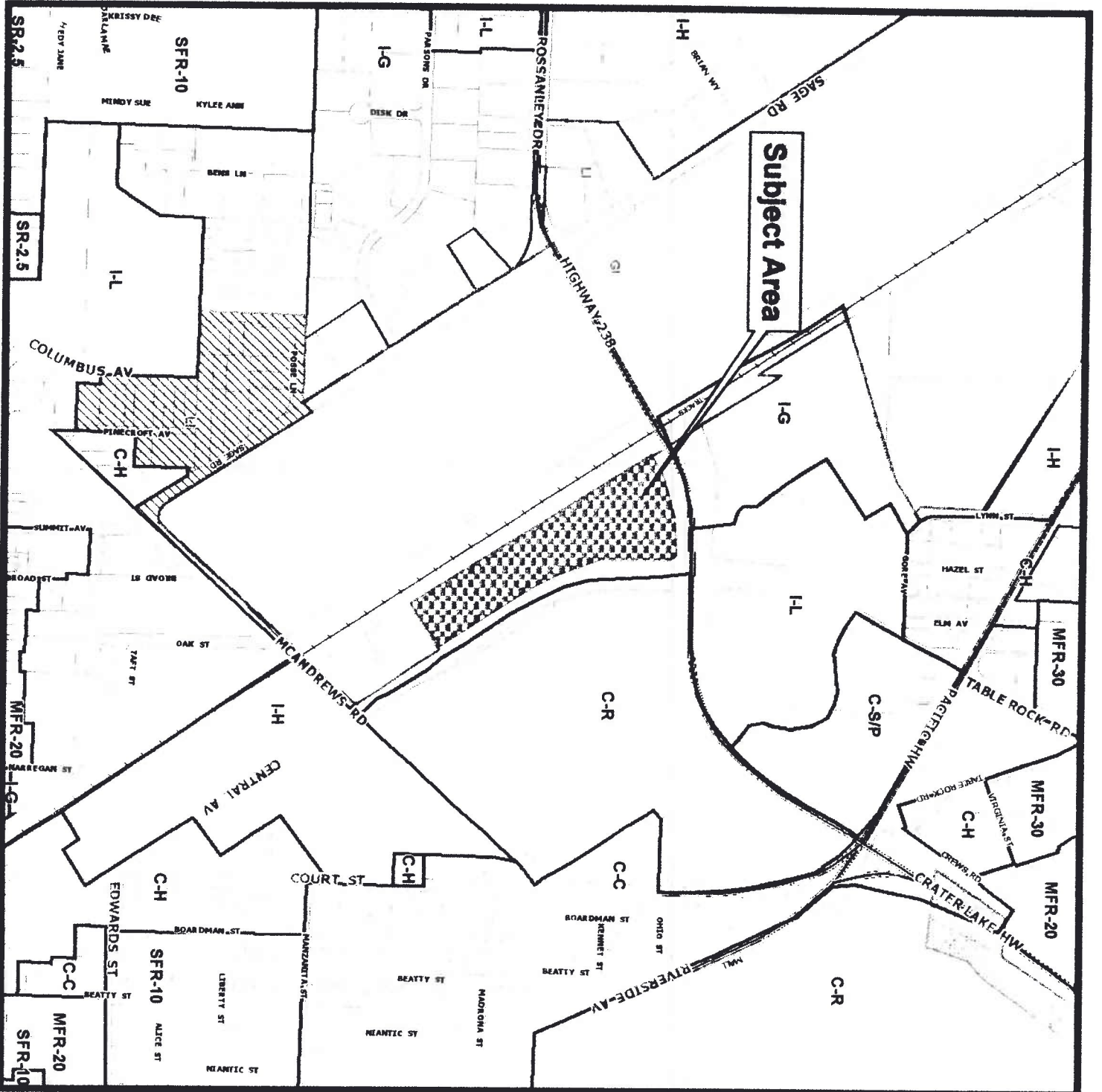
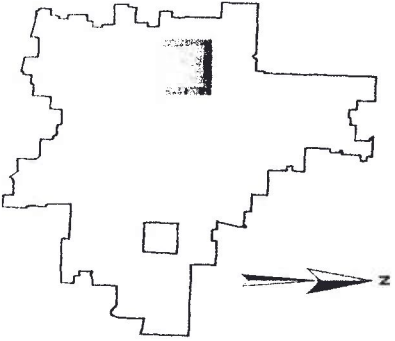
Vicinity Map



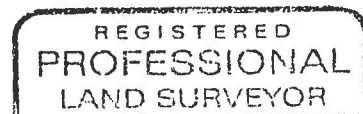
FILE NUMBER:
LDP-08-025 &
ZC-08-026

APPLICANT:
Black Silver, LLC.

MAP: 372W24
TL: 701



Commencing at the Southwest corner of Donation Land Claim No. 60 in Township 37 South, Range 2 West, of the Willamette Meridian in Jackson County, Oregon; thence EAST 1272.47 feet; thence SOUTH 2433.58 feet to the most-Southerly corner of that tract of land described in Instrument No. 99-21525, Official Records, Jackson County, Oregon, being situated on the Easterly right-of-way line of the Central Oregon and Pacific Railroad, for the **POINT OF BEGINNING**; thence along said railroad right-of-way, North 35°08'29" West 1425.27 feet to the Southerly right-of-way of that tract of land acquired by the State of Oregon, by and through its Department of Transportation, by Circuit Court Final Judgment, Case No. 994180E2; thence continue along said railroad right-of-way line, North 35°08'29" West 124.74 feet to a point on the centerline of Highway 238 as shown on survey filed in the Office of the Jackson County Surveyor as filed Survey No. 17737; thence along said centerline in a Easterly direction 680.00 feet, more or less to the point of intersection with the centerline of North Central Avenue; thence along said centerline of North Central Avenue, South 01°38'16" East 361.86 feet; thence along the arc of a 721.78 foot radius curve to the left (the long chord to which bears South 18°24'03" East 416.35 feet) an arc distance of 422.35 feet; thence South 35°09'50" East 572.33 feet to a point which bears North 54°50'10" East 52.66 feet from the point of intersection of the Westerly right-of-way line of North Central Avenue, with the Northerly boundary of that tract of land described in Instrument No. 93-38893, said Official Records; thence South 54°50'10" West 52.66 feet to said point; thence along said Northerly boundary, South 54°49'31" West 248.45 feet to the POINT OF BEGINNING. Containing 13.17 Acres, more or less.



Douglas C. McMahan
L.S. 1913 – Oregon
Renews 12/31/08
Hoffbuhr & Associates, Inc.

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Planning Dept.

BLACKSILVER LLC, AREA FOR ZONE CHANGE
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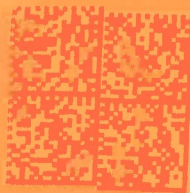


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ATTN: Plan Amendment Specialist
Dept. of Land Conser. & Develop.
635 Capitol St. NE, Ste. 150
Salem, Or 97301-2540