Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2524
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Web Address: http://www.oregon.gov/LCD

NOTICE OF ADOPTED AMENDMENT

December 8, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Lane County Plan Amendment
DLCD File Number 007-05

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 22, 2006

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

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

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

Cc: Doug White, DLCD Community Services Specialist
Bill Sage, Lane County

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FORM 2

D L C D NOTICE OF ADOPTION

DEPT OF

DEC 05 2006

LAND CONSERVATION AND DEVELOPMENT

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

(See reverse side for submittal requirements)

Jurisdiction: LANE COUNTY Local File No.: ORDINANCE NO. PA1226 (If no number, use none)

Date of Adoption: NOVEMBER 29, 2006 (Must be filled in) Date Mailed: DECEMBER 1, 2006 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: July 15, 2004

___ Comprehensive Plan Text Amendment

_X_ Comprehensive Plan Map Amendment

___ Land Use Regulation Amendment

_X_ Zoning Map Amendment

___ New Land Use Regulation

___ Other: _____ (Please Specify Type of Action)

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

CONFORMITY DETERMINATION AMENDMENTS FOR 31 SUBJECT PROPERTIES WITHIN EAST FORK WILLAMETTE WATERSHED AND OTHER RURAL LANDS; EXCEPTIONS TO GOAL 3 & 4 WHERE NECESSARY.

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

TWO CONTROL NUMBERS WITHDRAWN (#1 AND #19) SUPPLEMENTAL FINDINGS ADDED: "C-17-1" AND "D" EXHIBITS.

Plan Map Changed from : MULTIPLE to _____

Zone Map Changed from: MULTIPLE to _____

Location: 31 PROPERTIES. Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: GOALS 2, 3, 4

Was an Exception Adopted? Yes: X No: ____ FOR 3 CONTROL NUMBERS

DLCD File No.: 007-05 (14674)

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

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

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

Affected State or Federal Agencies, Local Governments or Special Districts: DLCD

Local Contact: BILL SAGE Area Code + Phone Number: 541 682-3772

Address: LANE COUNTY LAND MANAGEMENT DIVISION 125 E. 8TH AVE.

City: EUGENE Zip Code+4: 97401

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

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

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

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

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

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

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

December 1, 2006

DEPT OF
DEC 05 2006
LAND CONSERVATION
AND DEVELOPMENT

LANE COUNTY OREGON
LAND MANAGEMENT DIVISION
http://www.LaneCounty.org/PW_LMD/

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

Subject: Ordinance No. PA 1226 -- In the matter of adopting amendments to the Rural Comprehensive Plan for properties in the Coast Fork Willamette Watershed and other portions of rural Lane County; adopting exceptions to Statewide Planning Goals Three and Four where necessary; adopting changes in zoning designations to comply with such plan amendments where necessary; and adopting a savings and severability clause (Control No. 2-18, 20-21).

Ordinance No. PA 1226 was adopted by the Lane County Board of Commissioners on November 29, 2006.

Two copies of the adopted ordinance, plan and zoning diagrams (Exhibits "A" and "B"), and findings of fact (Exhibits "C" and "D") are attached for the Control Numbers 2-18 and 20-21.

The following parties requested notice of the Board's decision and were mailed formal notice on December 1, 2006:

Goal One Coalition
Jim Just
39625 Almen Drive
Lebanon, OR 97355

Goal One Coalition
Lauri Segel
642 Charnelton,
Suite 100
Eugene OR 97401

Land Watch Lane County
Robert Emmons
40093 Little Fall Creek Road
Fall Creek, OR 97438

Don & Charmalee Prechtel
83647 N. Pacific Highway
Creswell, OR 97426

Sincerely,

Bill Sage,
Associate Planner
Lane County Land Management Division
125 E. 8th Ave.
Eugene, OR 97401-2926
541-682-3772

Enclosures

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1226	)	**IN THE MATTER OF ADOPTING AMENDMENTS TO**
	)	**THE RURAL COMPREHENSIVE PLAN FOR PROPERTIES**
	)	**IN THE COAST FORK WILLAMETTE WATERSHED AND**
	)	**OTHER PORTIONS OF RURAL LANE COUNTY;**
	)	**ADOPTING EXCEPTIONS TO STATEWIDE PLANNING**
	)	**GOALS THREE AND FOUR WHERE NECESSARY;**
	)	**ADOPTING CHANGES IN ZONING DESIGNATIONS TO**
	)	**COMPLY WITH SUCH PLAN AMENDMENTS WHERE**
	)	**NECESSARY; AND ADOPTING A SAVINGS AND**
	)	**SEVERABILITY CLAUSE (CONTROL NO. 2-18, 20-21)**

WHEREAS, The Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in May 2004, 29 actions were initiated for minor amendments to redesignate properties or portions of properties within developed and committed exception areas or unincorporated rural communities of the Coast Fork Willamette Watershed and other portions of rural Lane County, and concurrently rezone the properties or portions thereof; three actions were initiated for amendments to redesignate properties or portions of properties within resource zones of the Coast Fork Willamette Watershed and other portions of rural Lane County and adopt exceptions to Statewide Planning Goals Three and Four, and concurrently rezone the properties or portions to nonresource zones thereof to comply with such amendments; and three actions were unzoned and initiated for amendments to designate properties as resource land in the Coast Fork Willamette Watershed and concurrently zone the properties to resource designations; and

WHEREAS, the Lane County Planning Commission reviewed the proposals in a public hearing on November 1, 2005, and in deliberations on January 10, 2006, forwarded recommendations on the proposed amendments, exceptions, and rezoning to the Board of County Commissioners; and

WHEREAS, evidence exists within the record indicating that the proposals meet the requirements of Lane Code Chapter 16, and requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners conducted a public hearing on November 29, 2006, reviewed the record and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County ordains as follows:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation and rezoning of the following properties or portions thereof, as identified in Control Numbers 2-18, 20-21.

(PR Control No. 2 - London Grange).

a. Redesignation of tax lot 2401 of map 22-03-30.1, from "Rural" to "Public Facility" on Plan Plot 360-1and further identified as Exhibit "A-2", attached and incorporated herein; and
b. Rezone tax lot 2401 of map 22-03-30.1, from "RR5/Rural Residential " (Lane Code 16.291) to "RPF/Rural Public Facility" (Lane Code 16.294) such territory depicted on Zoning Plots 360-1, and further identified as Exhibit "B-2" attached and incorporated herein; and,
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-2" (pages 1-9) attached, are adopted in support of this action.

(PR Control No. 3 - Skinner).

a. Redesignation of a designated 0.28 of-an-acre of tax lot 800 of map 16-04-20, from "Rural" to "Industrial", such territory depicted on Plan Plot 282 and further identified as Exhibit "A-3" attached and incorporated herein; and
b. Rezone a designated 0.28 of-an-acre of tax lot 800 of map 16-04-20, from "RR5/Rural Residential" (Lane Code 16.290) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 282 and further identified as Exhibit "B-3" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-3" (pages 1-13) attached, are adopted in support of this action.

(PR Control No. 4 - Maddux).

a. Redesignation of tax lot 402 of map 20-03-21, from "Rural" to "Commercial", such territory depicted on Plan Plot 388 and further identified as Exhibit "A-4" attached and incorporated herein; and
b. Rezone tax lot 402 of map 20-03-21, from "RR5/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 388 and further identified as Exhibit "B-4" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-4" (pages 1-10) attached, are adopted in support of this action.

(PR Control No. 5 – Wagon Wheel/Simons).

a. Redesignation of tax lot 1500 of map 20-03-03, from "Rural" to "Commercial", such territory depicted on Plan Plot 402 and further identified as Exhibit "A-5" attached and incorporated herein; and
b. Rezone tax lot 1500 of map 20-03-03, from "RR2/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 402 and further identified as Exhibit "B-5" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-5" (pages 1-11) attached, are adopted in support of this action.

(PR Control No. 6 – RC Saginaw).

a. Redesignation of tax lot 902 of map 20-03-15, from "Rural" to "Public Facility", such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and

b. Redesignation of a designated 0.12-acre of tax lot 700 of map 20-03-15, from "Rural" to "Commercial", such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
c. Remove the "Historical" designation "/H" on a portion of tax lot 700 of map 20-03-15, such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
d. Add the "Historical" designation "/H" to tax lot 900 of map 20-03-15.2.3, such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
e. Rezone tax lot 902 of map 20-03-15, from "RR5/C/Rural Residential" (Lane Code 16.290) to "RPF/C/Rural Public Facility" (Lane Code 16.294), such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
f. Rezone a designated 0.12-acre of tax lot 700 of map 20-03-15, from "RR5/C/Rural Residential" (Lane Code 16.290) to "RC/C/Rural Commercial", such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
g. Remove the "Historical" designation "/H" on a portion of tax lot 700 of map 20-03-15, such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
h. Add the "Historical" designation "/H" to tax lot 900 of map 20-03-15.2.3, such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
i. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-6" (pages 1-22) attached, are adopted in support of this action.

(PR Control No. 7 – EPUD).

a. Redesignation of tax lot 102 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
b. Redesignation of tax lot 3800 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
c. Redesignation of tax lot 3801 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
d. Redesignation of tax lot 3803 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
e. Rezone tax lot 102 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF /Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
f. Rezone tax lot 3800 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF /Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
g. Rezone tax lot 3801 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF /Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
h. Rezone tax lot 3803 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF /Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
i. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-7" (pages 1-14) attached, are adopted in support of this action.

(PR Control No. 8 – Doyle).

a. Redesignation of a designated 0.09 of-an-acre of tax lot 1300 of map 18-03-14, from "Commercial" to "Industrial" and retaining 0.45 of-an-acre as "Commercial", such territory depicted on Plan Plot 413 and further identified as Exhibit "A-8" attached and incorporated herein; and
b. Redesignation of a designated 0.54 of-an-acre of tax lot 1400 of map 18-03-14, from "Commercial" to "Industrial" and retaining 0.04 of-an-acre as "Commercial", such territory
c. depicted on Plan Plot 413 and further identified as Exhibit "A-8" attached and incorporated herein; and
d. Rezone a designated 0.09 of-an-acre of tax lot 1300 of map 18-03-14, from "RC/Rural Commercial" (Lane Code 16.291) to "RI/Rural Industrial" (Lane Code 16.292) and retaining 0.45 of-an-acre as "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 413 and further identified as Exhibit "B-8", attached and incorporated herein; and
e. Rezone a designated 0.54 of-an-acre of tax lot 1400 of map 18-3-14, from "RC/Rural Commercial" (Lane Code 16.291) to "RI/Rural Industrial" (Lane Code 16.292) and retaining 0.04 of-an-acre as "RC/Rural Commercial", such territory depicted on Zoning Plot 413 and further identified as Exhibit "B-8", attached and incorporated herein; and
f. Adopt an exception to the "3,500-square foot, commercial use floor area requirement" of Lane Code 16.291(4)(a) pursuant to Lane Code 16.291(4)(a)(i)-(iv) criteria, to allow use of 11,407 square feet of floor area for a single commercial use on the "RC/Rural Commercial" designated lands of the consolidated tax lots 1300 and 1400 of map 18-03-14; and
g. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-8" (pages 1-18) attached, are adopted in support of this action.

(PR Control No. 9 – Brooks).

a. Redesignation of tax lot 2401 of map 18-03-23.1, from "Industrial" to "Commercial", such territory depicted on Plan Plot 413 and further identified as Exhibit "A-9" attached and incorporated herein; and
b. Rezone tax lot 2401 of map 18-03-23.1, from "RI-C/Rural Industrial" (Lane Code 16.292) to "RC-C/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 413 and further identified as Exhibit "B-9" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-9" (pages 1-14) attached, are adopted in support of this action

(PR Control No. 10 – Jackson-Crawford).

a. Redesignation of tax lot 1400 of map 19-03-11, from "Rural" to "Commercial", such territory depicted on Plan Plot 415 and further identified as Exhibit "A-10" attached and incorporated herein; and
b. Rezone of tax lot 1400 of map 19-03-11, from "RR5/Rural Residential (Lane Code 16.291)" to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 415 and further identified as Exhibit "B-10" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-10" (pages 1-11) attached, are adopted in support of this action.

(PR Control No. 11 – Nash Enterprises).

a. Redesignation of tax lot 1301 of map 19-03-35, from "Forest" to "Industrial", such territory depicted on Plan Plot 417-3 and further identified as Exhibit "A-11" attached and incorporated herein; and
b. Redesignation of a designated 3.03 acres of tax lot 1202 of map 19-03-35, from "Forest" to "Industrial", such territory depicted on Plan Plot 417-3 and further identified as Exhibit "A-11" attached and incorporated herein; and
c. Rezone tax lot 1301 of map 19-03-35, from "F2/Impacted Forest Land" (Lane Code 16.211) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 417-3 and further identified as Exhibit "B-11" attached and incorporated herein; and
d. Rezone a designated 3.03 acres of tax lot 1202 of map 19-03-35, from "F2/Impacted Forest Land" to "RI/Rural Industrial", such territory depicted on Plan Plot 417-3 and further identified as Exhibit "B-11" attached and incorporated herein; and
e. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 1301 and a designated 3.03 acres of tax lot 1202 of map 19-03-35 as Exception Area 417-3, based on findings of fact and conclusions of law supporting the exceptions and amendments as set forth in Exhibit "C-11" (pages 1-20), attached and adopted in support of this action.

(PR Control No. 12 – Wilson Revocable Trust).

a. Redesignation of a designated 0.138 of an acre of tax lot 9300 of map 21-03-35, from "Rural" to "Industrial", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "A-12-1" attached and incorporated herein; and
b. Redesignation of tax lot 501 of map 21-03-02.2.1, from "Rural" to "Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "A-12-2" attached and incorporated herein; and
c. Redesignation of a designated 0.065 of an acre of tax lot 200 of map 21-03-02.2.1, from "Rural" to "Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "A-12-2" attached and incorporated herein; and
d. Rezone of a designated 0.138 of an acre of tax lot 9300 of map 21-03-35, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "B-12-1" attached and incorporated herein; and
e. Rezone of tax lot 501 of map 21-03-02.2.1, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "B-12-2" attached and incorporated herein; and
f. Rezone of a designated 0.065 of an acre of tax lot 200 of map 21-03-02.2.1, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "B-12-2" attached and incorporated herein; and
g. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-12" (pages 1-15) attached, are adopted in support of this action.

(PR Control No. 13 – City of Creswell).

a. Redesignation of tax lot 2901 of map 19-03-13, from "Agricultural" to "Public Facility", such territory depicted on Plan Plot 429-2 and further identified as Exhibit "A-13" attached and incorporated herein; and
b. Rezone tax lot 2901 of map 19-03-13 from "E30/Exclusive Farm Use" (Lane Code 16.212) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 429-2 and further identified as Exhibit "B-13" attached and incorporated herein; and

c. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 2901 of map 19-03-13 as Exception Area 429-2, based on findings of fact and conclusions of law supporting the exceptions and amendments as set forth in Exhibit "C-13" (pages 1-17), attached and adopted in support of this action.

(PR Control No. 14 – Lane Electric Cooperative).

a. Redesignation of tax lot 107 of map 21-02-19, from "Rural" to "Public Facility", such territory depicted on Plan Plot 443-1 and further identified as Exhibit "A-14" attached and incorporated herein; and
b. Rezone tax lot 107 of map 21-02-19, from "RR5/Rural Residential" (Lane Code 16.290) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 443-1 and further identified as Exhibit "B-14" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-14" (pages 1-9) attached, are adopted in support of this action.

(PR Control No. 15 – Blue Mountain School).

a. Redesignation of tax lot 900 of map 21-02-19, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 443-2 and further identified as Exhibits "A-15" attached and incorporated herein; and
b. Rezone tax lot 900 of map 21-02-19, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 443-2 and further identified as Exhibits "B-15", attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-15" (pages 1-10) attached, are adopted in support of this action.

(PR Control No. 16 – Culp Creek / Lane Electric Cooperative/ Qwest)

a. Redesignation of tax lot 4200 of map 21-01-30, from "Rural" to "Public Facility", such territory depicted on Plan Plot 509-2 and further identified as Exhibits "A-16", attached and incorporated herein; and
b. Redesignation of tax lot 1800 of map 21-01-31.1.2, from "Rural" to "Commercial", such territory depicted on Plan Plot 509-2 and further identified as Exhibits "A-16", attached and incorporated herein; and
c. Rezone tax lot 4200 of map 21-01-30, from "RR2-C/Rural Residential" (Lane Code 16.290) to "RPF-C/Rural Commercial" (Lane Code 16.294), such territory depicted on Zoning Plot 509-2 and further identified as Exhibits "B-16" attached and incorporated herein; and
d. Rezone tax lot 1800 of map 21-01-31.1.2, from "RR2/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 509-2 and further identified as Exhibits "B-16" attached and incorporated herein; and
e. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-16" (pages 1-15) attached, are adopted in support of this action.

(PR Control No. 17 -- Chrestman).

a. Redesignation of tax lot 8400 of map 20-03-35, from "Industrial" to "Rural", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "A-17" attached and incorporated herein; and
b. Rezone tax lot 8400 of map 20-03-35, from "RI/Rural Industrial" (Lane Code 16.292) to "RR5/Rural Residential" (Lane Code 16.290), such territory depicted on Zoning Plot 420-3 and further identified as Exhibit "B-17" attached and incorporated herein; and

c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-17" (pages 1-9) and "C-17-1" (pages 1-8) attached, are adopted in support of this action.

(PR Control No. 18 – Sandland).

a. Designation of tax lot 800 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
b. Designation of tax lot 900 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
c. Designation of tax lot 1000 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
d. Zone tax lot 800 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and
e. Zone tax lot 900 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and
f. Zone tax lot 1000 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and
g. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-18" (pages 1-4) attached, are adopted in support of this action.

(PR Control No. 20 – Bessett)

a. Redesignation of tax lot 1300 of map 18-02-19, from "Rural" to "Industrial", such territory depicted on Plan Plot 437 and further identified as Exhibit "A-20" attached and incorporated herein; and
b. Rezone tax lot 1300 of map 18-02-19, from "RR5/Rural Residential" (Lane Code 16.290) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 437 and further identified as Exhibit "B-20" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-20" (pages 1-9) attached, are adopted in support of this action

(PR Control No. 21 -- Nordahl).

a. Redesignation of tax lot 2200 of map 18-12-25, from "Industrial" to "Commercial", such territory depicted on Plan Plot 030 and further identified as Exhibit "A-21" attached and incorporated herein; and
b. Rezone tax lot 2200 of map 18-12-25, from "RI/Rural Industrial" (Lane Code 16.292) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 030 and further identified as Exhibit "B-21" attached and incorporated herein; and
c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-21" (pages 1-13) attached, are adopted in support of this action.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts the Supplemental Findings of Fact in support of this action as set forth in the attached Exhibit "D".

The prior designations and zones repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

ENACTED this 29th day of November, 2006.

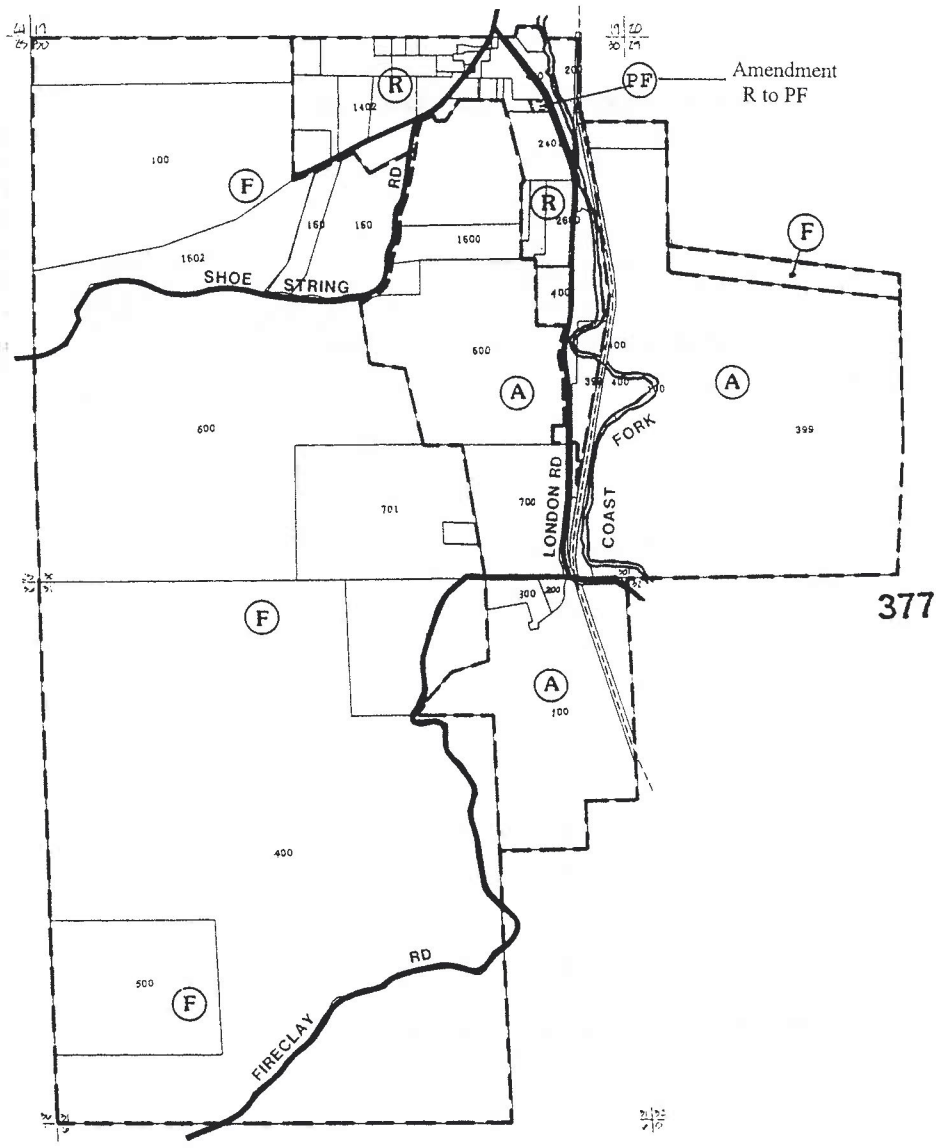
Chair, Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

Approved As To Form
Date 11-29-2006 Lane County
OFFICE OF LEGAL COUNSEL

359

Exhibit A-2



ane county

OFFICAL PLAN MAP

PLOT# 360

Twnshp Range Section
22 03 30 / 22 03 31

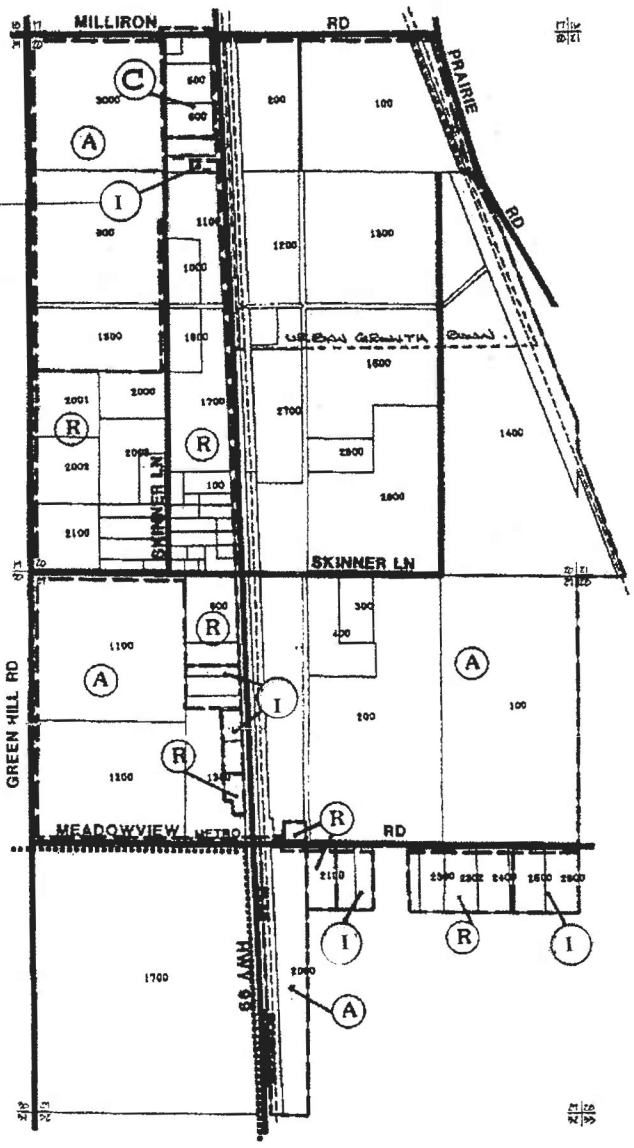
ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # _____

REVISION # _____ ORD. # _____ DATE _____ FILE # _____

Exhibit A-3

281

Amendment
R to I
(portion only)



267

295

283

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

ane county

OFFICIAL PLAN MAP

PLOT# 282

Twnshp Range Section
16 04 20 / 16 04 29 ( )

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

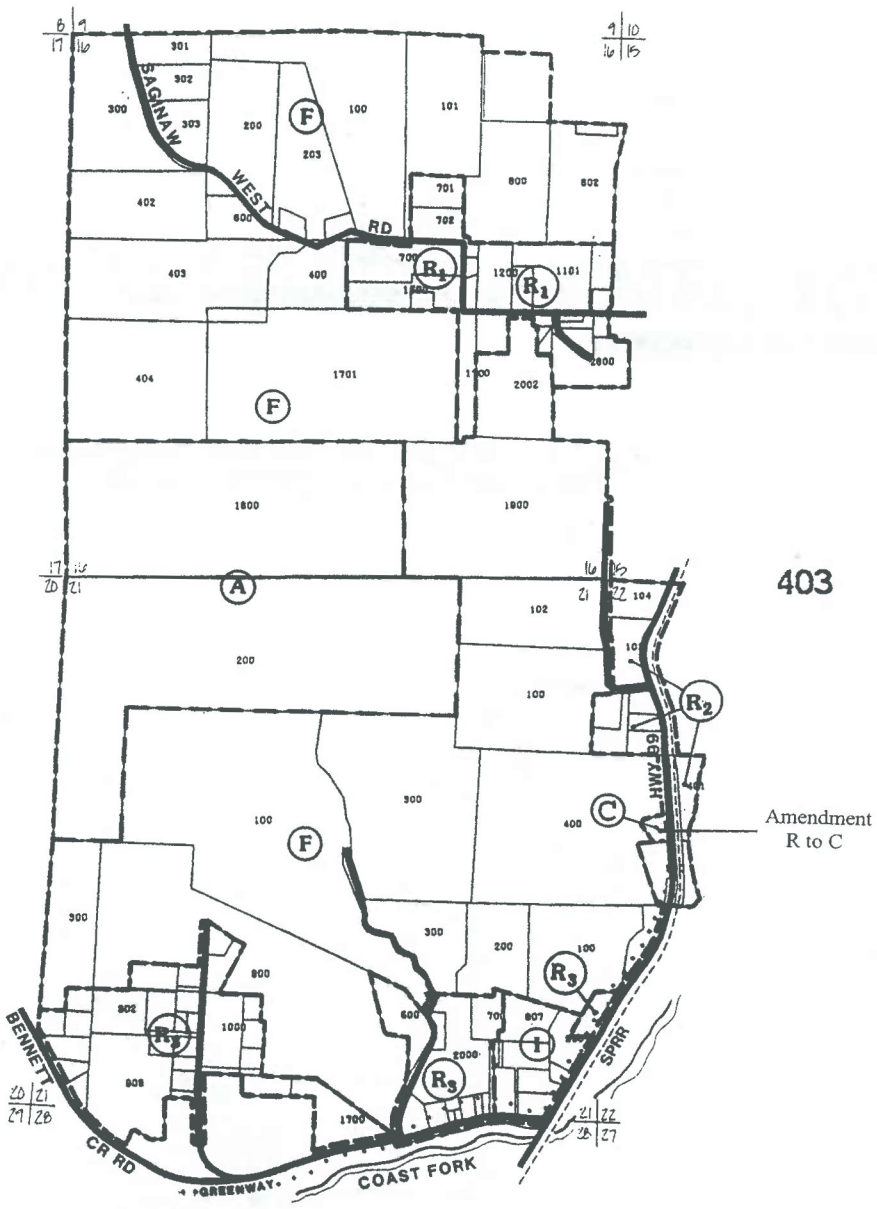
REVISION # ORD. # DATE FILE #

Exhibit A-4

387

370

403



389

0 1000 2000 3000 4000
SCALE IN FEET NORTH

lane county

OFFICAL PLAN MAP

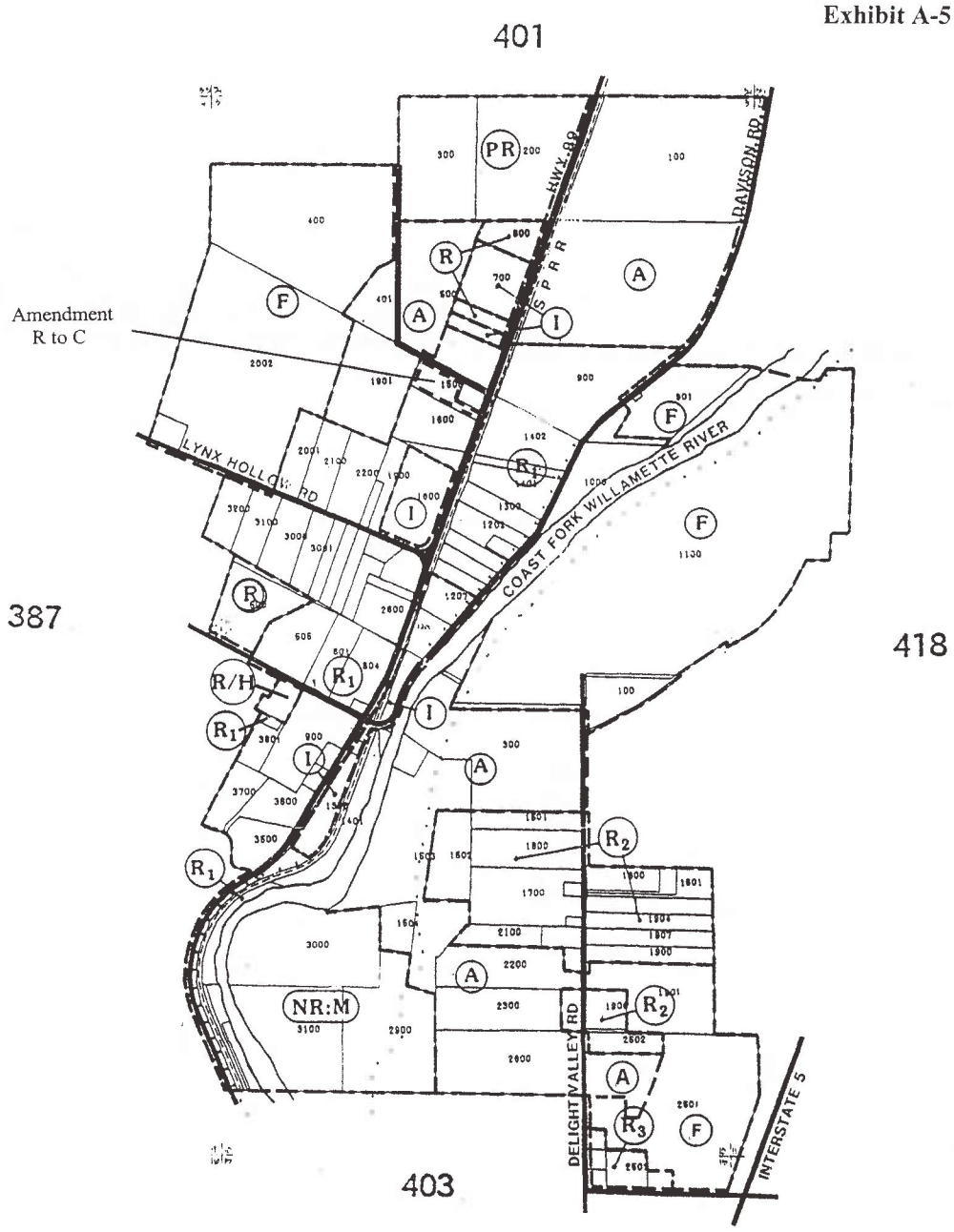
PLOT#388

Twnshp Range Section
20 03 16 / 20 03 21

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 917 DATE 3/14/86 FILE #

Exhibit A-5



lane county

OFFICIAL PLAN MAP

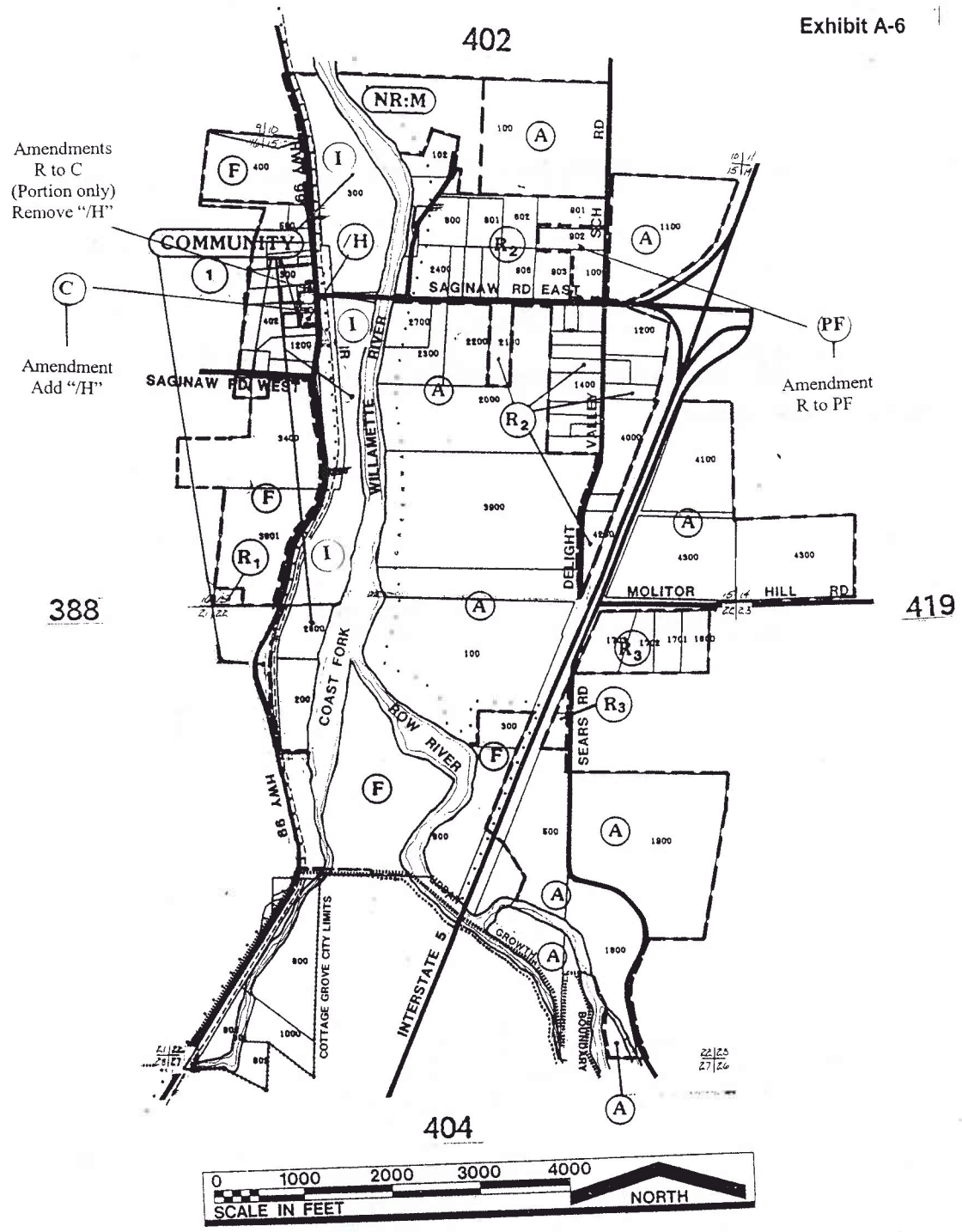
PLOT# 402

Twnshp Range Section
20 03 03 / 20 03 10

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 969 DATE 8 / 11 / 89 FILE #

Exhibit A-6



lane county

OFFICIAL PLAN MAP

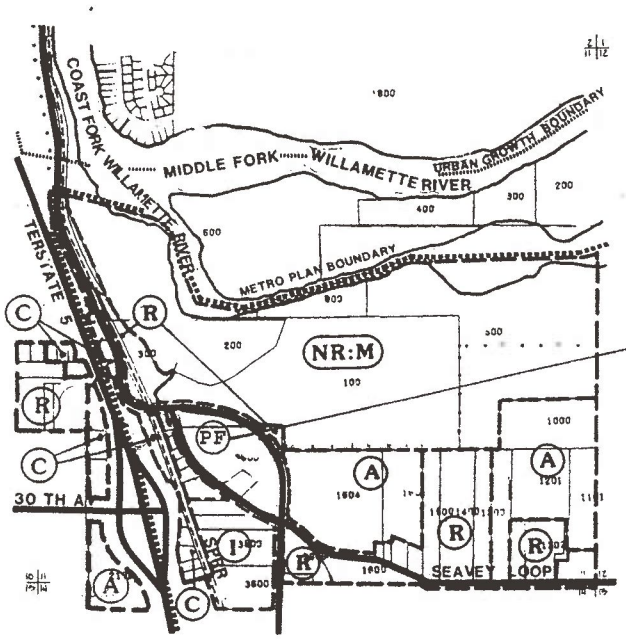
Twnshp Range Section 20 03 22

PLOT# 403

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit A-7



Amendment
I to PF

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

lane county

OFFICAL PLAN MAP

PLOT#412

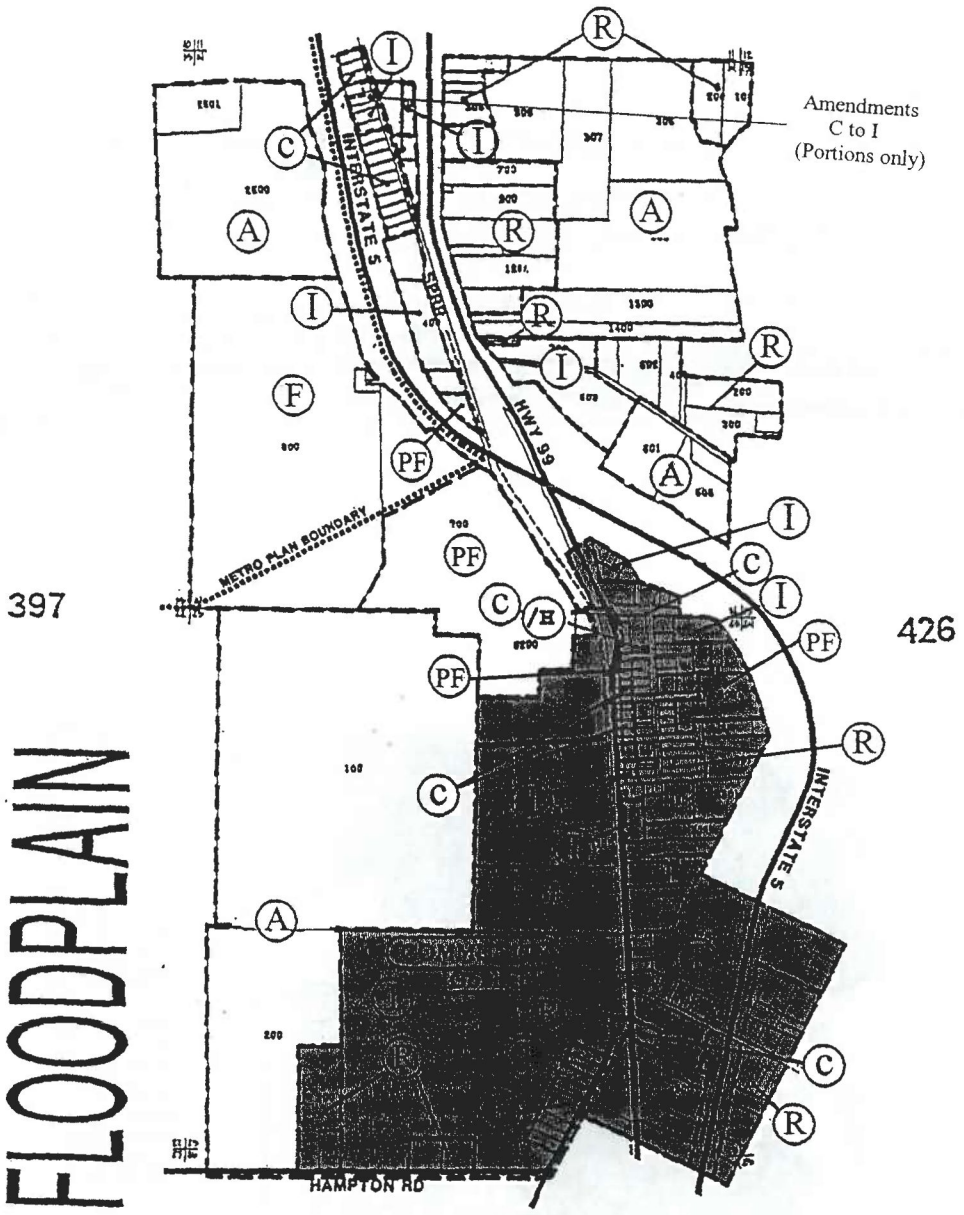
Twnshp Range Section
18 03 11

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit A-8

412



397

426

414

0 1000 2000 3000 4000
SCALE IN FEET NORTH

PLOT# 413

OFFICIAL PLAN MAP

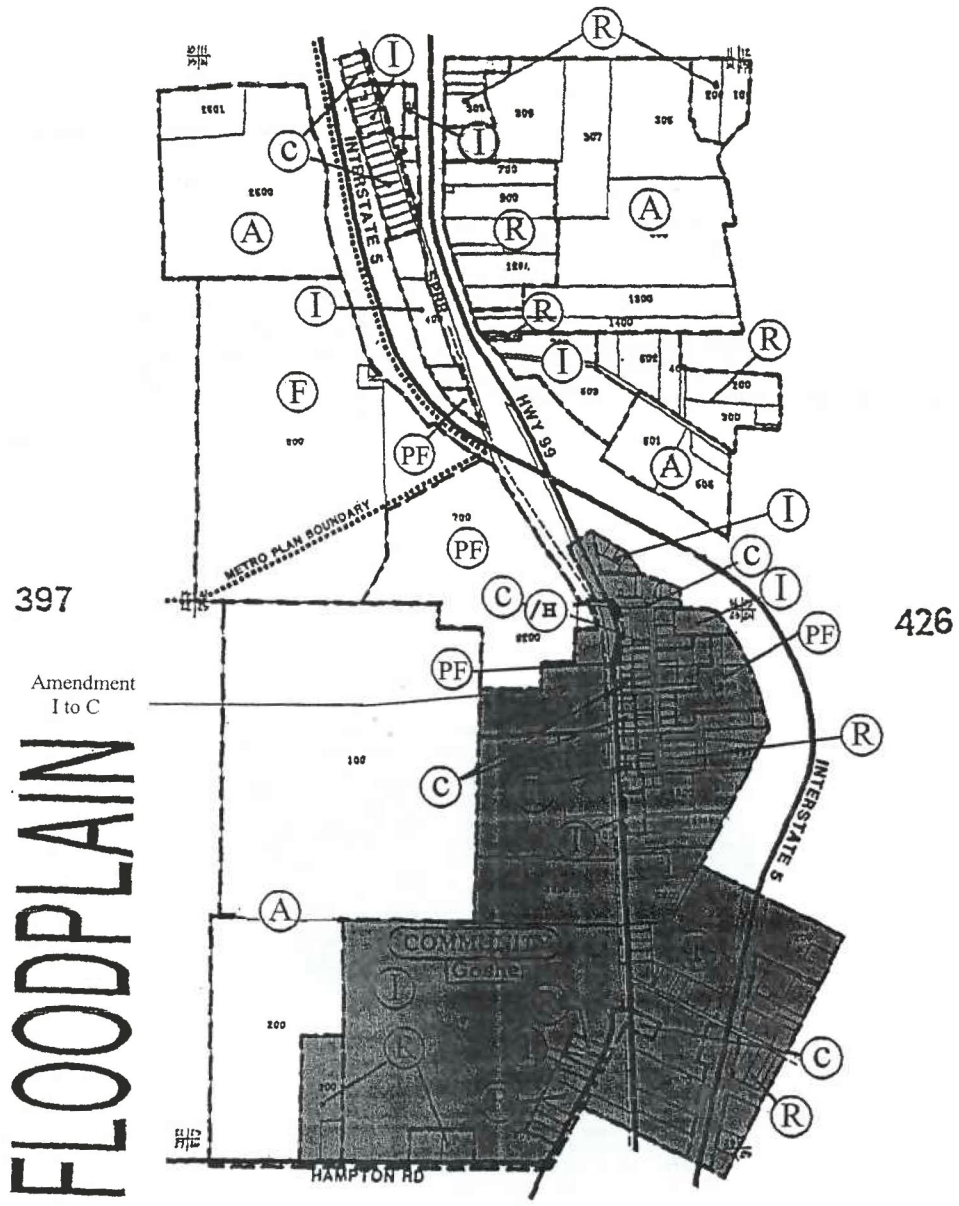
Twnshp Range Section
18 03 14 / 18 03 23

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 4 ORD. # PA0198-92 DATE 2/21/92 FILE # PA0198-92

Exhibit A-9

412



414

Lane County

SCALE IN FEET 0 1000 2000 3000 4000 NORTH

OFFICIAL PLAN MAP

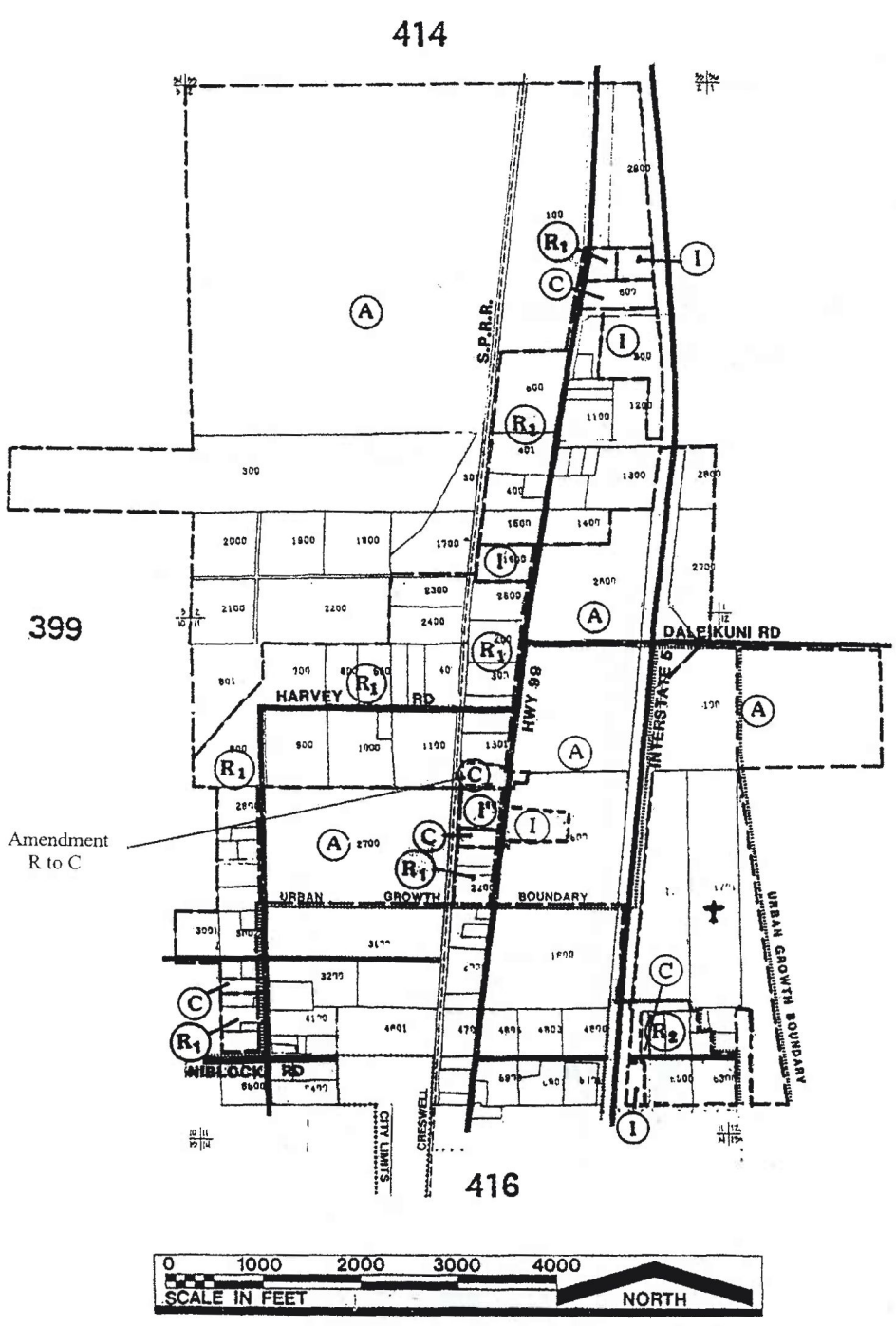
PLOT# 413

Twnshp Range Section
18 03 14 / 18 03 23

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 4 ORD. # PA0198-92 DATE 2/21/92 FILE # PA0198-92

Exhibit A-10



lane county

OFFICIAL PLAN MAP

PLOT# 415

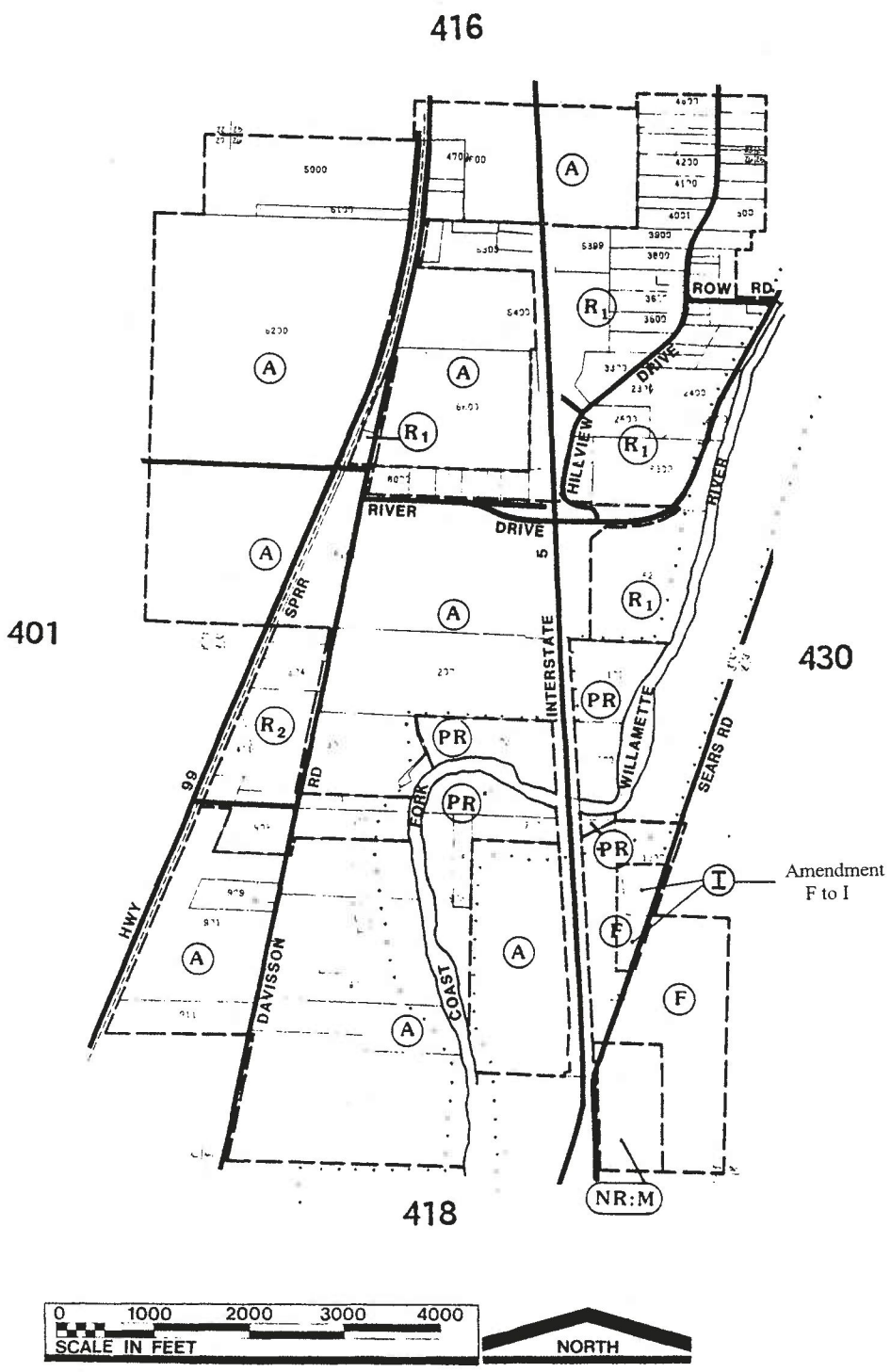
Twnshp Range Section

19 03 02 / 19 03 11

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # _____

REVISION # 2 ORD. # PA1046 DATE 10 / 27 / 94 FILE # PA0829

Exhibit A-11



lane county

OFFICAL PLAN MAP **PLOT# 417**

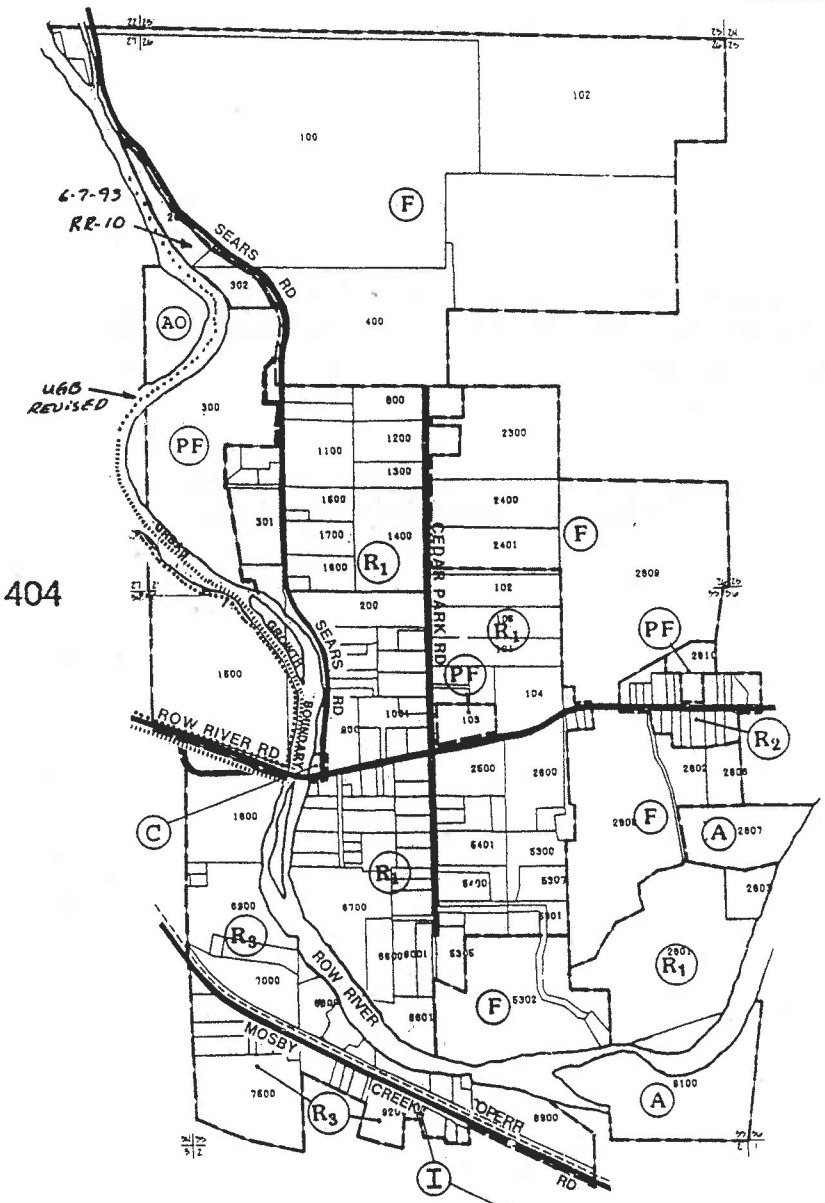
Twnshp Range Section
19 03 26 / 19 03 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

419

Exhibit A-12-1



404

433

421

Amendment
R to I
(portion only)

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

ane county

OFFICIAL PLAN MAP

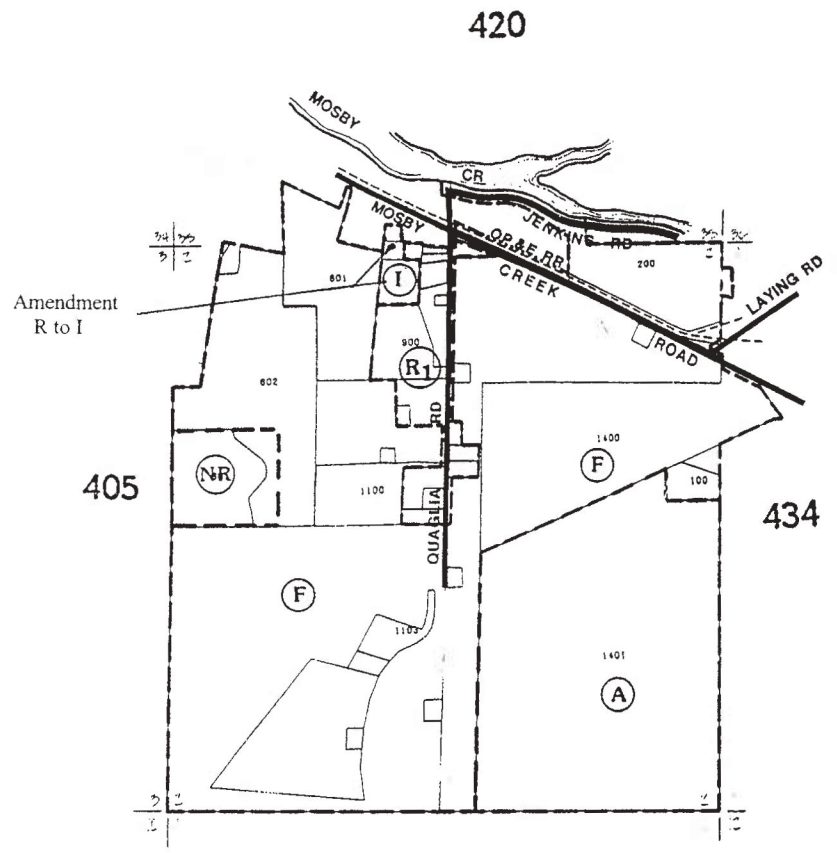
PLOT# 420

Twnshp	Range	Section		
20	03	26	20 03 35	

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 2 ORD. # PA 911 DATE 3/14/86 FILE #

Exhibit A-12-2



ane county

OFFICAL PLAN MAP

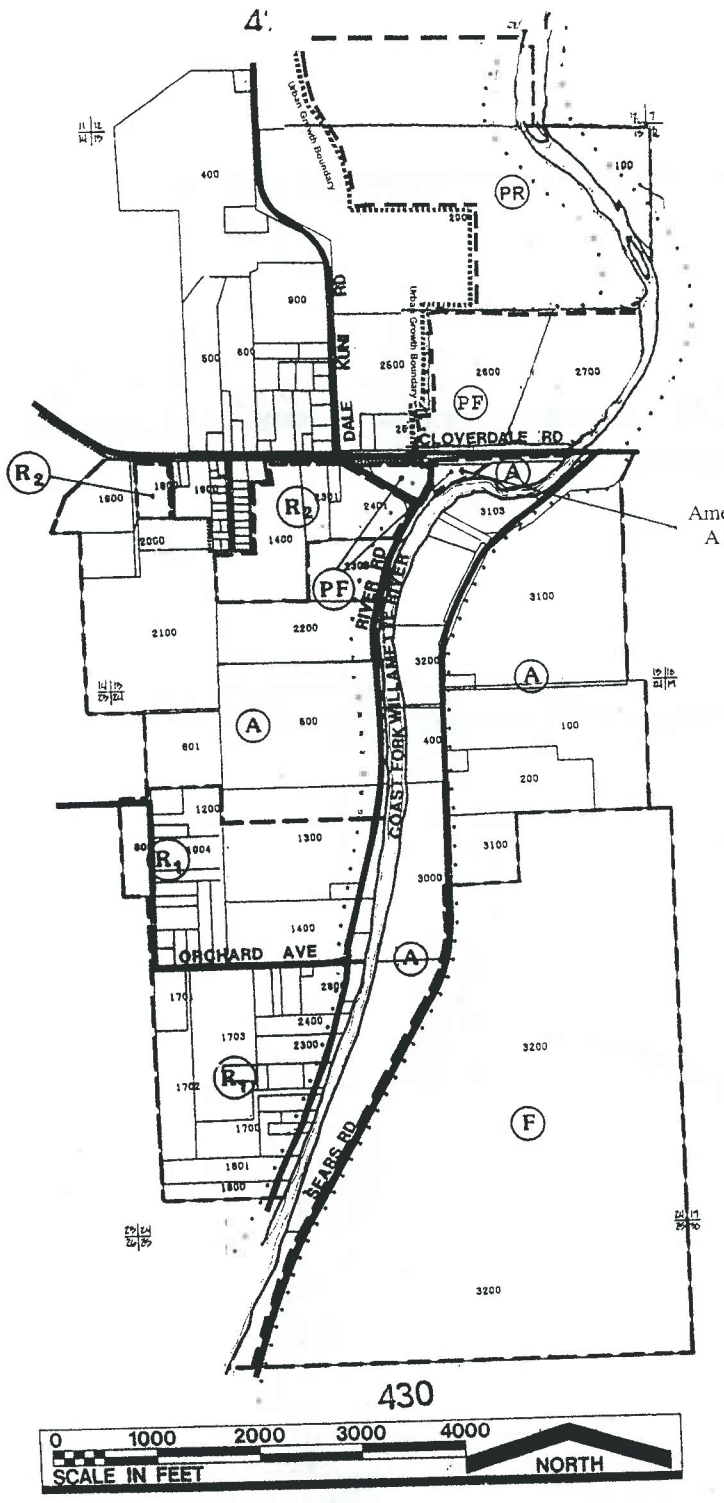
PLOT# 421

Twnshp Range Section
21 03 02

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA951 DATE 6 / 5 / 92 FILE # PA3399-87

Exhibit A-13



ne county

OFFICIAL PLAN MAP

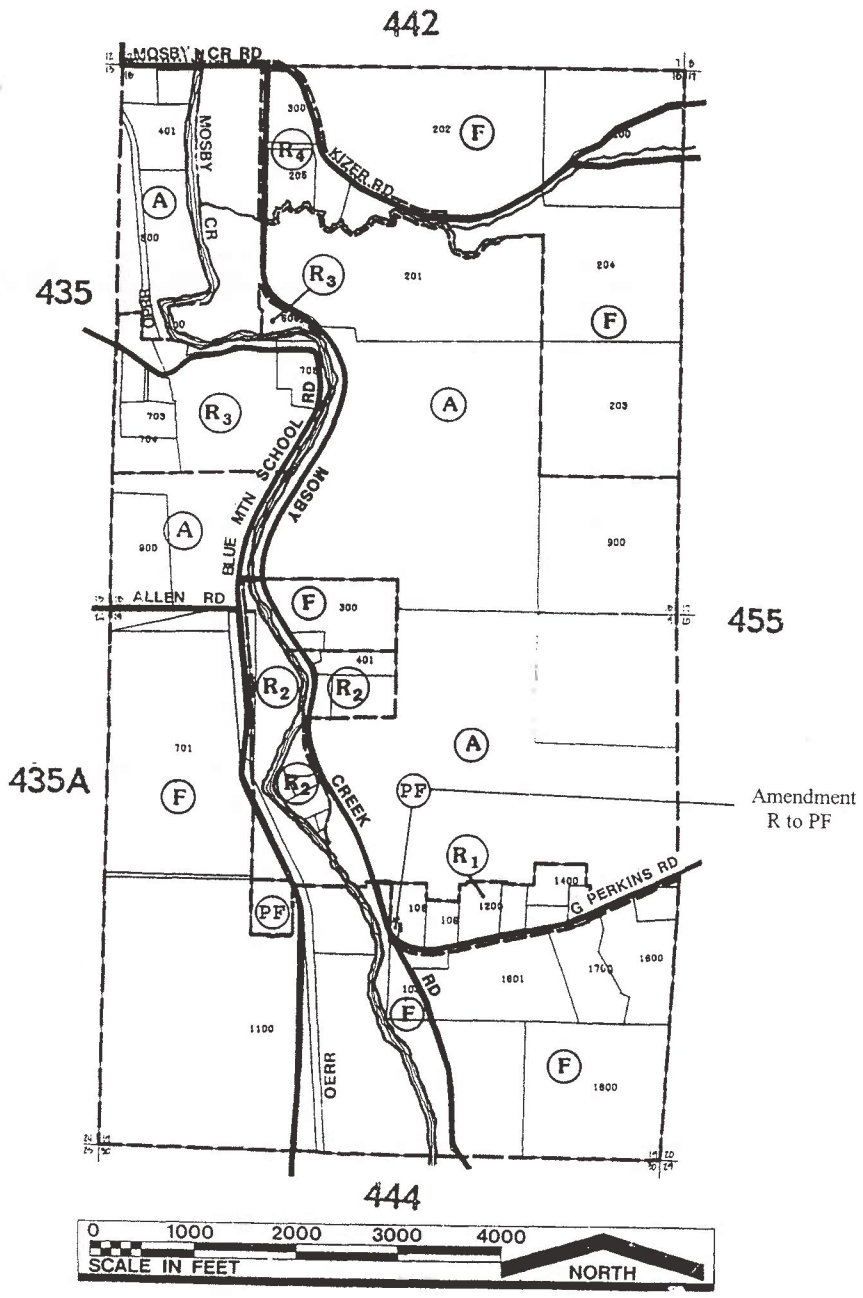
PLOT# 429

Twnshp Range Section
19 03 13 / 19 03 24 ( )

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # 1 ORD. # PA 893 DATE 3/27/85 FILE #

Exhibit A-14



ane county

OFFICAL PLAN MAP

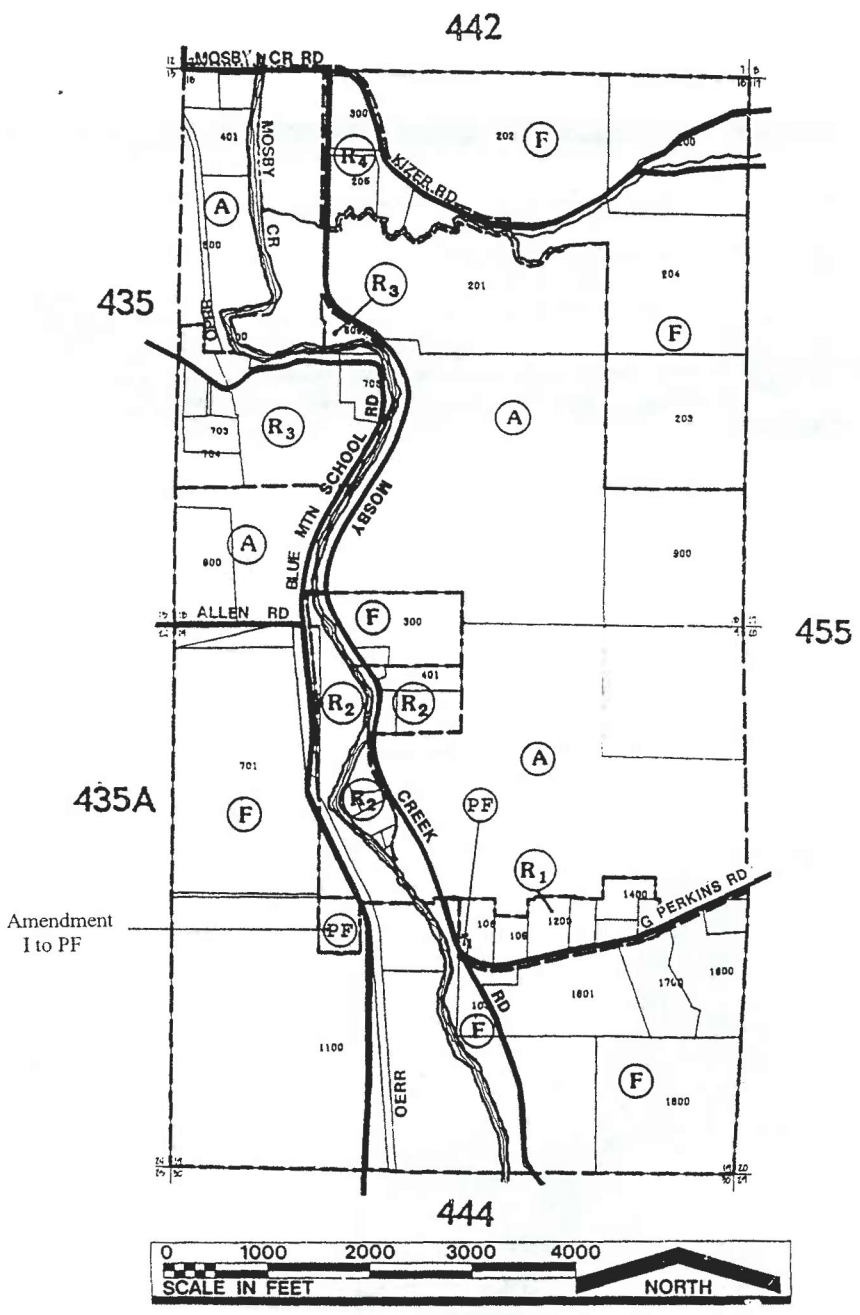
PLOT# 443

Twnshp Range Section
21 02 18 / 21 02 19 ( )

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 888 DATE 7/17/84 FILE #

Exhibit A-15



ane county

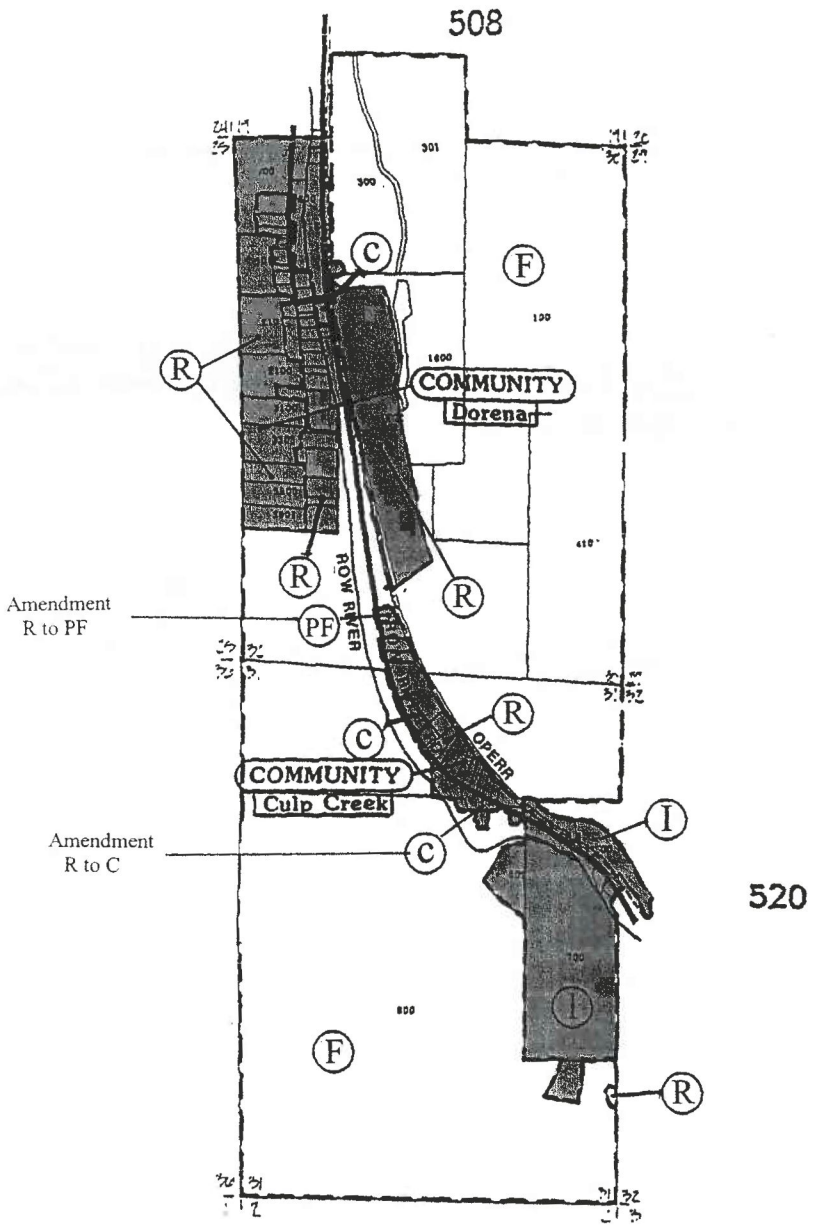
OFFICAL PLAN MAP

PLOT# 443

Twnshp Range Section
21 02 18 / 21 02 19 ( )

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 888 DATE 7/17/84 FILE #



2 county

0 1000 2000 3000 4000

SCALE IN FEET NORTH

OFFICIAL PLAN MAP

PLOT# 509

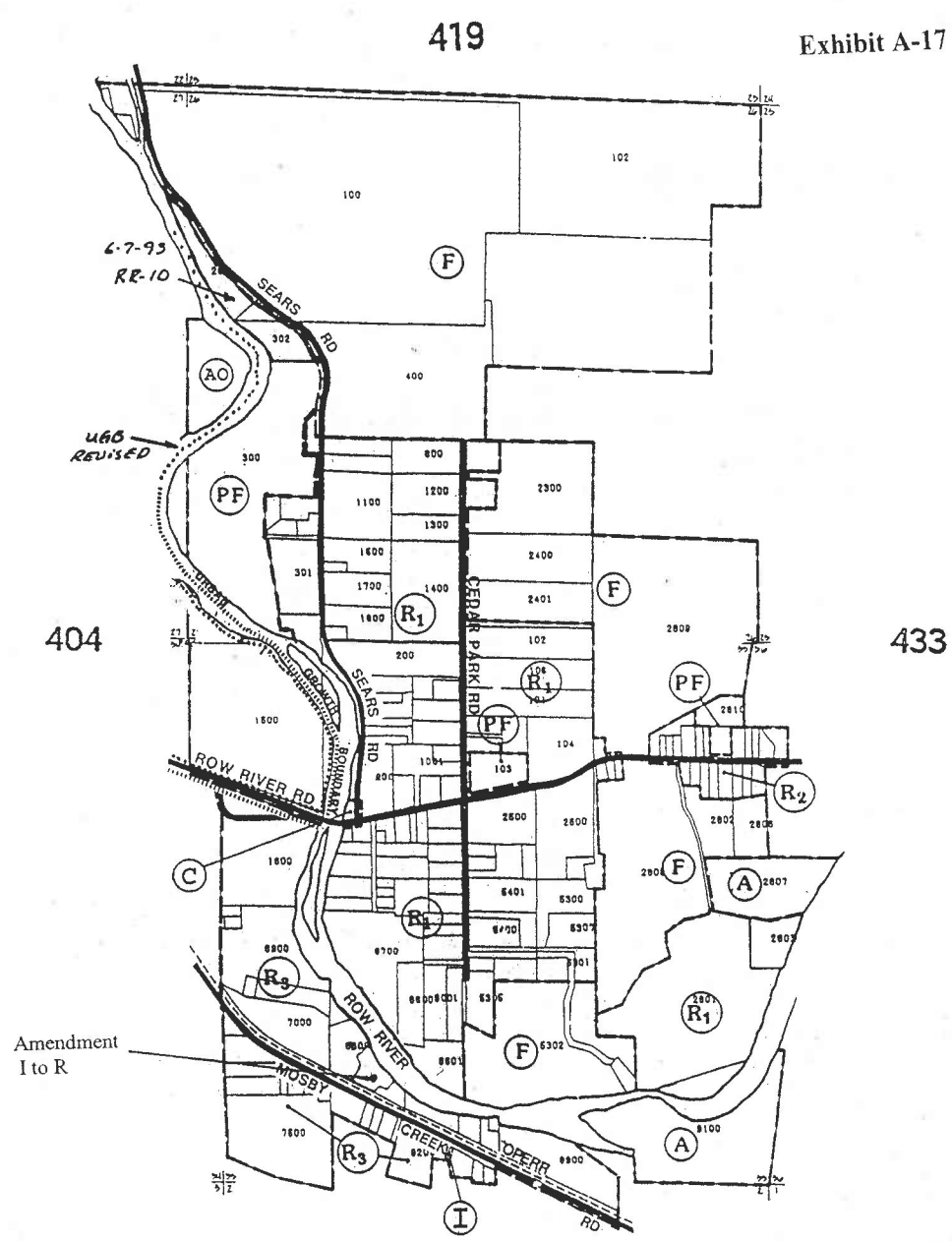
Township Range Section

21 01 30 / 21 01 31

GINAL ORD. # PA 884 DATE 2/29/1984 FILE #

ISION # ORD. # DATE FILE #

Exhibit A-17



ane county

OFFICIAL PLAN MAP

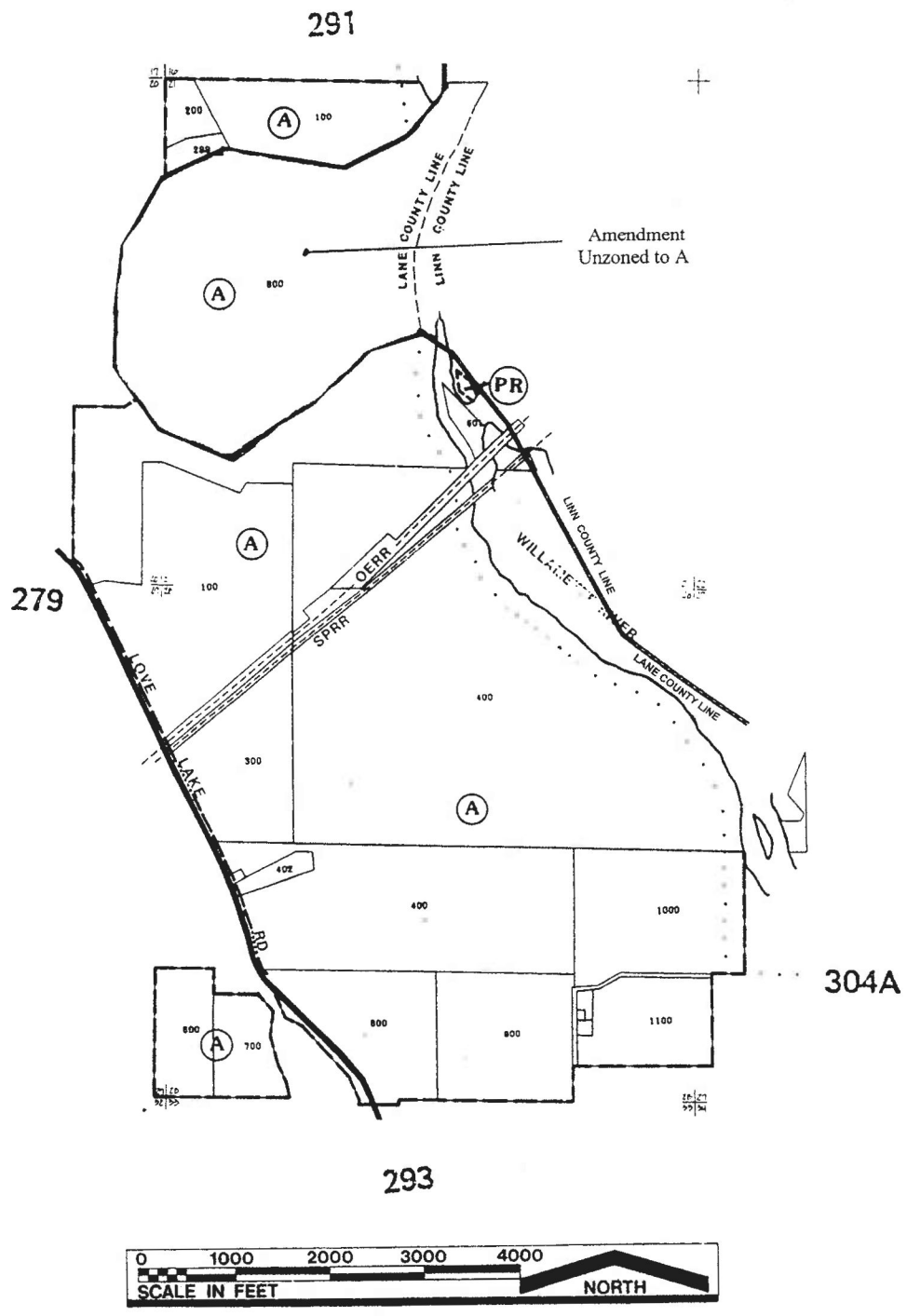
PLOT# 420

Twnshp Range Section
20 03 26 / 20 03 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 2 ORD. # PA 911 DATE 3/14/86 FILE #

Exhibit A-18



lane county

OFFICIAL PLAN MAP

PLOT# 292

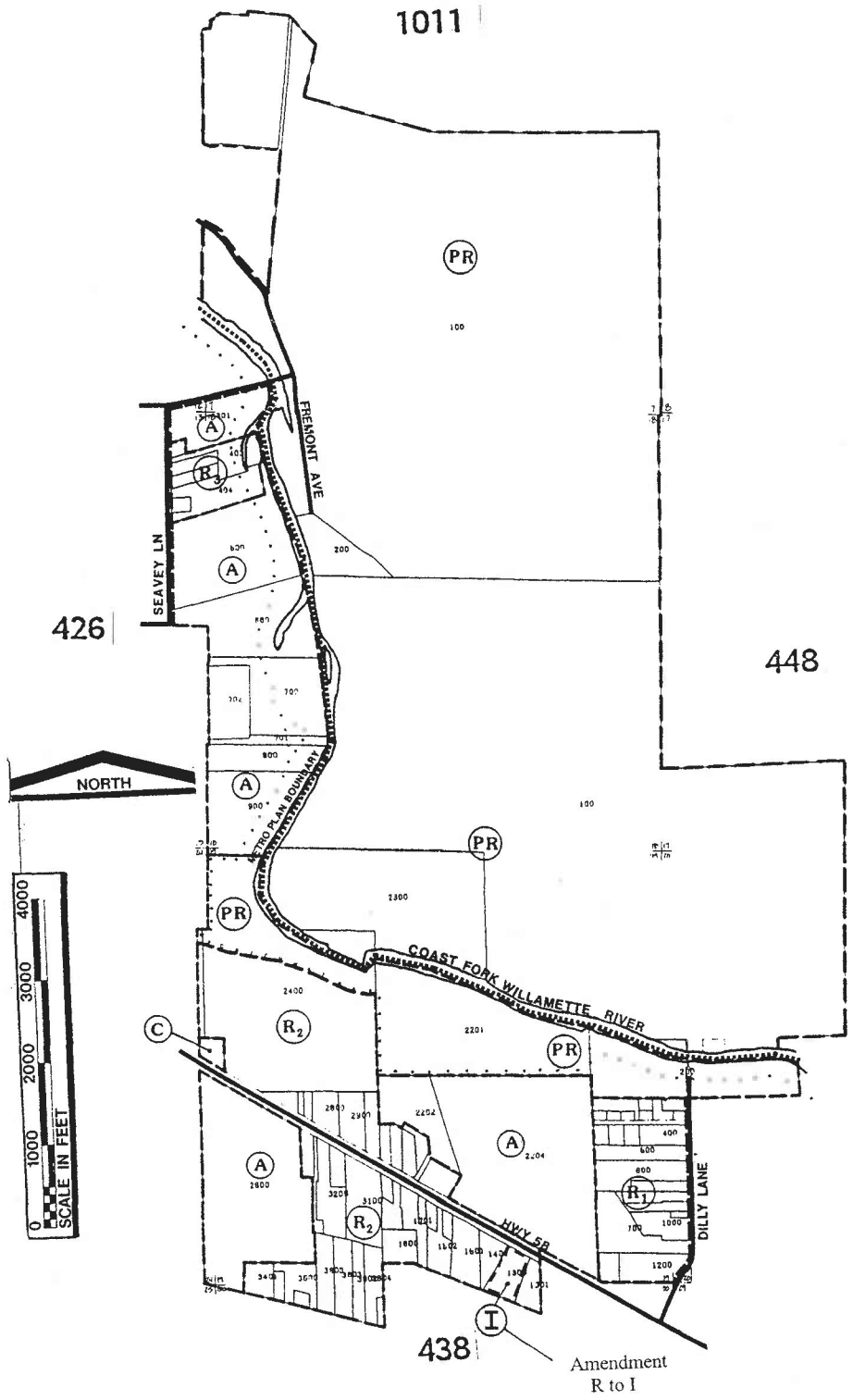
Twnshp Range Section

15 04 21 / 15 04 28

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit A-20



ane county

OFFICAL PLAN MAP

PLOT# 437

Twnshp Range Section

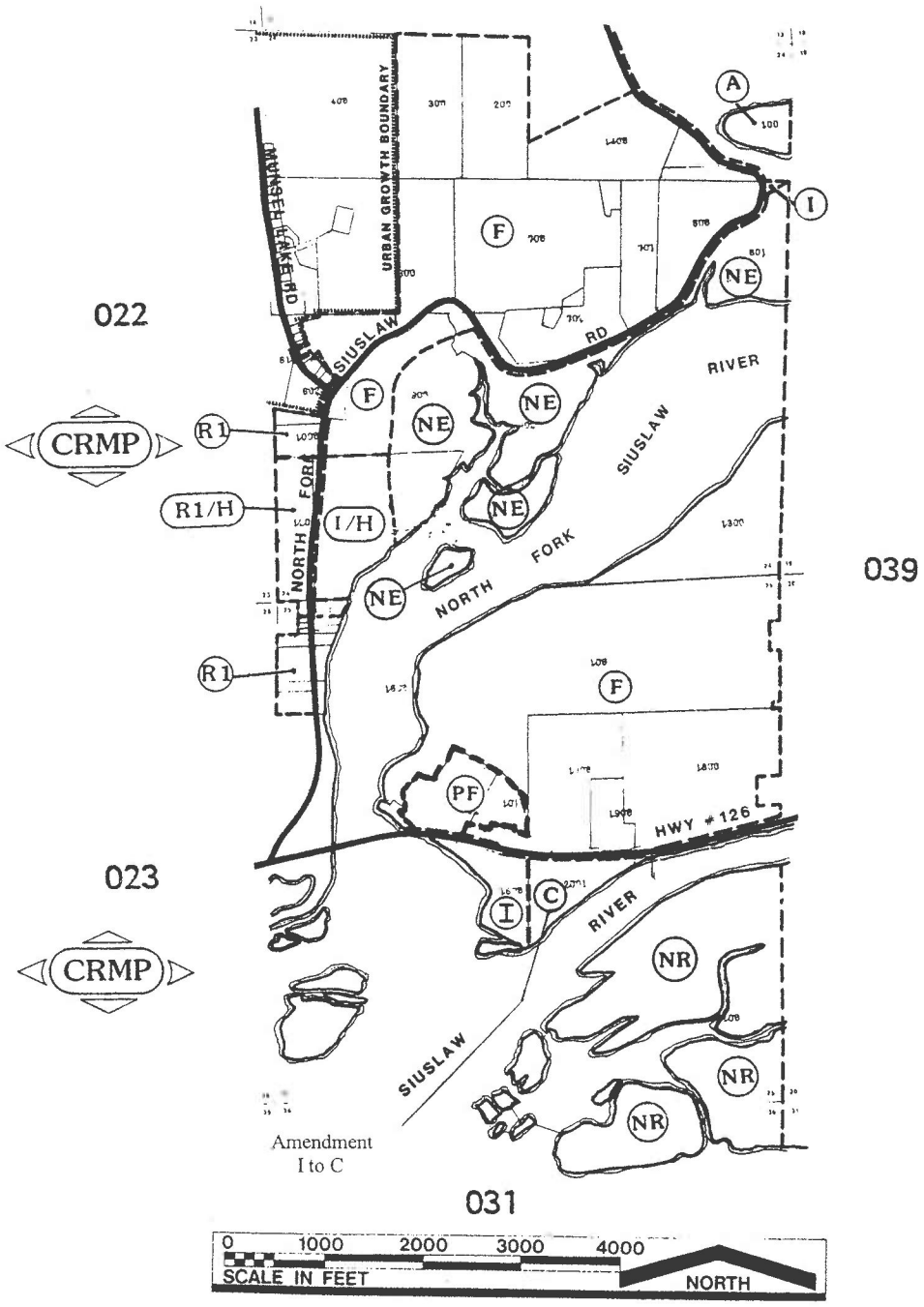
18 02 18 / 18 02 19

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

029

Exhibit A-21



lane county

OFFICIAL PLAN MAP

PLOT# 030

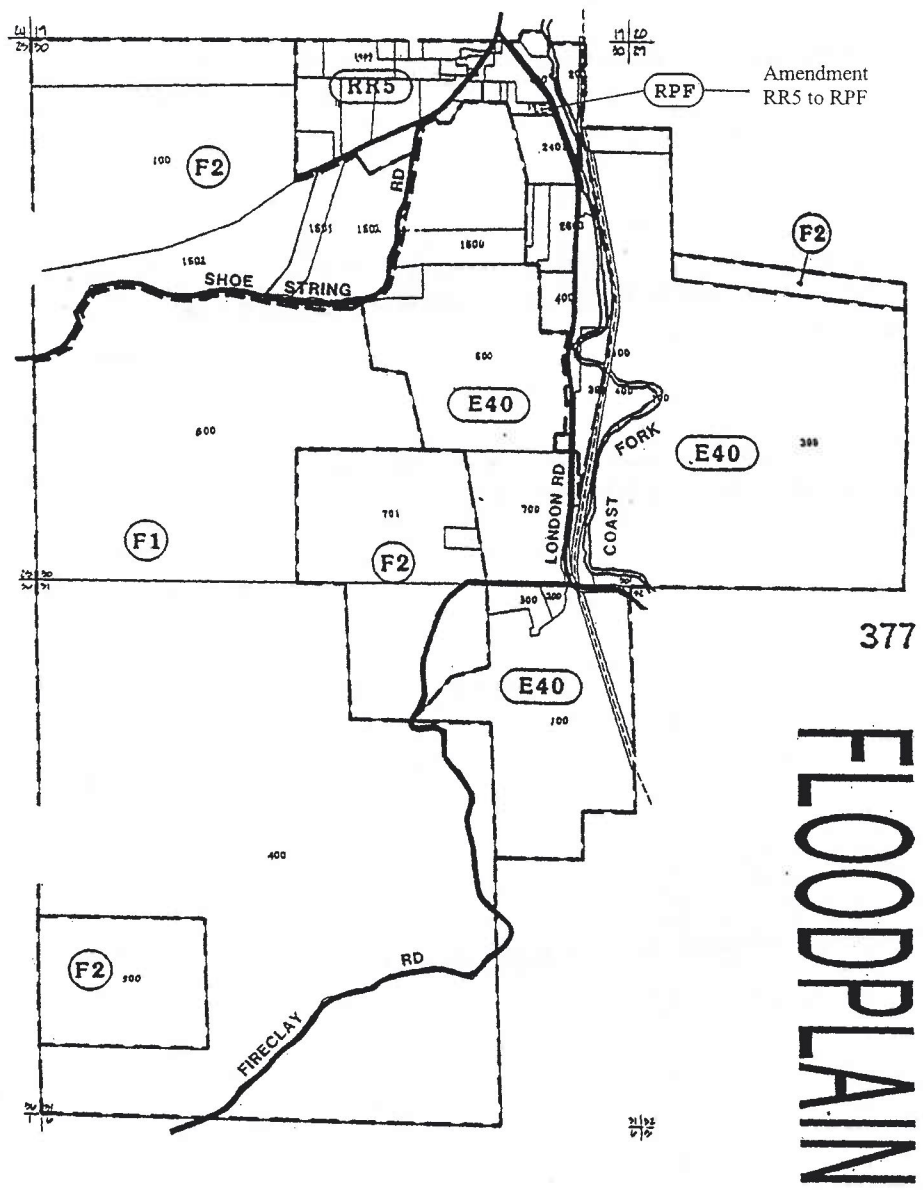
Twnshp Range Section

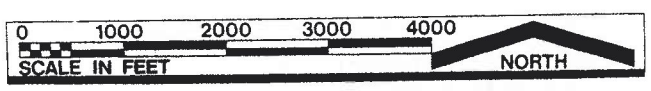
18 12 24 / 18 12 25

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 888 DATE 7/17/84 FILE #

Exhibit B-2





ine county

OFFICIAL ZONING MAP

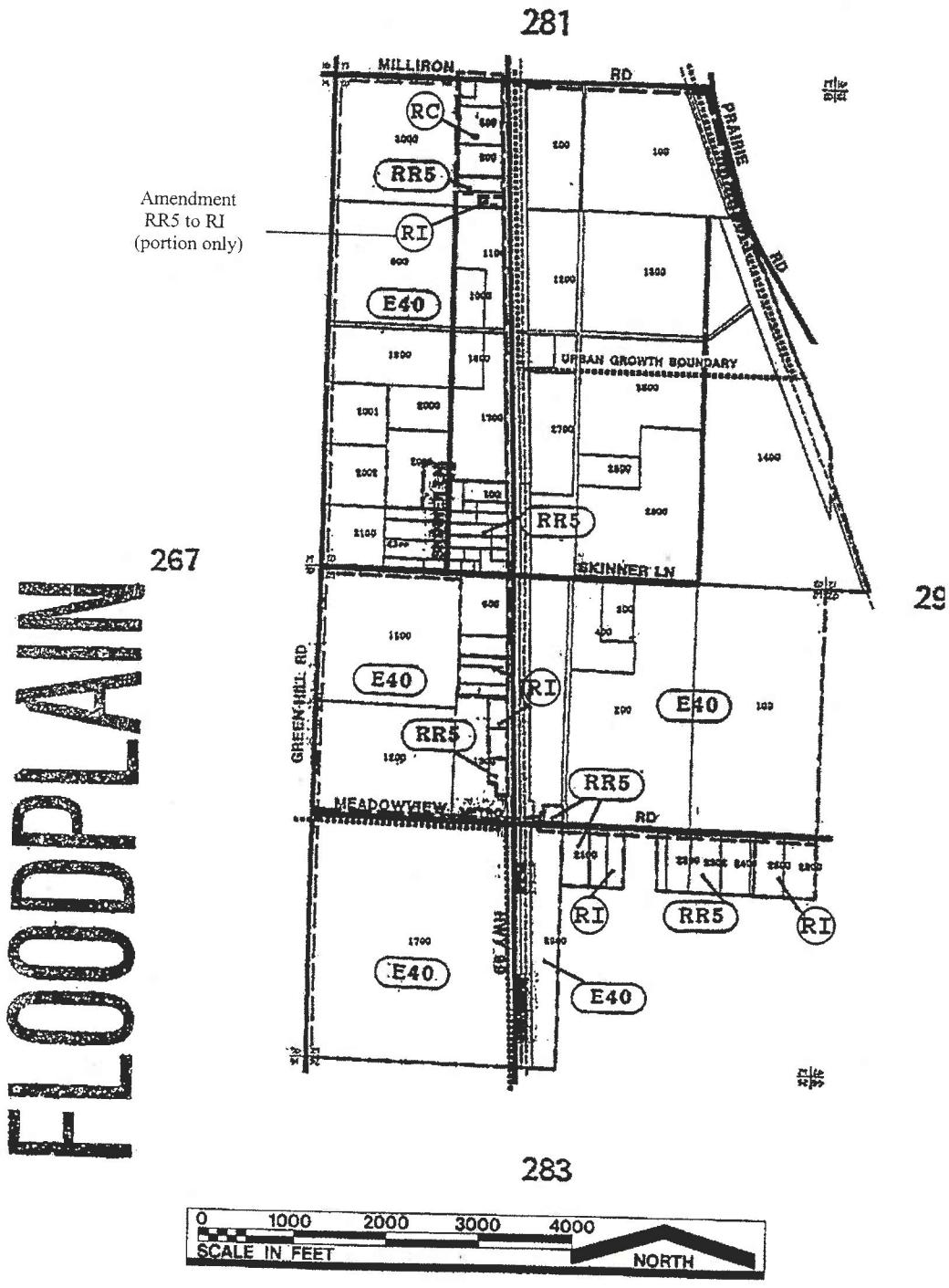
PLOT# 360

Twnshp Range Section
22 03 30 / 22 03 31

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # ORD. # DATE FILE #

Exhibit B-3



Amendment
RR5 to RI
(portion only)

lane county

OFFICIAL ZONING MAP

PLOT# 282

Twnshp Range Section
16 04 20 / 16 04 29

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # 866 DATE 7/2/82 FILE # PA 82-66

Exhibit B-4

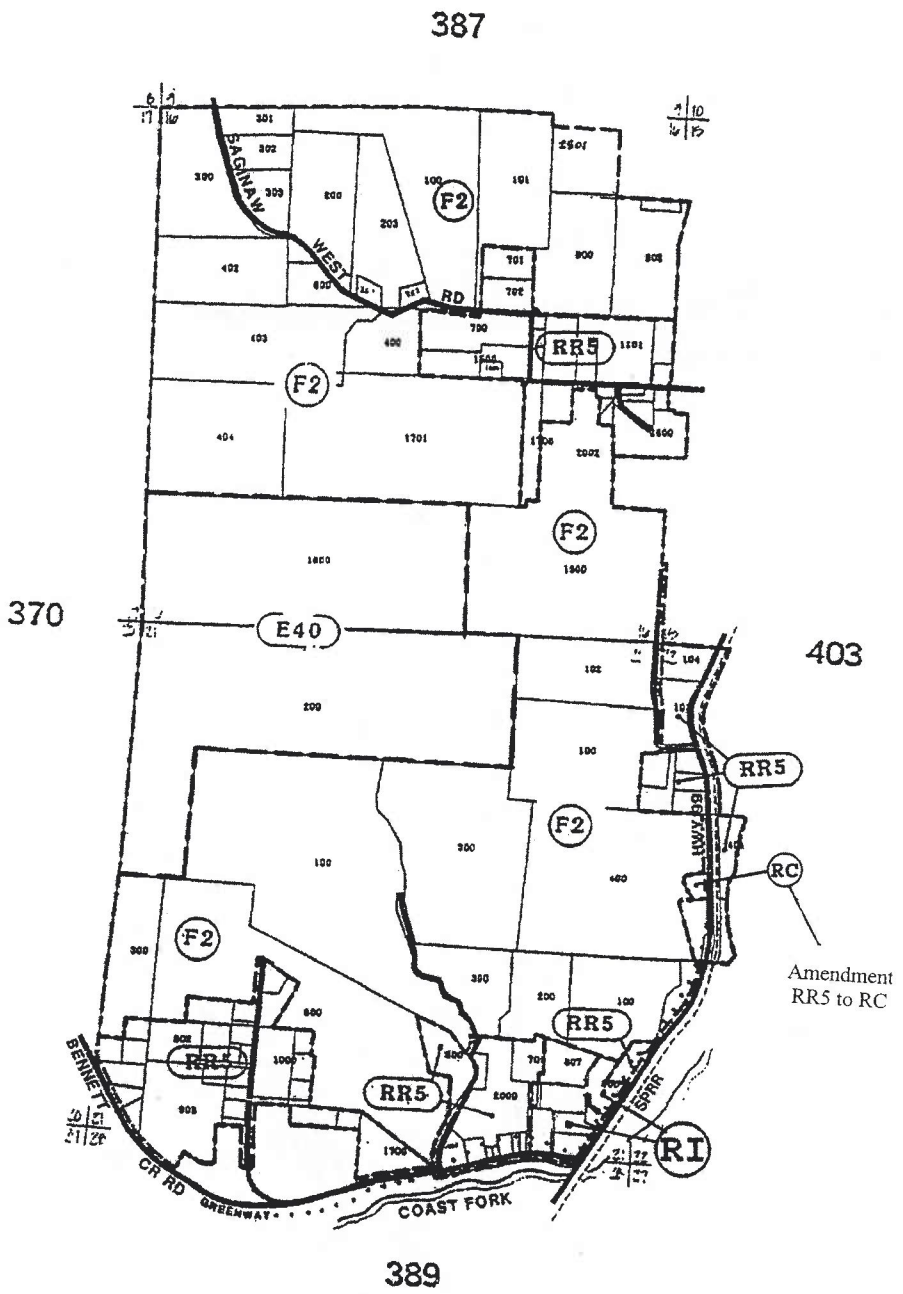
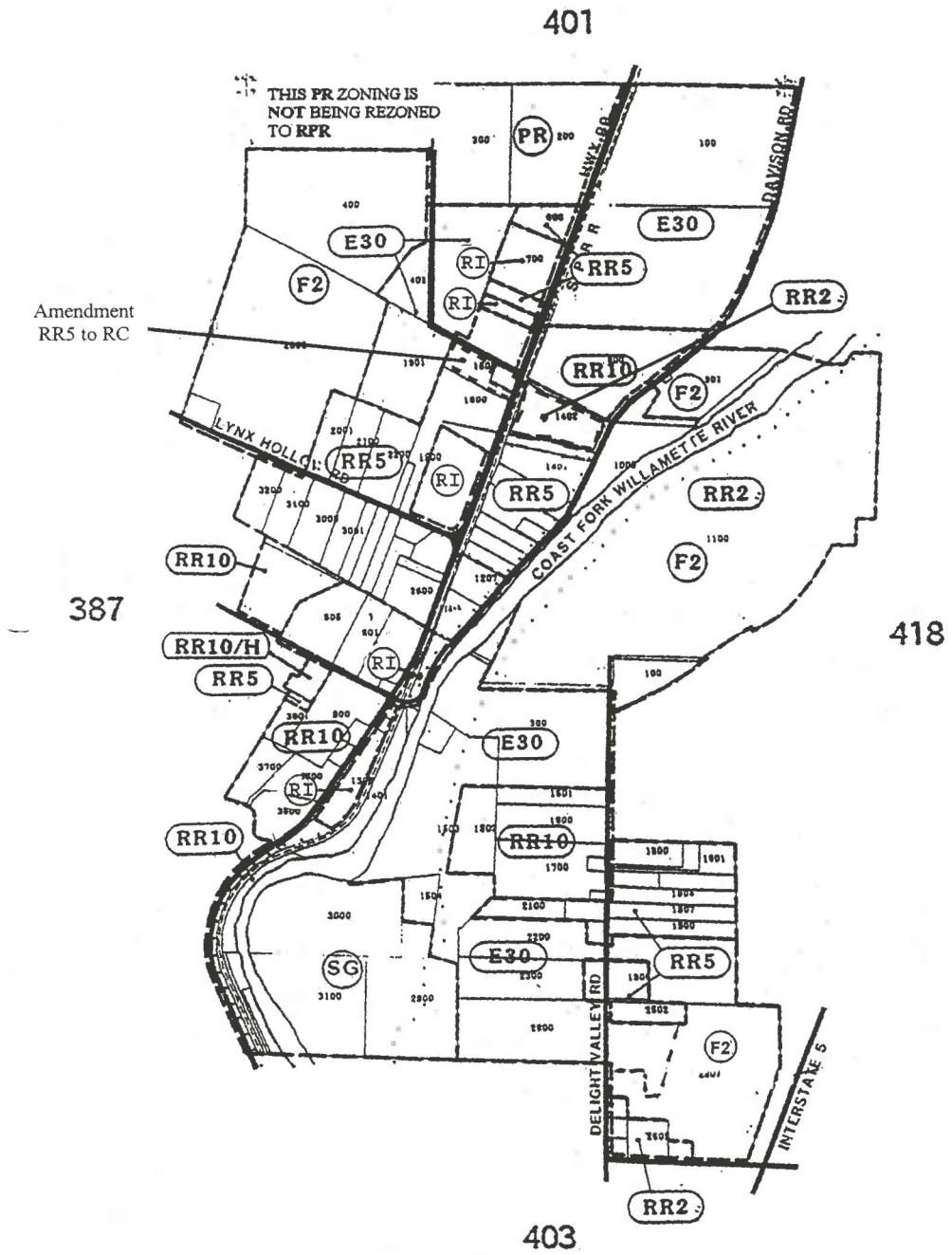

387
370
403
389
F2
RR5
E40
RC
RI
SAGINAW
WEST
RD
HWY 99
BENNETT
CR RD
GREENWAY
COAST FORK
SPRR
Amendment
RR5 to RC
0 1000 2000 3000 4000
SCALE IN FEET
NORTH
lane county
OFFICIAL ZONING MAP
PLOT# 388
Twnshp Range Section
20 03 16
20 03 21
ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #
REVISION # 1 ORD. # PA 911 DATE 3/14/86 FILE #

Exhibit B-5



lane county

OFFICIAL ZONING MAP

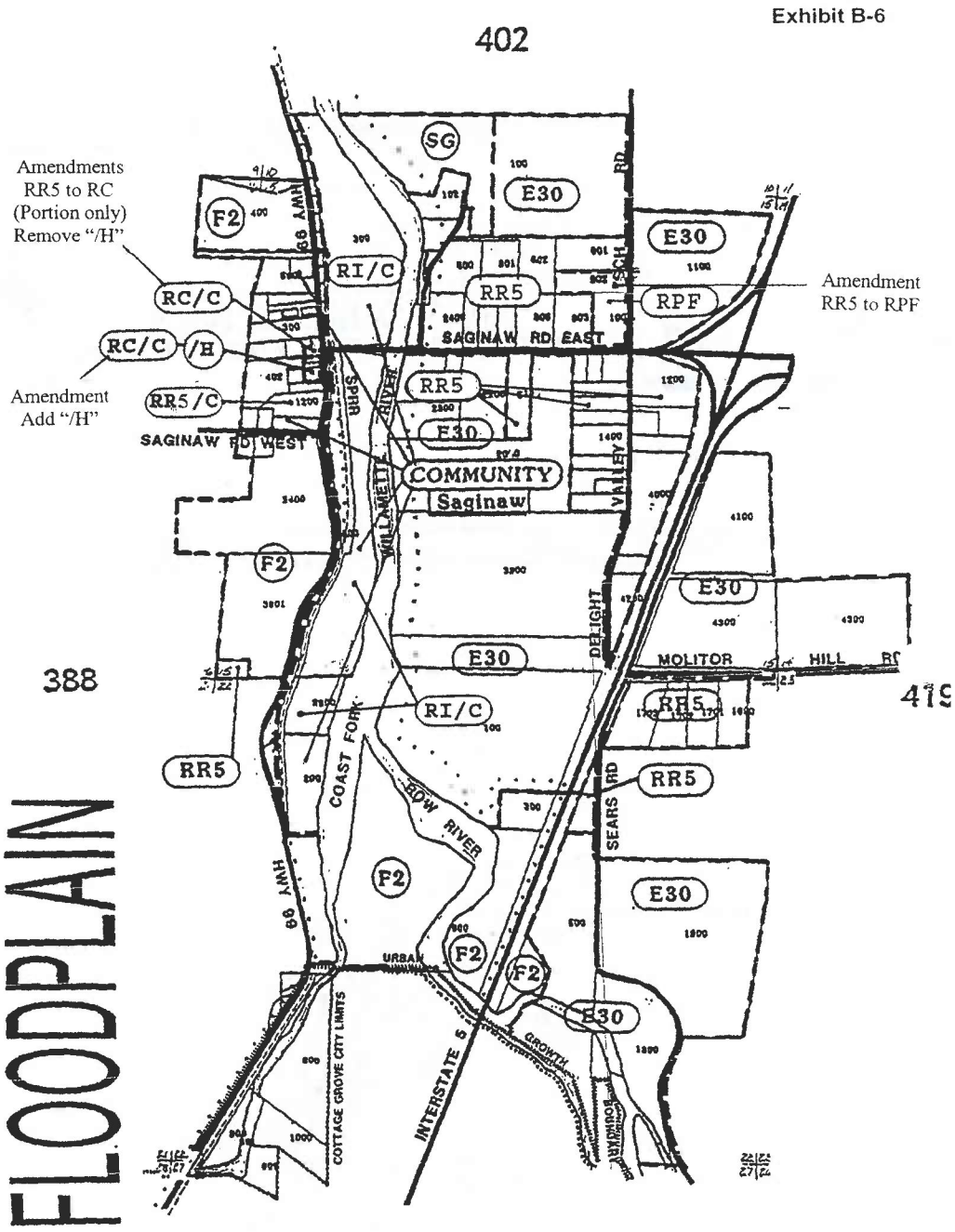
PLOT# 402

Twnshp Range Section
20 03 03 / 20 03 10

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 969 DATE 8/11/89 FILE #

Exhibit B-6



lane county

0 1000 2000 3000 4000
SCALE IN FEET NORTH

OFFICIAL ZONING MAP

PLOT# 403

Twnshp Range Section
20 03 15 / 20 03 22

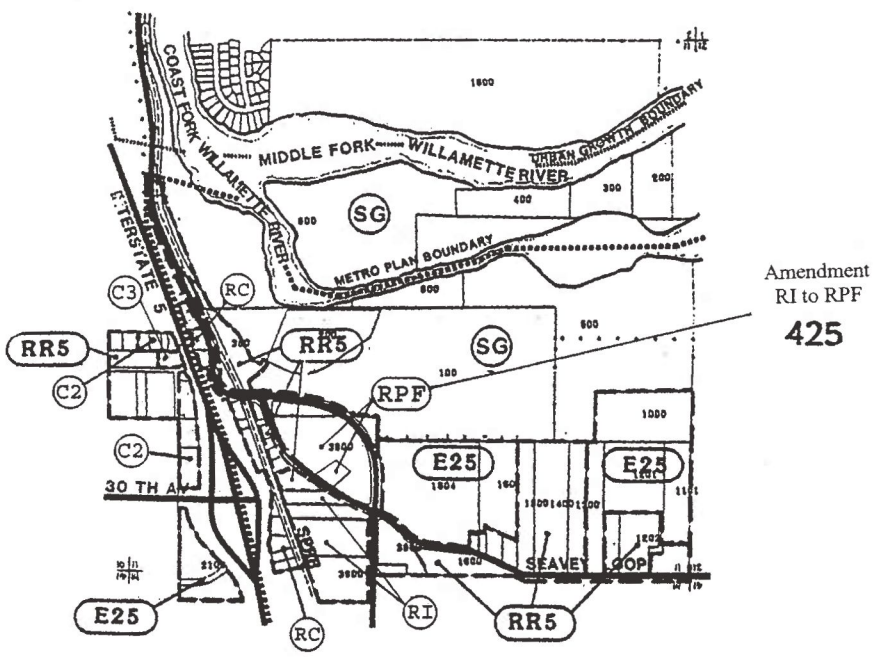
ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit B-7

FLOODPLAIN

1010



Amendment
RI to RPF
425

413

0 1000 2000 3000 4000
SCALE IN FEET NORTH

lane county

OFFICIAL ZONING MAP

PLOT# 412

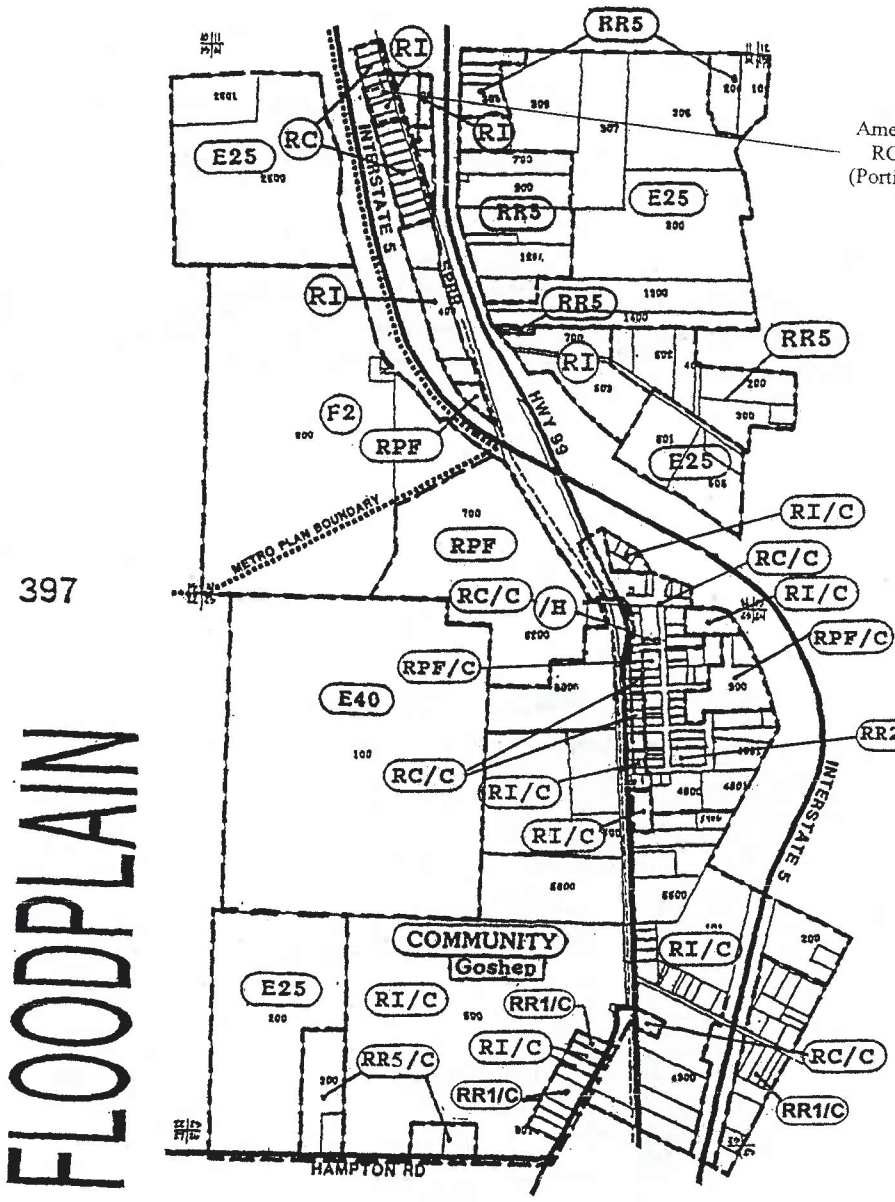
Twnshp Range Section
18 03 11

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 2 ORD. # PA 3041-85 DATE 12/19/85 FILE #

Exhibit B-8

412



Amendments
RC to RI
(Portions only)

397

426

FLOODPLAIN

414

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

ane county

OFFICIAL ZONING MAP

PLOT# 413

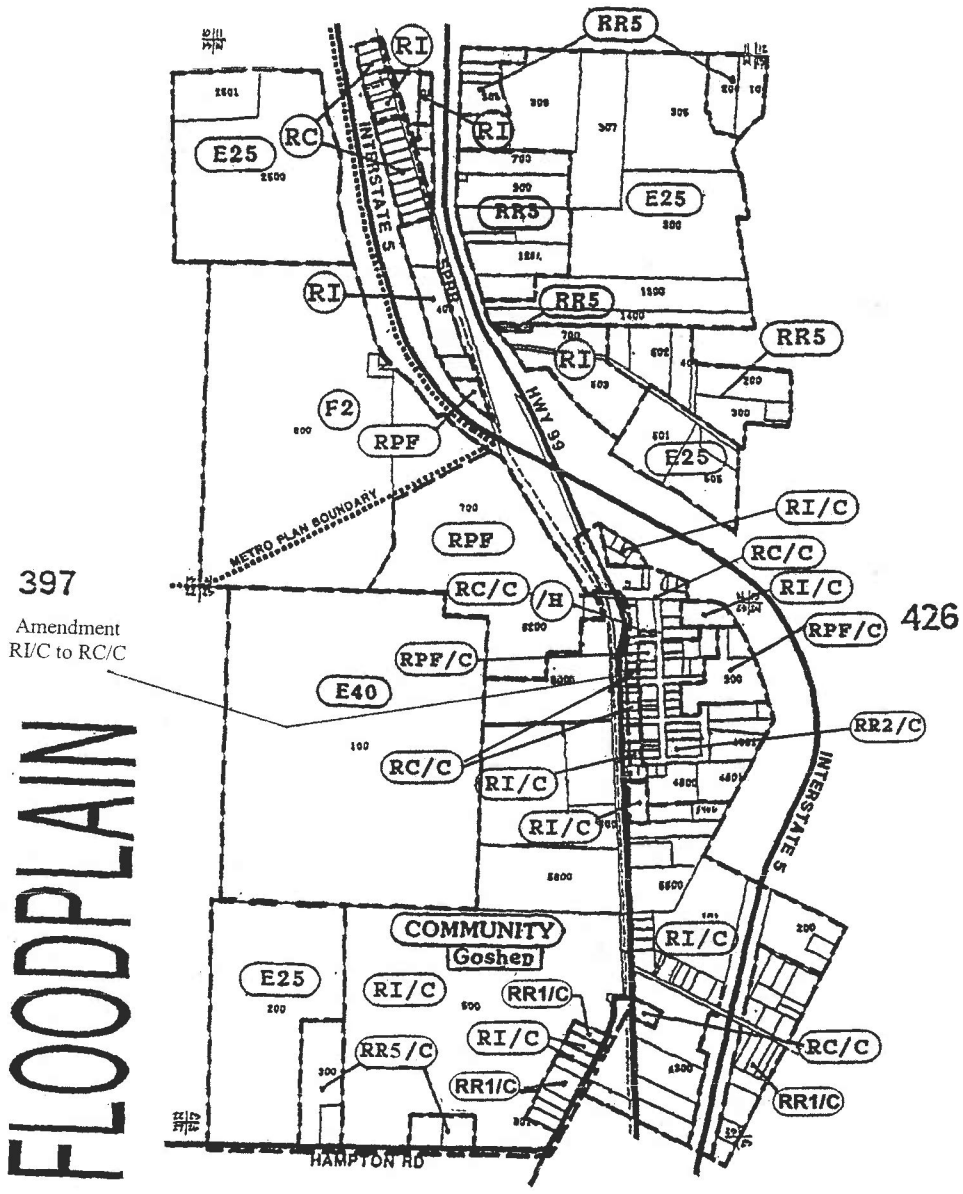
Twnshp Range Section
18 03 14 / 18 03 23

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # 4 ORD. # PA0198-92 DATE 2/21/92 FILE # PA0198-92

Exhibit B-9

412



414

0 1000 2000 3000 4000
SCALE IN FEET NORTH

ane county

OFFICIAL ZONING MAP

PLOT# 413

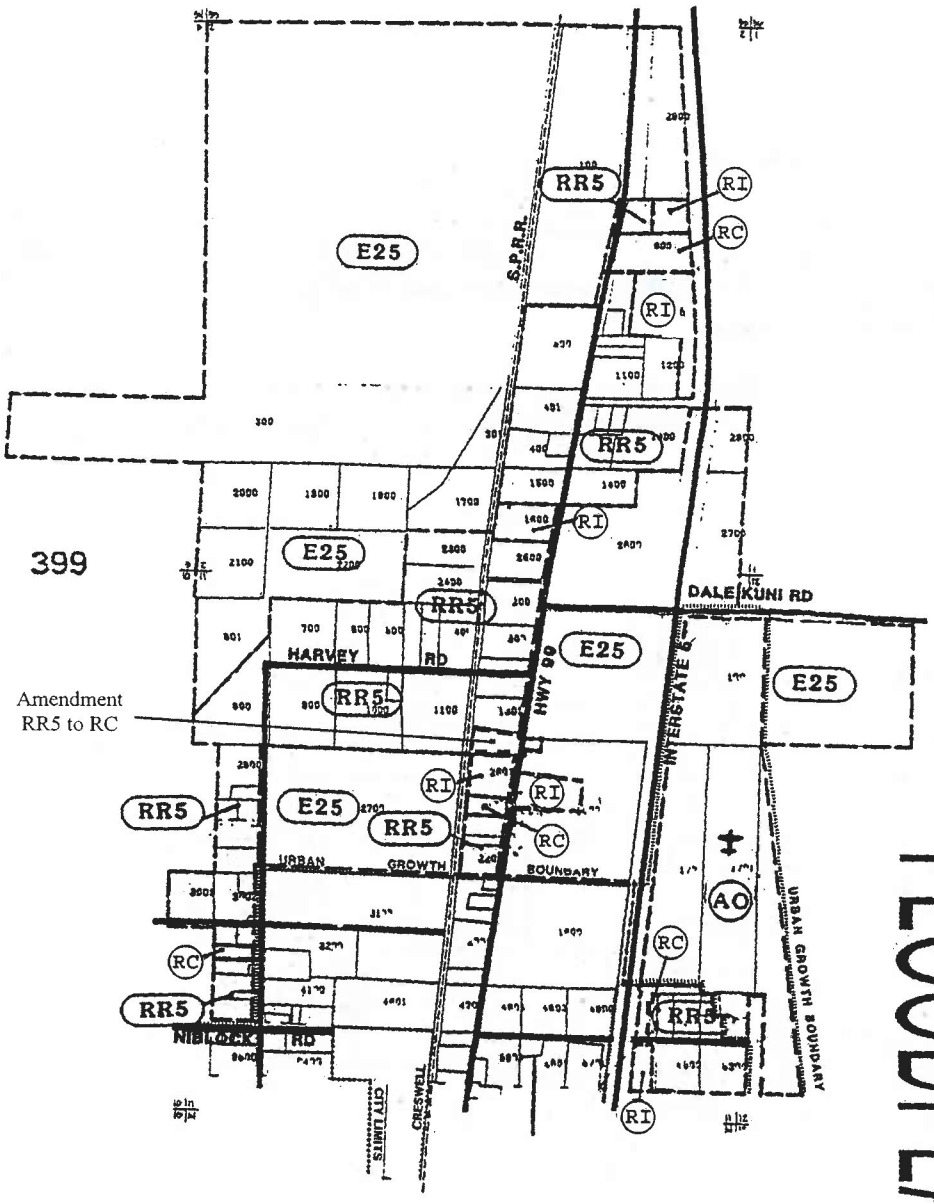
Twnshp Range Section
18 03 14 / 18 03 23

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # 4 ORD. # PA0198-92 DATE 2/21/92 FILE # PA0198-92

Exhibit B-10

414



416

The RR zones on this map are changed as follows:
FROM: RR LC 16.231 TO: RR LC 16.290
The RR zone parcel size remains the same.

FLOODPLAIN

0 1000 2000 3000 4000
SCALE IN FEET NORTH

ane county

OFFICIAL ZONING MAP

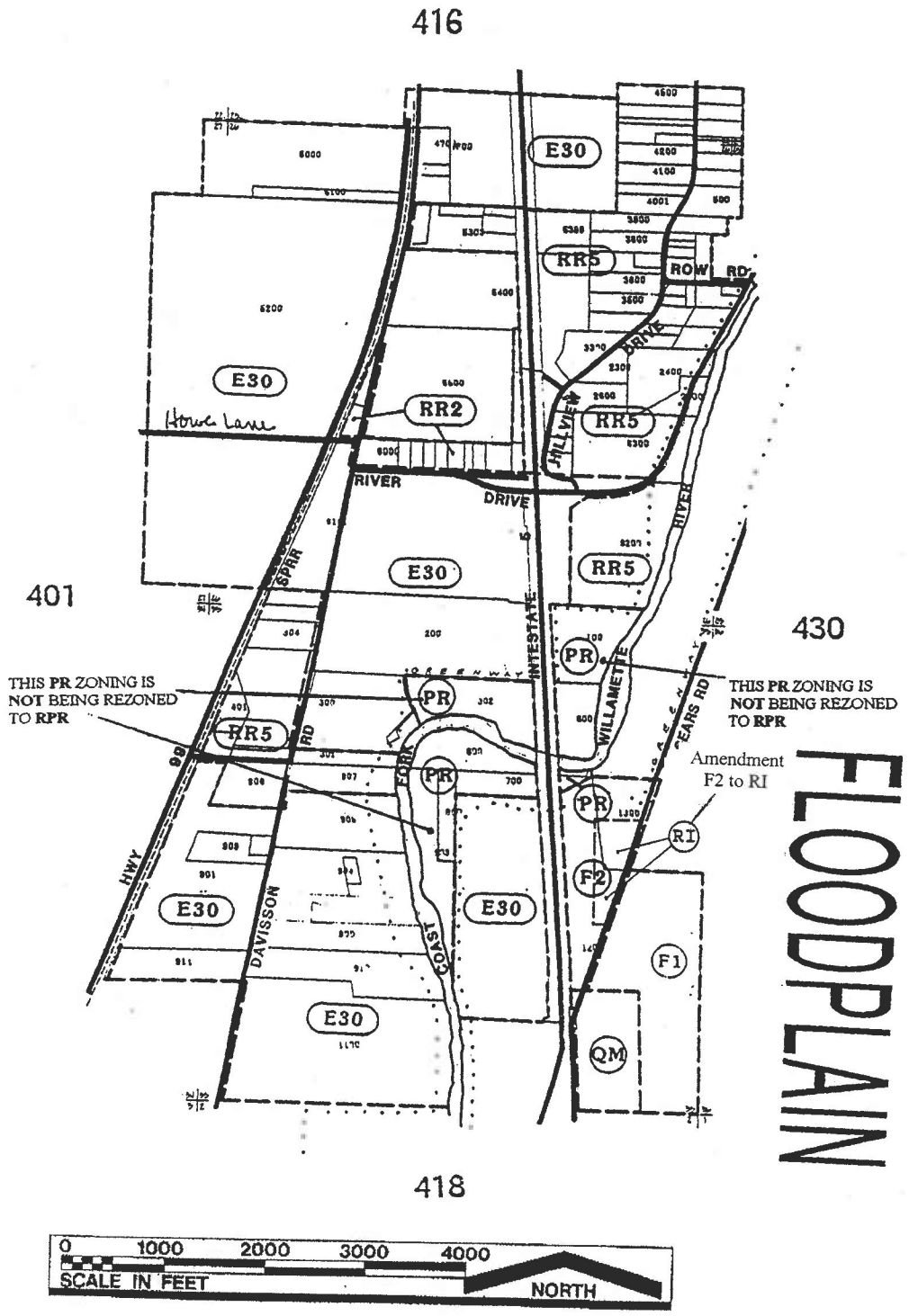
PLOT# 415

Twnshp Range Section
19 03 02 / 19 03 11

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # 2 ORD. # PA1046 DATE 10 / 27 / 94 FILE # PA0829-93

Exhibit B-11



ane county

OFFICIAL ZONING MAP

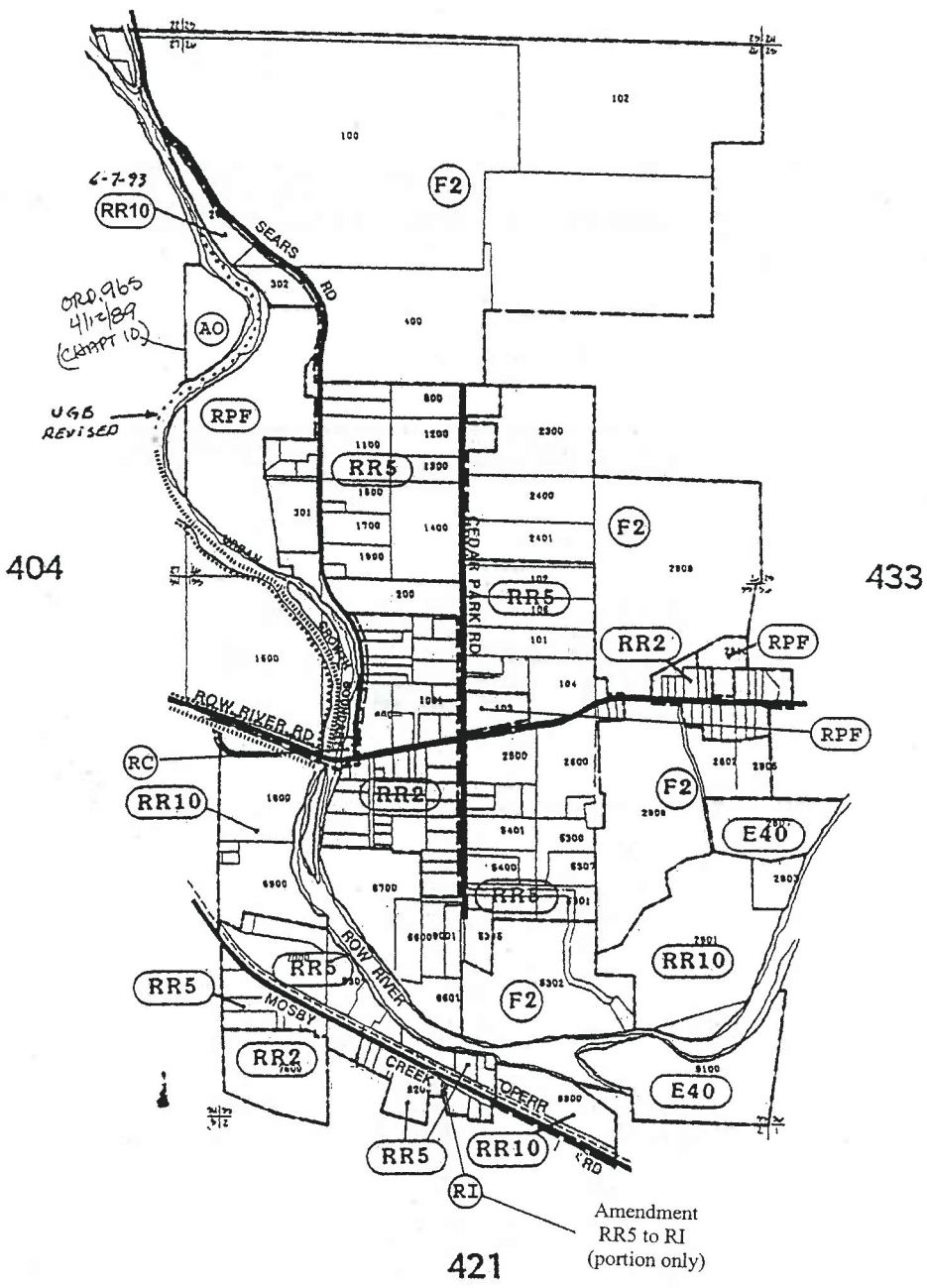
PLOT# 417

Twnshp Range Section
19 03 26 / 19 03 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit B-12-1



ane county

OFFICIAL ZONING MAP

PLOT# 420

Twnshp Range Section

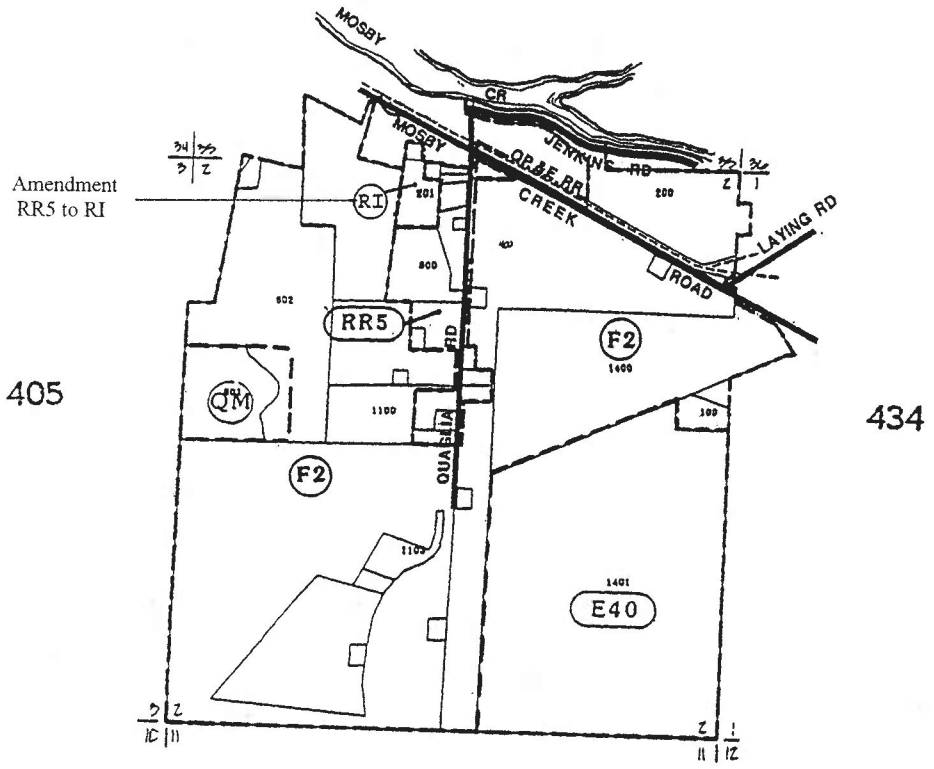
20 03 26 / 20 03 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 2 ORD. # PA 911 DATE 3/14/86 FILE #

Exhibit B-12-2

420



FLOODPLAIN

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

lane county

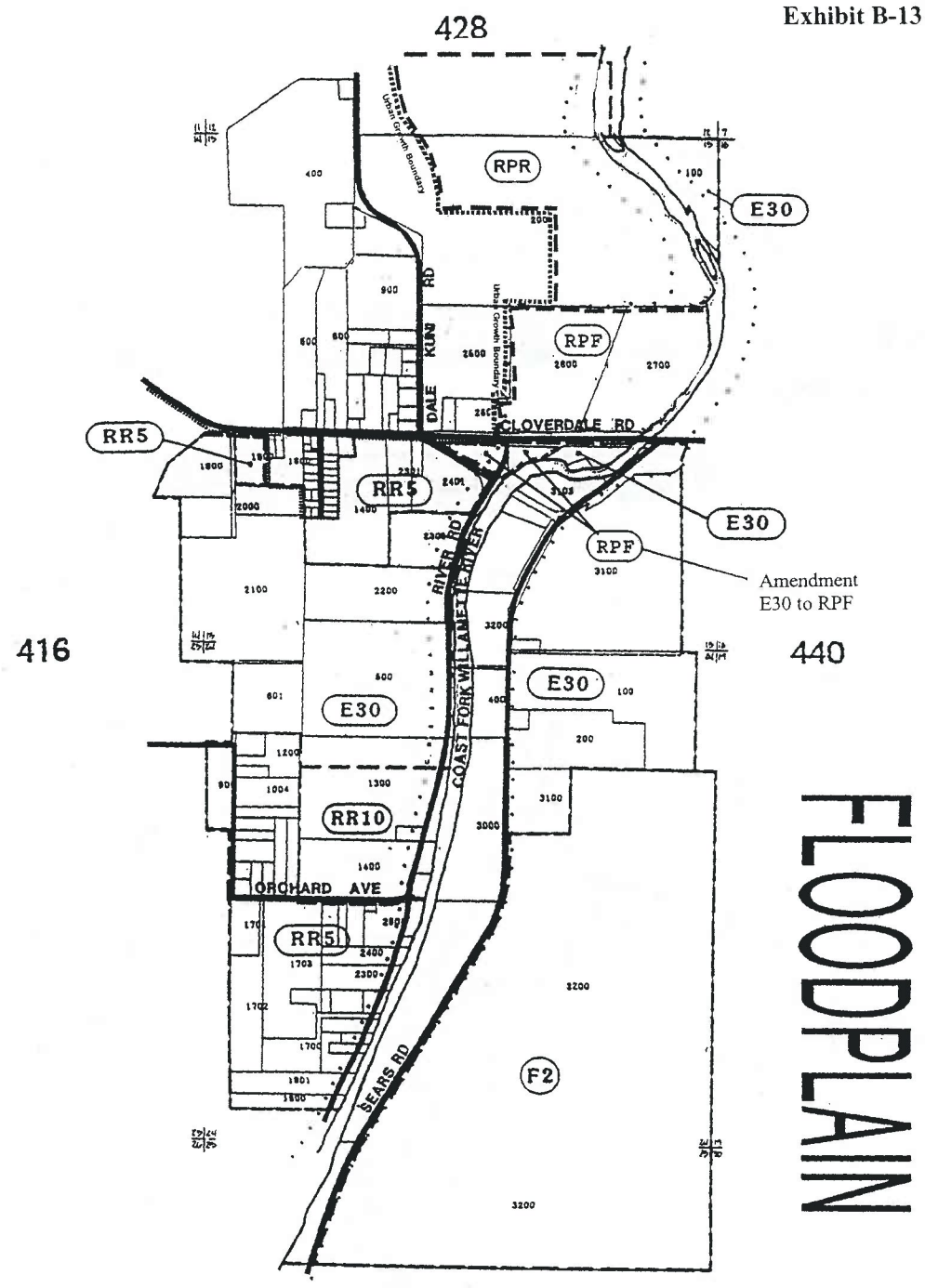
OFFICIAL ZONING MAP

PLOT# 421

Twnshp Range Section
21 03 02

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

Exhibit B-13



ane county

OFFICIAL ZONING MAP

PLOT# 429

Twnshp Range Section

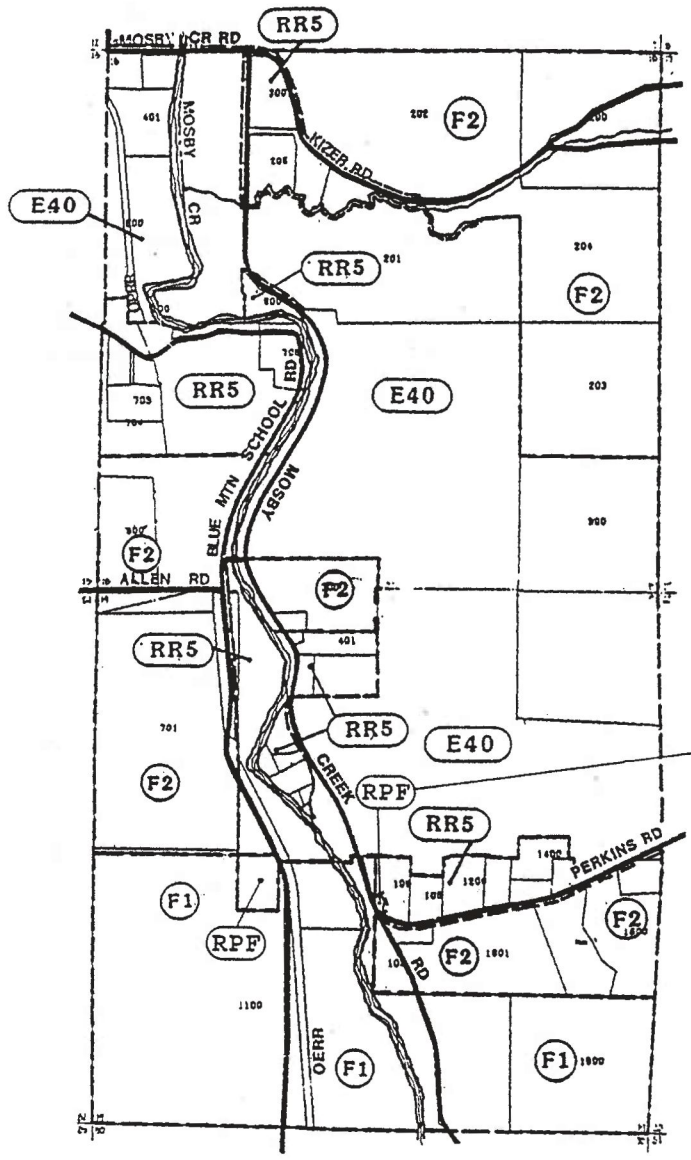
19 03 13 / 19 03 24 (

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

EVISION # 1 ORD. # PA 893 DATE 3/27/85 FILE #

Exhibit B-14

442



435

FLOODPLAIN

Amendment
RR5 to RPF

455

444

0 1000 2000 3000 4000
SCALE IN FEET
NORTH

ine county

OFFICIAL ZONING MAP

PLOT# 443

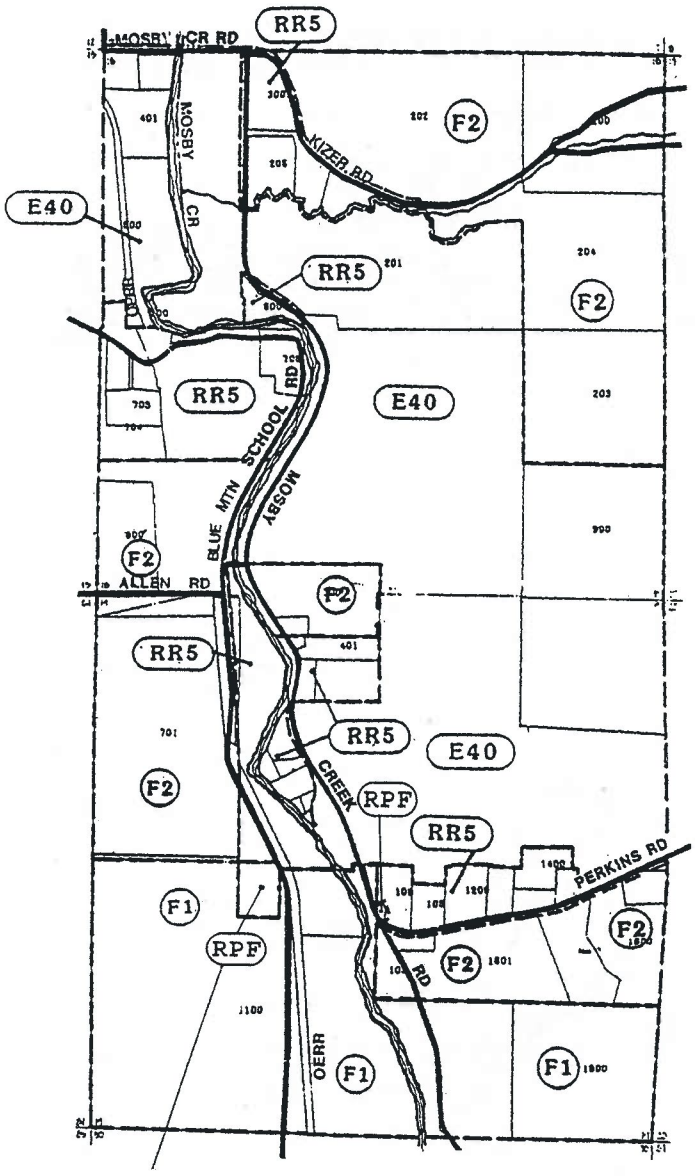
Twnshp Range Section
21 02 18 / 21 02 19

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

:VISION # 1 ORD. # PA 888 DATE 7/17/84 FILE #

Exhibit B-15

442



435

455

FLOODPLAIN

Amendment
RI to RPF

444

0 1000 2000 3000 4000
SCALE IN FEET NORTH

ine county

OFFICIAL ZONING MAP

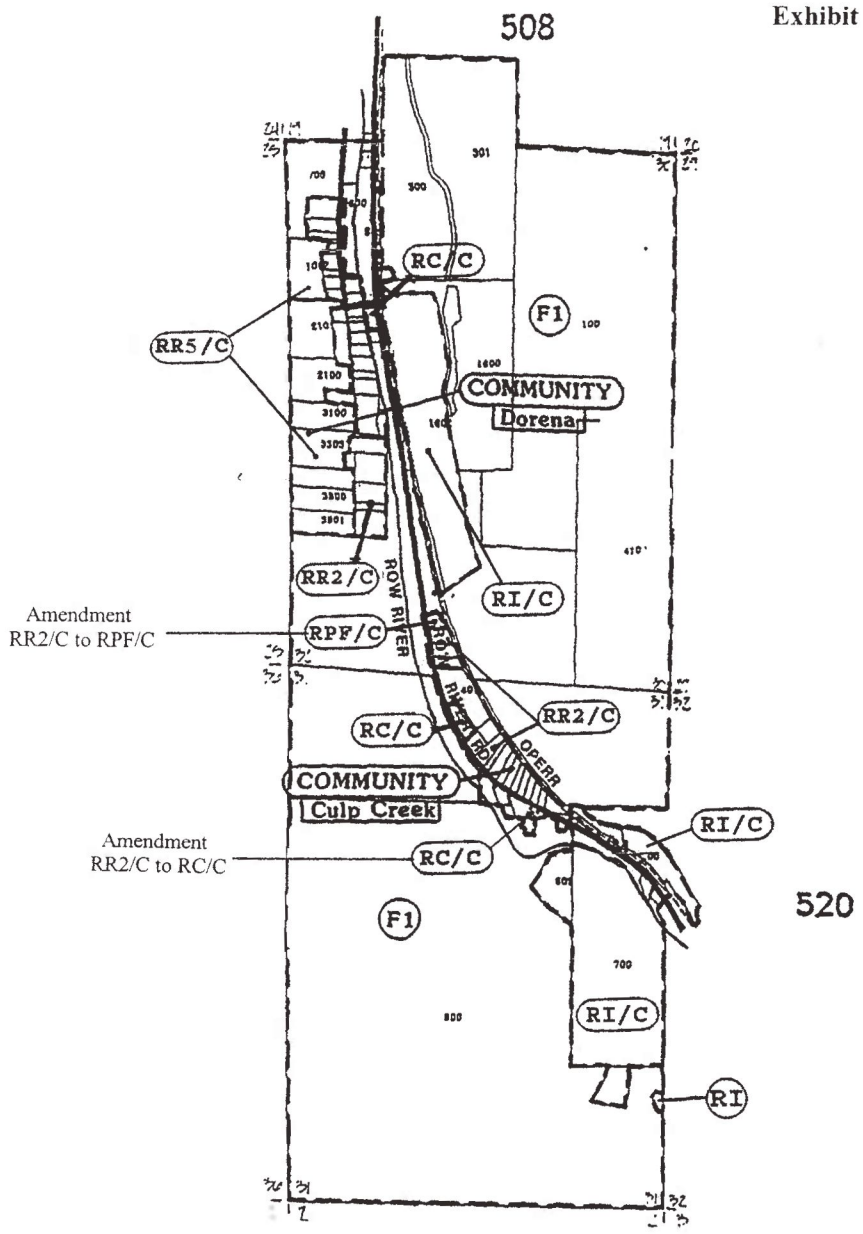
PLOT# 443

Twnshp Range Section
21 02 18 / 21 02 19

RIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

:VISION # 1 ORD. # PA 888 DATE 7/17/84 FILE #

Exhibit B-16



2 county

0 1000 2000 3000 4000
SCALE IN FEET NORTH

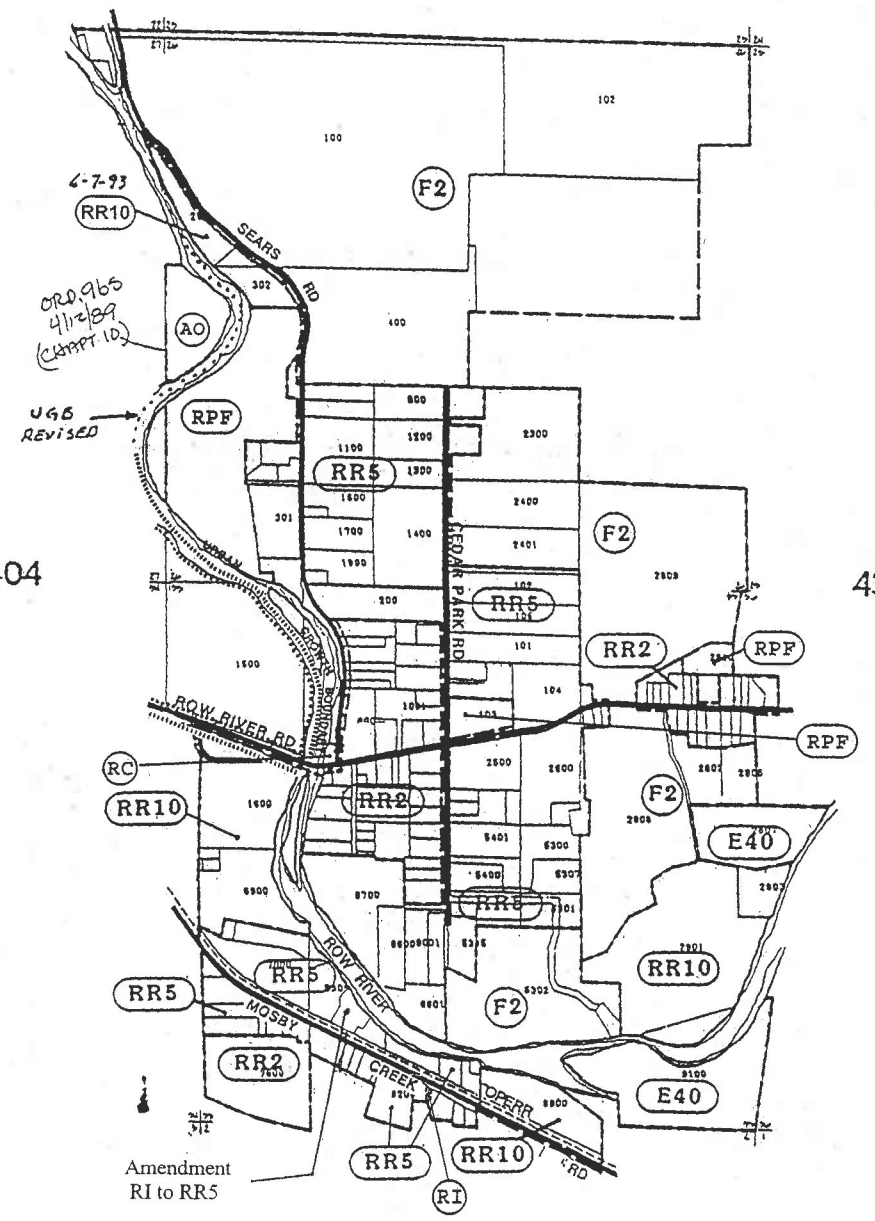
OFFICIAL ZONING MAP

PLOT# 509

Twnshp Range Section
21 01 30 / 21 01 31

GINAL ORD. # PA 884 DATE 2/29/1984 FILE #

ISION # ORD. # DATE FILE #



ane county

OFFICIAL ZONING MAP

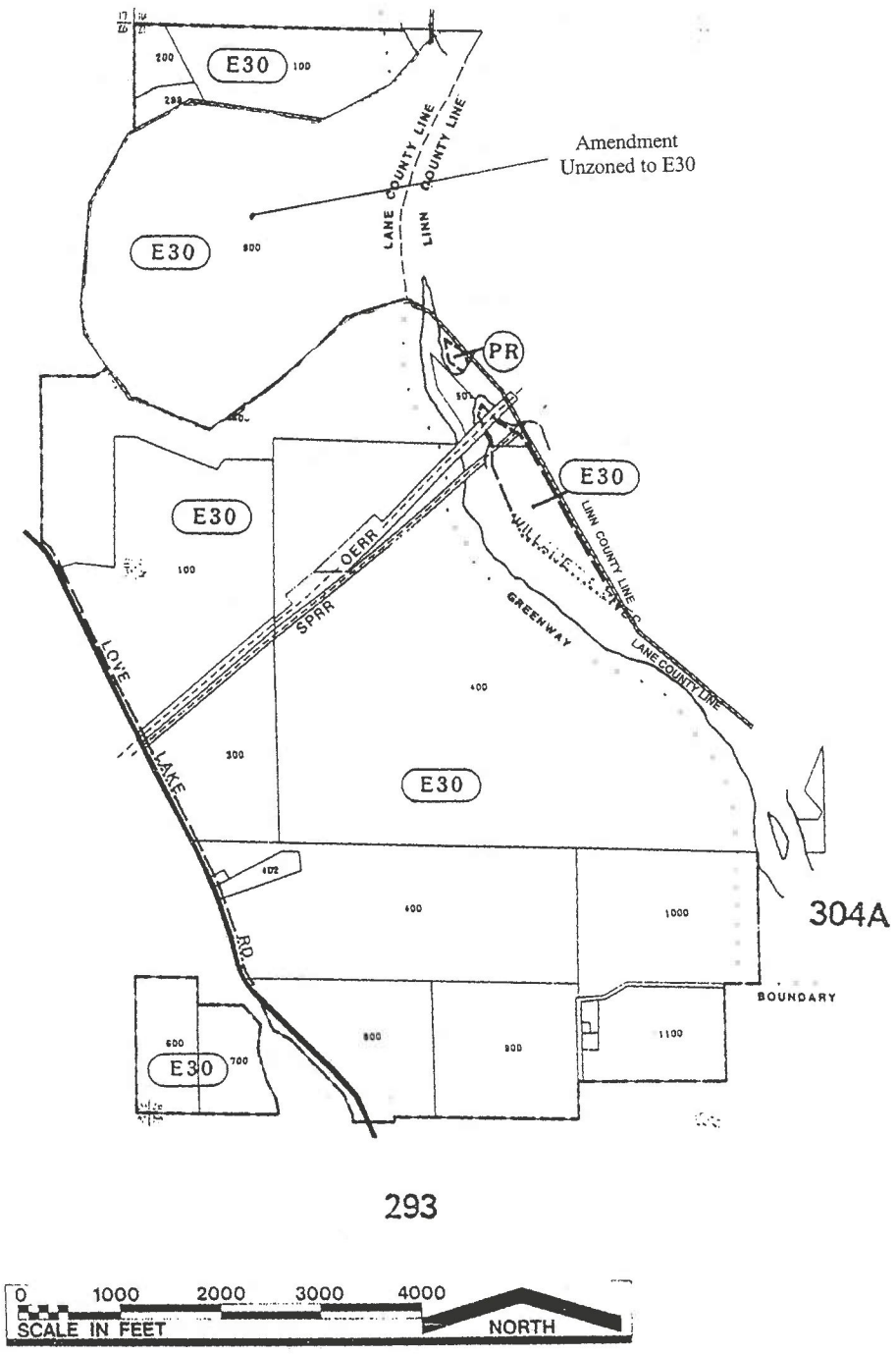
PLOT# 420

Twnshp Range Section
20 03 26 / 20 03 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 2 ORD. # PA 911 DATE 3/14/86 FILE #

Exhibit B-18



lane county

OFFICIAL ZONING MAP

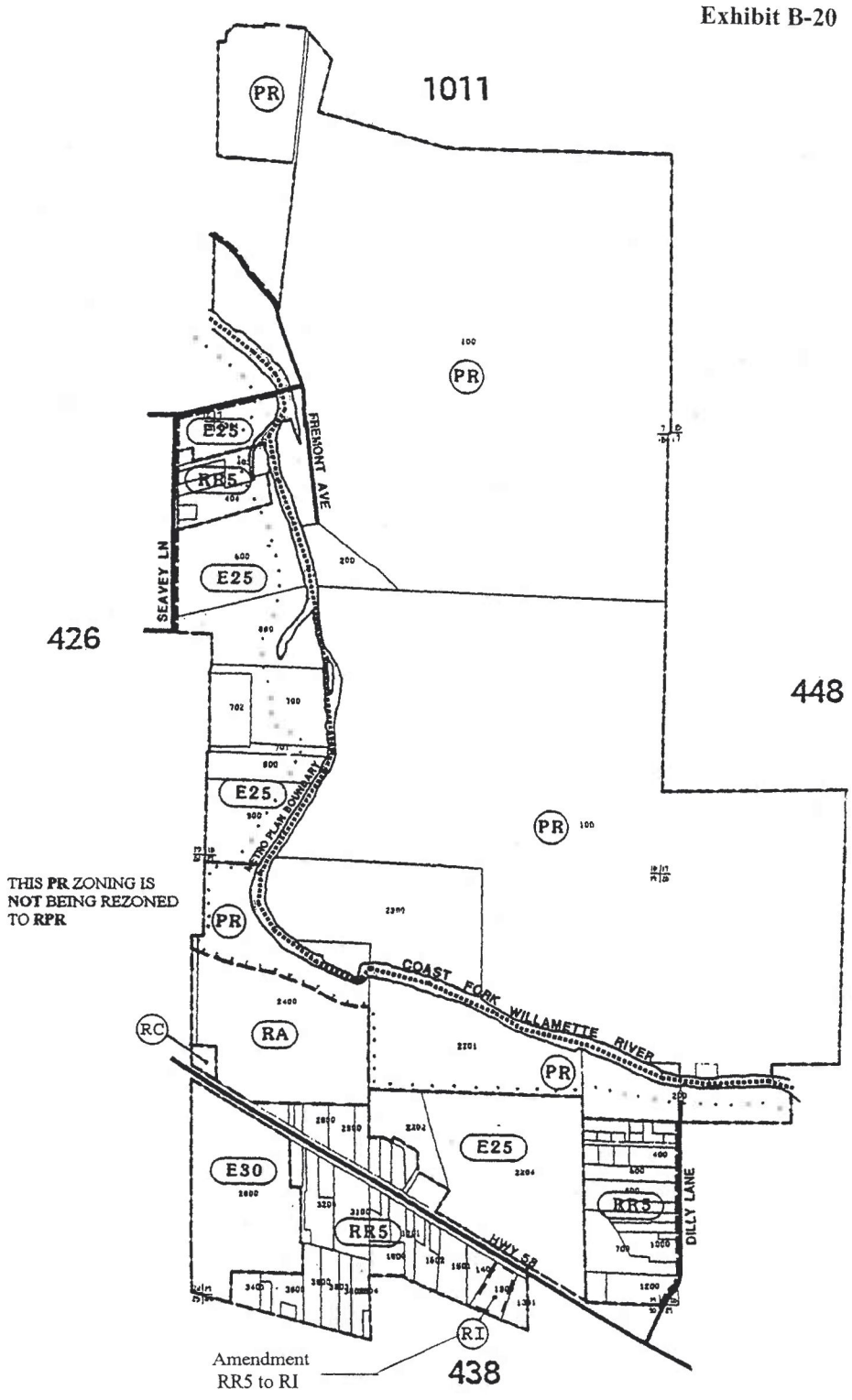
PLOT# 292

Twnshp Range Section
15 04 21 / 15 04 28

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD. # DATE FILE #

Exhibit B-20



0 1000 2000 3000 4000

SCALE IN FEET NORTH

lane county

OFFICAL ZONING MAP

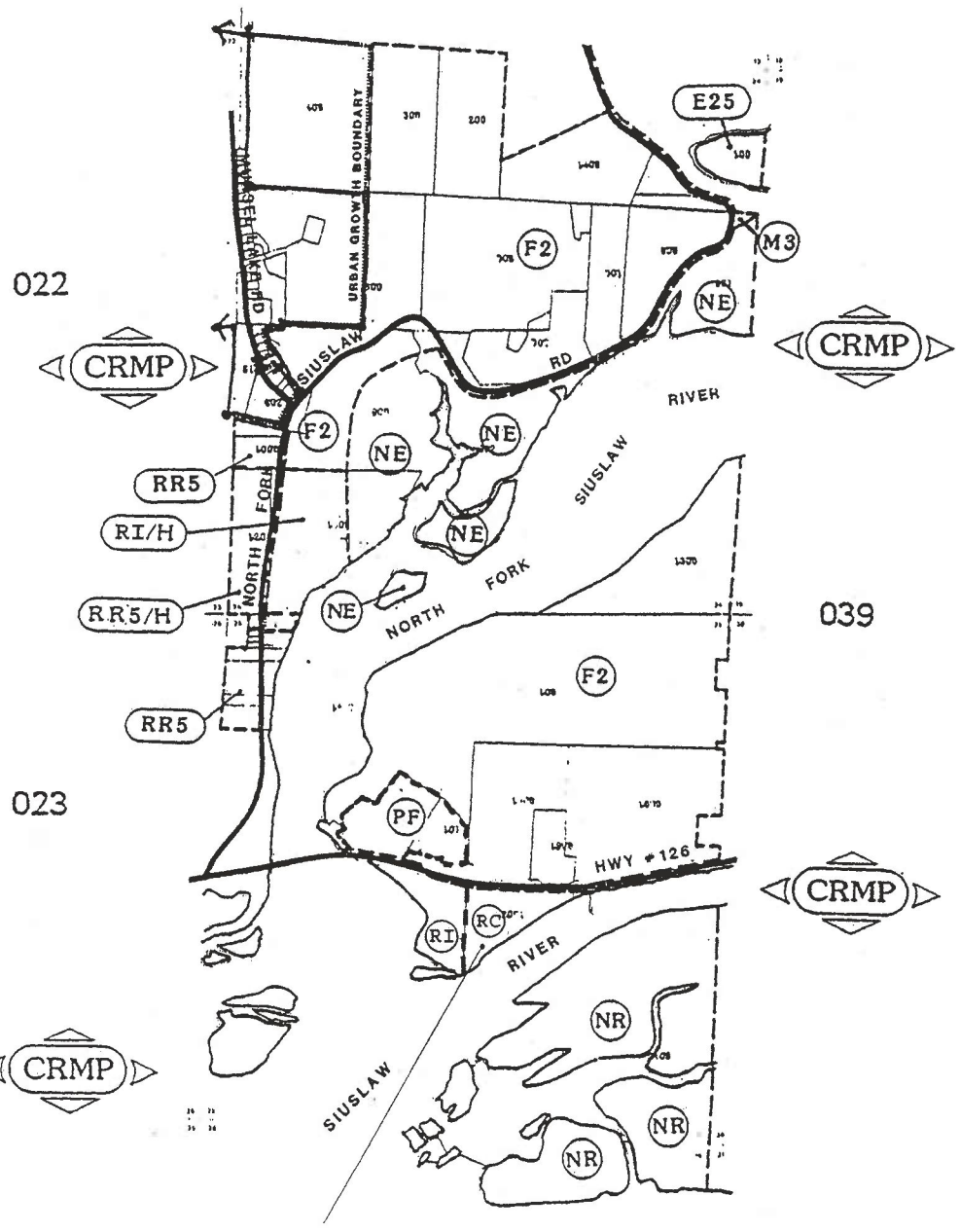
PLOT# 437

Twnshp Range Section

18 02 18 / 18 02 19

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # _____

REVISION # _____ ORD. # _____ DATE _____ FILE # _____



Amendment
RI to RC

lane county

OFFICIAL ZONING MAP

PLOT# 030

Twnshp Range Section
18 12 24 / 18 12 25

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 888 DATE 7/17/84

Exhibit No. _C-2 _

PAPA Control No. _2_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 360

Plan Amendments and Zone Changes for:
Tax lot 2401 of Assessor's Map TRS 22-03-30.1

TRS - Tax lot	Acres	From/Action	To
22-03-30.1 -- 2401	0.41	Rural Residential (RR5)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.294 – *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

TRS 22-03-30.1, tax lot 2401 – 0.41 of-an-acre
Properties Owner: London Grange No. 937 Inc.
Proposed change in zoning designation from Rural Residential (RR5) to Rural Public Facility (RPF).

The proposed plan amendment and zone change is for one property in the ownership of London Grange No. 937 that was designated as Rural Residential (RR5) in 1984. The appropriate designation for the 0.41 of-an-acre facility is Rural Public Facility (RPF).

II. FINDINGS OF FACT

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of the right-of-way of London Road and south of the intersection of London Road and Shoestring Road. It is within the Developed & Committed Exception Area No. 360-1. It can be identified as tax lot 2401 of Assessor's map 22-03-30.1 and is 0.41 of-an-acre in size.

2. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and has been developed with the London Grange Hall since 1950.

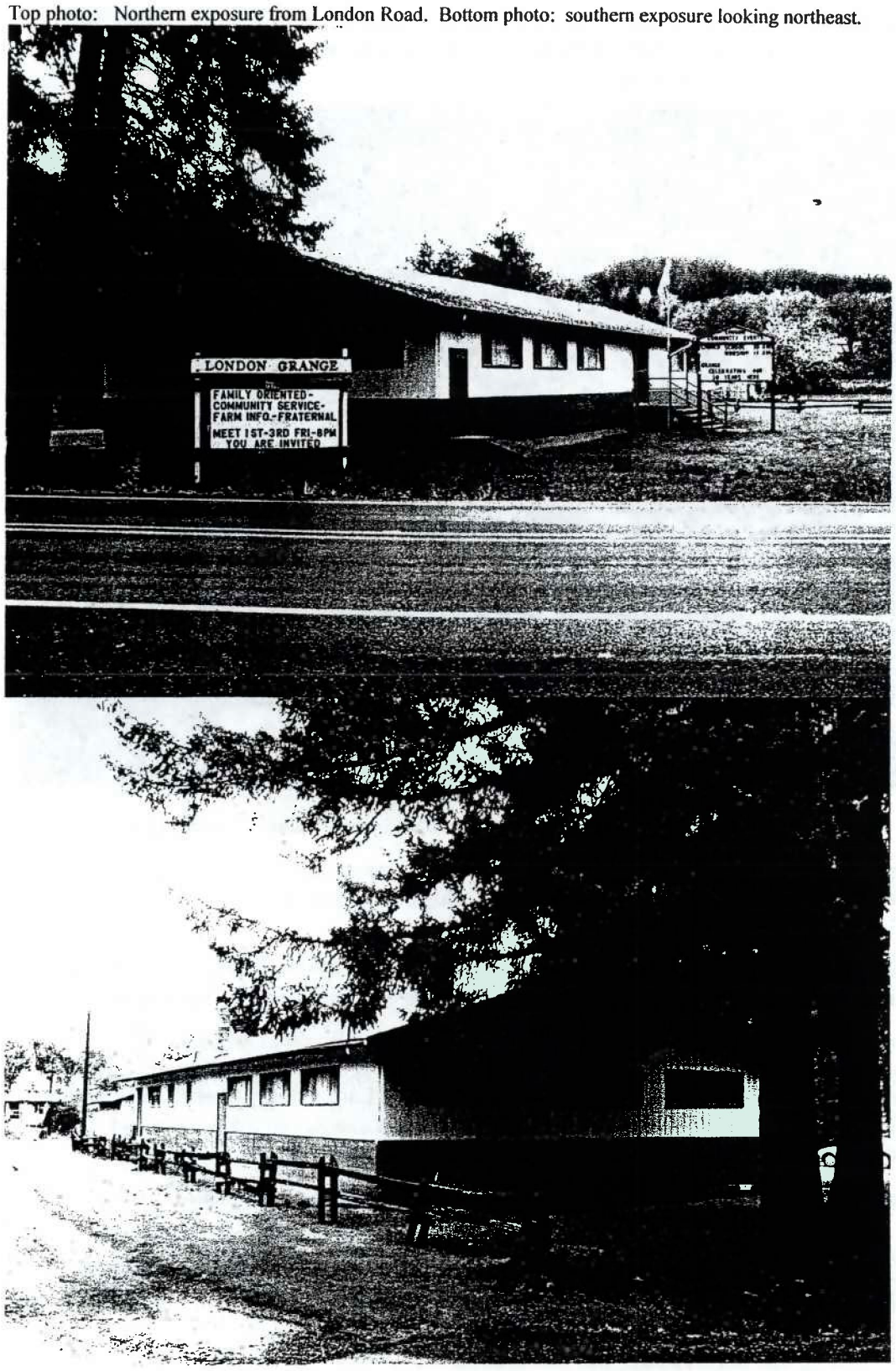
3. The request for the change of zone is to bring the existing use of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The public facility use of the subject property in connection with the Grange Hall is inconsistent with the Rural Residential Zone (RR5).

4. The existing public facility use of the subject property is similar to allowable uses in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(j)-(m):*

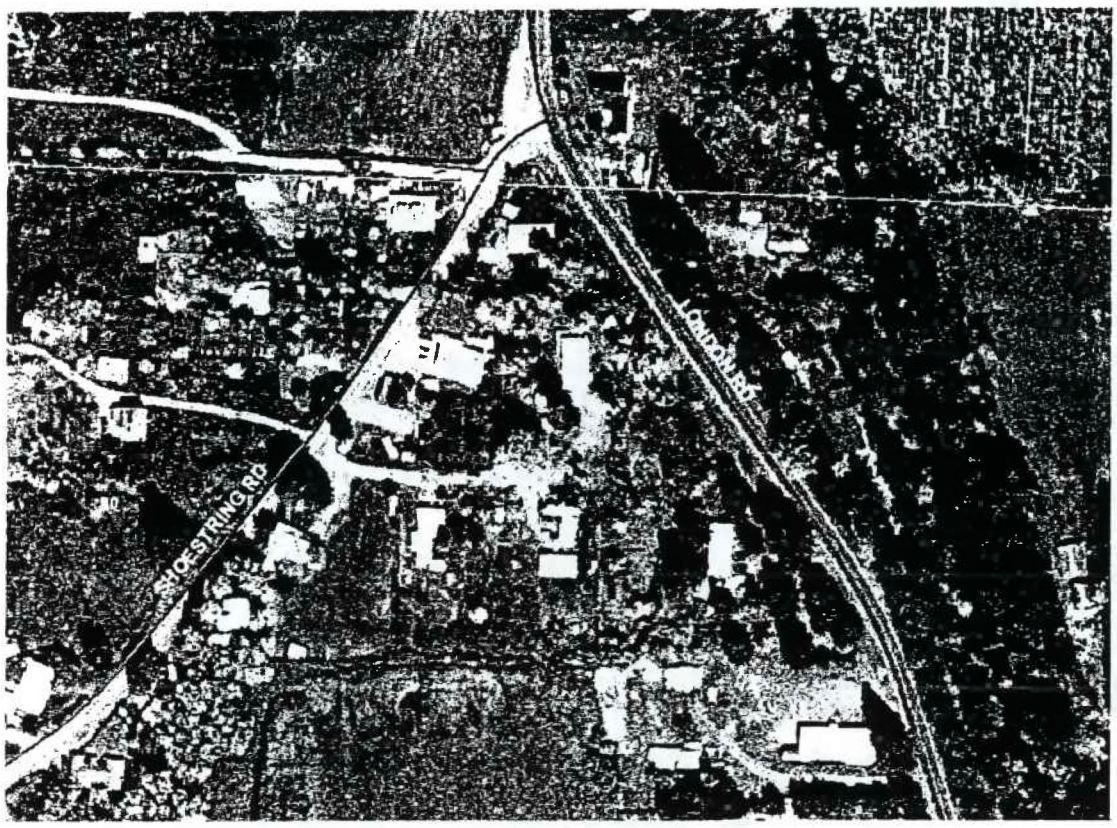
   (j) Professional membership organizations.
   (k) Labor unions and similar organizations.
   (l) Civic, social and fraternal associations.
   (m) Business associations.

   The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

Top photo: Northern exposure from London Road. Bottom photo: southern exposure looking northeast.



5. The Grange Hall provides a service center for rural residents in the vicinity of London and a variety of civic activities are held in the hall on a monthly basis. Grange No. 937 meets on the first and third Friday of the month.



The London Grange No. 937 is located directly above in the southeast ^ corner of the photograph.

6. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the early 1950's.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility utilizes an onsite well as a potable source of water.
8. The subject property receives the following public services: South Lane District #45 (schools); Emerald Peoples Utility District (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Anlauf NE3.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with

the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize the "public facility" use of London Grange Hall No. 937 which was established on the subject property in early 1950s and amend the zoning designation to conform to the use.

(b) Which meet the following requirements.

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 360-1, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject property is enveloped by Rural Residential (RR5) lands on all four exposures. In addition to the surrounding residential uses, the right-of-ways of London Road to the east and Shoestring Road to the north and west separate the facility from Forest Land in those two directions. The closest EFU lands are located approximately 300 feet to the west and separated from the subject property by Rural Residential lands. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 and F2 forest lands 500 feet to the northeast and east or the EFU lands to the west.

The grange hall has been apart of the agrarian society in the London area for 50 years without any unknown conflicts or impacts on nearby resource lands.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 360-1 includes 32 Rural Residential parcels accessed by the right-of-ways of London Road and Shoestring Road and developed with 33 residences. The London Church is situated to the northeast of the intersection of the two roads and has served the rural citizens for over 100 years.

The London Grange No. 937 facility has been providing a service in southern Lane County for five decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 360-1 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy #12.</u> Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The development of the public facility use has not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current use or new use will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.294 (RPF).

(2) Protect and diversify the economy of the County.

The London Grange provides a source of information to farmers and horticulturists in the area. Re-designation of the subject properties will allow diversification of the current use in compliance with the required permit processes, criteria and standards.

(8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The facility is well located for distribution of services to their customers.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 2401 will acknowledge the existing public facility on the subject property. The current use of the facility is provided with potable water from an onsite well and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing public service on the subject property has co-existed since the early-1950s with the agricultural and forest product industries in the surrounding area. Grange halls commonly occur adjacent to resource lands and in some instances are essential to the rural residents for distribution of information and a sense of "community". Any expansion or intensification of the London Grange facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on*

wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Aulanf NE3 quad of the National Wetlands Inventory. Past development on the subject property in the 1950s has significantly altered the natural flora communities and habitat on the four/tenths of an acre. As a result of past alterations, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. <u>*Lane Code 16.003.*</u> Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is 0.41 of-an-acre in size and abuts a public road. Surrounding lands are residentially developed. Nearby forest and agricultural lands are buffered from the facility by road right-of-ways or nonresource parcels. None of the 32 parcels designated as RR5 properties in the D&C exception area 360-1 have been managed for the production of crops, livestock or timber products for the past twenty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with 32 residences, a church and the grange hall. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The grange hall on the subject property is within the unnumbered "A" zone, 100-year flood hazard area per Flood Insurance Rate Map Panel 2375F of 2975 (6-2-99).

b. <u>*Not Contrary to the Public Interest*</u>

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use

strongly suggests that there is a need for the public facility in this area. Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. *Lane Code 16.294*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and existing use on tax lot 2401 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited and has an onsite domestic water source.

The subject property is small in size (0.41 acre) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 22-03-30.1, tax lot 2401 (0.41 of-an-acre) from Rural Residential (RR5) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 2 of Ordinance No. PA 1226, amending the Official Plan Map No. 360 designation for tax lot 2401 of Assessors Map TRS 22-03-30.1, from Rural (R) to Public Facility (PF); and

2. Approval of PRZC Control No. 2 of Ordinance No. PA 1226, amending the Official Zoning Map No. 360 designation for tax lot 2401 of Assessors Map TRS 22-03-30.1, from Rural Residential (RR5) to Rural Public Facility (RPF).

VII. EXHIBITS

A. Plan Map, Plot No. 360 with proposed plan change depicted.
B. Zoning Map, Plot No. 360 with proposed zone change depicted.
C. Lane County Assessor's Map TRS 22-03-30.1.

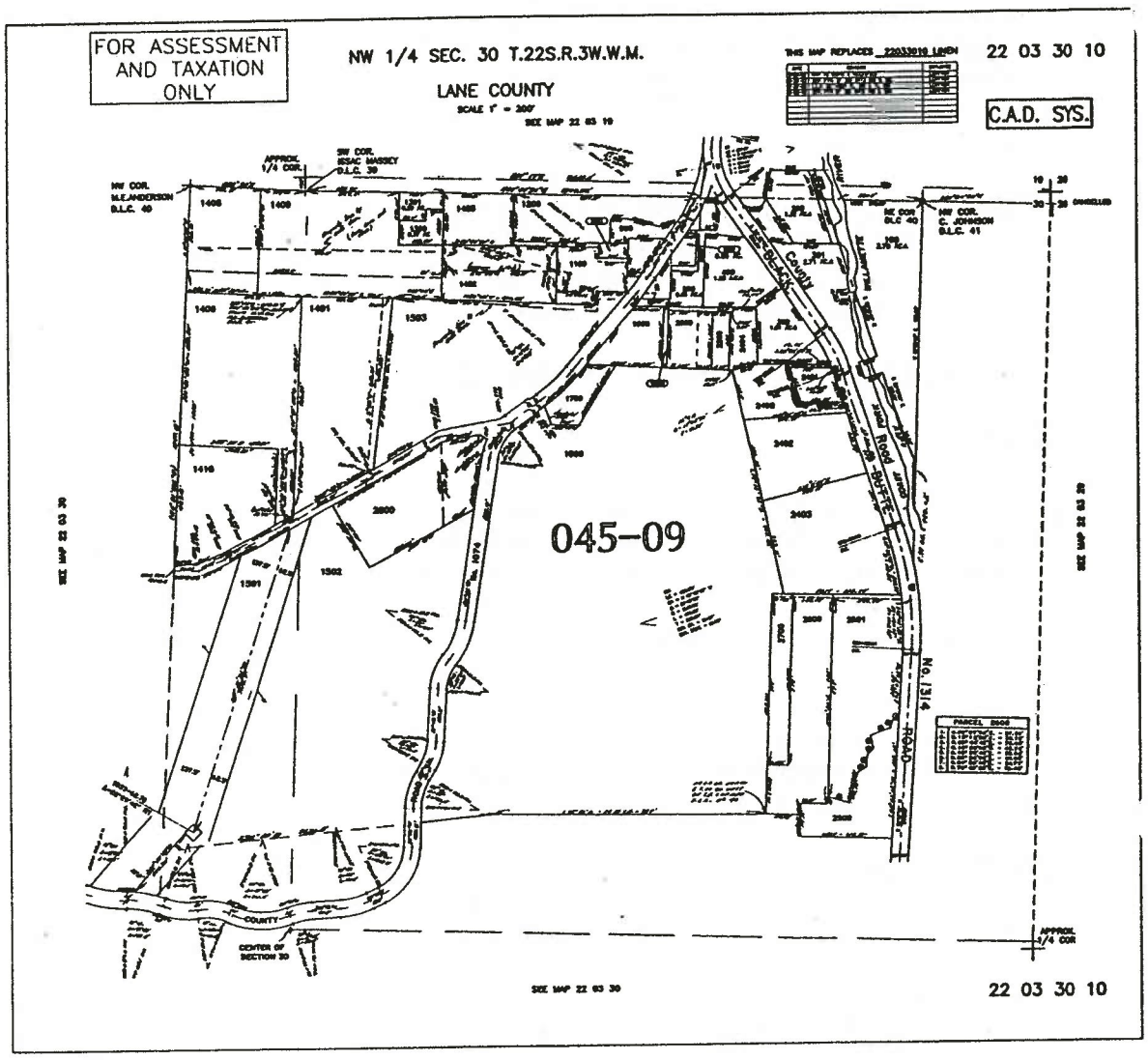

FOR ASSESSMENT AND TAXATION ONLY
NW 1/4 SEC. 30 T.22S.R.3W.W.M.
LANE COUNTY
22 03 30 10
C.A.D. SYS.
045-09
COUNTY
COUNTY
CENTER OF SECTION 30
22 03 30 10

Exhibit No. _C-3_

PRZC Control No. _3_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 282-1

Plan Amendment and Zone Change for Tax Lot 800 of Assessor's Map 16-04-20

Tax lot	Acreage	Action	Zoning Designation
800	1.45	Retained as	Rural Residential (RR5)
	0.28	Rezoned to	Rural Industrial (RI)
	1.73 total acres		

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

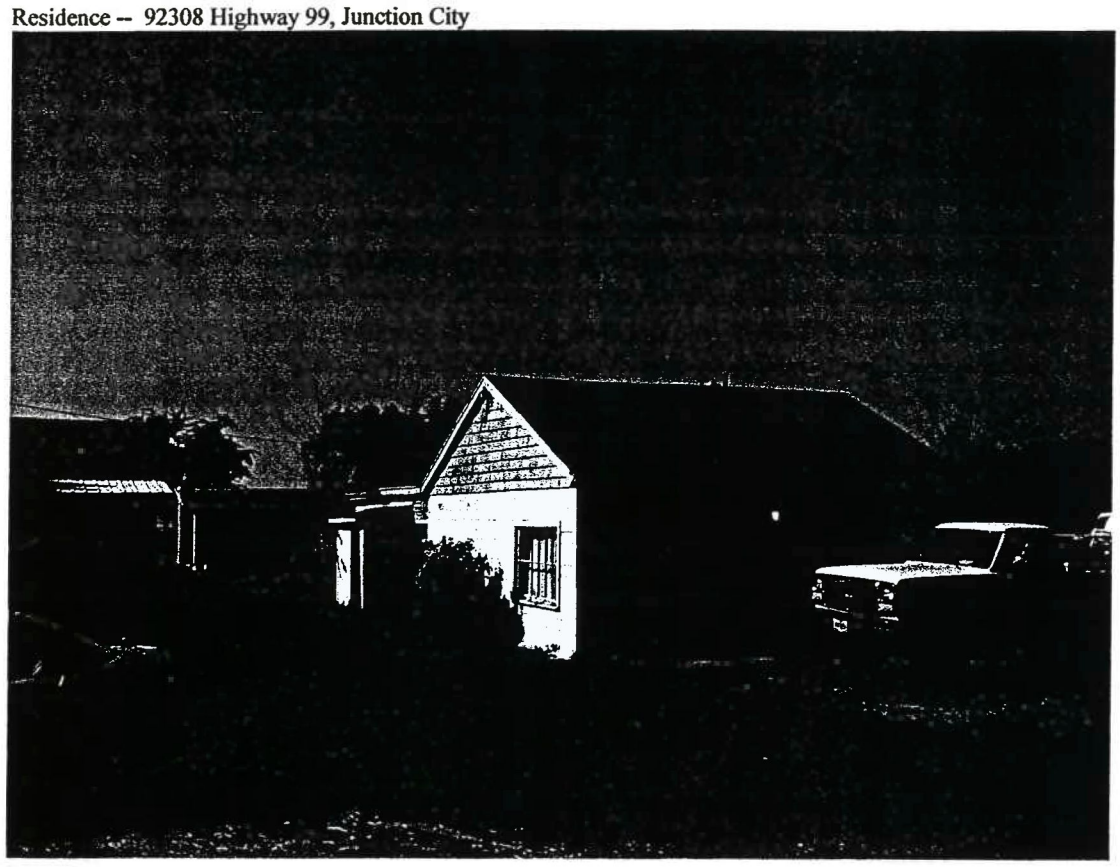
I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of the right-of-way of Highway 99, approximately 1100 feet south of Milliron Road, and within the Developed & Committed Exception Area No. 282-1. It can be identified as tax lot 800 of Lane County Assessor's map 16-04-20 and is 1.73 acres in size.

2. The subject property is developed with both residential and industrial uses. There are two residences on the subject property.

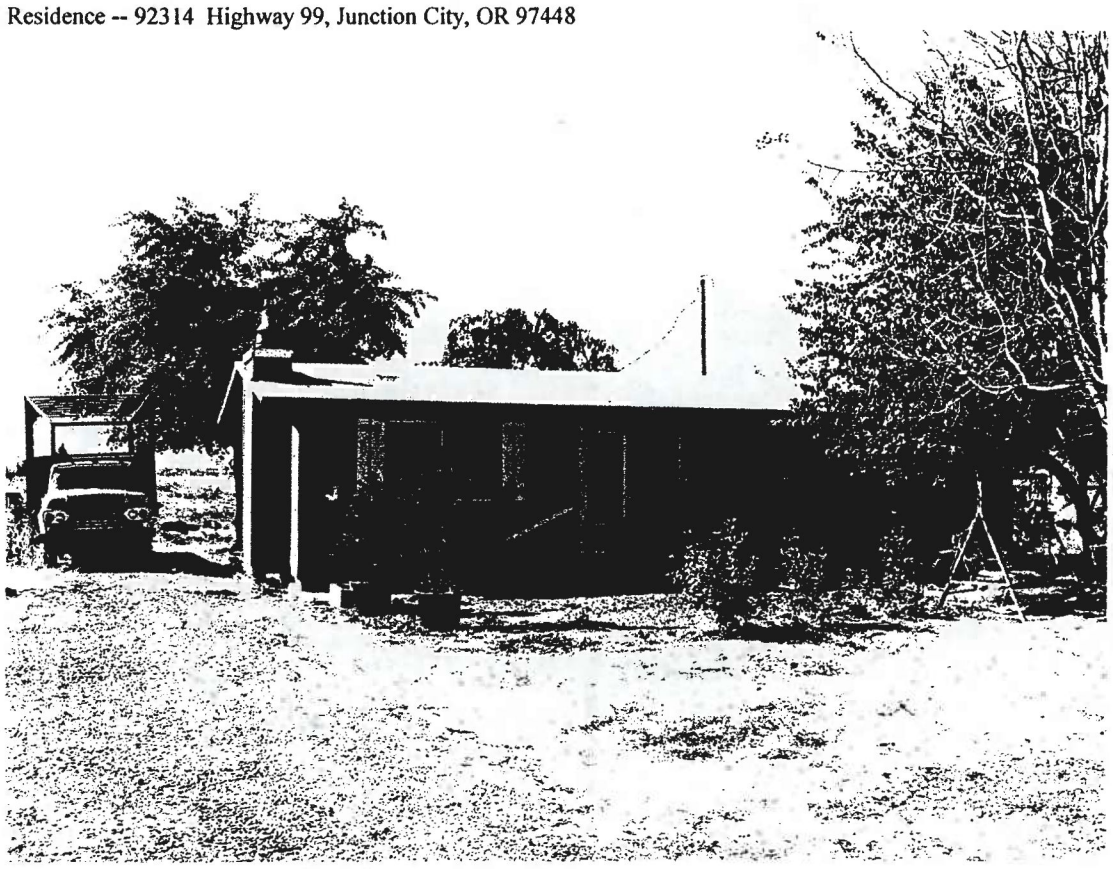
   The first residence on the subject property was constructed in 1940 (1,005 sq. ft.) and has an assigned rural address of 92308 Highway 99, Junction City, OR 97448.

Residence -- 92308 Highway 99, Junction City



The second residence on the subject property was constructed in 1973 (1,008 sq. ft.) and has an assigned rural address of 92314 Highway 99, Junction City, OR 97448.

Residence -- 92314 Highway 99, Junction City, OR 97448



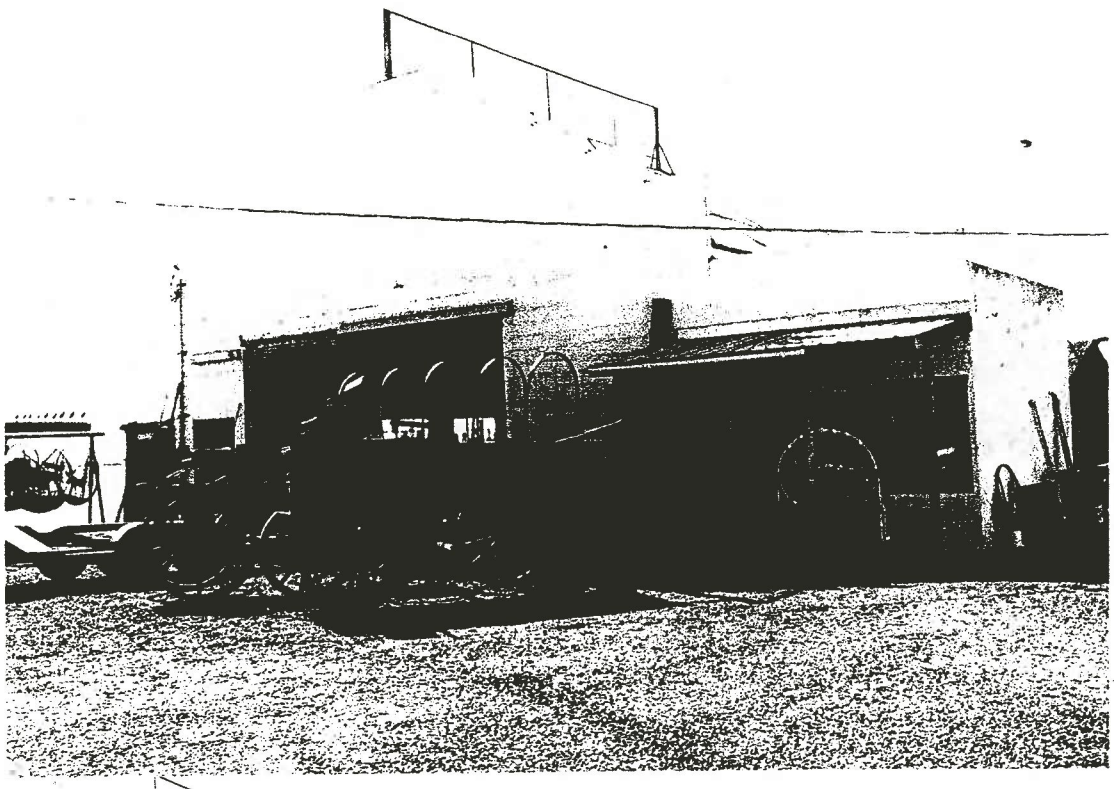
Both of the residences have access via a single driveway from Highway 99 and are served by the same two access points within the right-of-way of the highway.

All of the development on the subject property is located in the east half of the acreage. The western half of the subject property is an open field.

The third structure on the subject property was constructed in 1951 and has been utilized for commercial and industrial uses for the past 50 years. It is a 40' x 52' metal smith shop and a 12' x 16' gallery known as the Western Art Gallery. The owner of the gallery creates large metal sculptures and artwork within the metal shop which are displayed out front and within the gallery. Sculptures and functional pieces are sold in the gallery. The majority of the income is from custom orders fabricated out of iron or steel. The art work has a distinct western motif. An accessory structure to the industrial use is located to the west of the shop. It is a 24' x 24' building used for storage. Some outside area is used for storage further to the west and south.

3. The subject property is currently zoned for Rural Residential use (RR-5/RCP). Prior to 1984 the property was designated AGT-5 (Agriculture, Grazing and Timber with a 5-acre minimum division standard).

The Western Art Gallery – 92308 Highway 99, Junction City, OR 97448





Above: Gallery and access driveway.



Above: Gallery sign and display of sculptures. Below: 24' x 24' storage building and outside storage area.



4. The property owner is proposing to retain the current Rural Residential (RR5, LC 16.290) zoning designation on 1.45 acres of the 1.73-acre subject property. The 0.28 of-an-acre portion in the southwest corner of the subject property with the existing industrial development and uses is proposed for rezoning to Rural Industrial (RI, LC 16.292). The 0.28 of-an-acre can be described as an area approximately 70 feet from south to north and 175 feet from east to west. It can further be described as:

   > Beginning at the southeast corner of the subject property where it meets the public right-of-way of Highway 99, then proceeding north along the right-of-way 70 feet; then proceeding west on a line parallel to the southern property line for a distance of 175 feet; then proceeding south approximately 70 feet to the southern property line; and then east along the southern property line approximately 175 feet to the point of beginning.

   The above description is based on the intent to include the industrial structures and outside storage areas, parking area, the southern access point and half of the northern access point along Highway 99 in the description. The "70-foot" distance defining the eastern line of the Rural Industrial zoning boundary was calculated to include 10 feet of open space to the north of the Western Art Gallery building to provide a 10-foot setback from the northeast corner of the 12' x16' "gallery", being the northern-most wall connected to the 40' x 52' metalworking shop. This "setback" includes the southern two-thirds of the east to west, graveled access driveway. The "175-foot" distances defining the northern and southern zoning boundary lines of the Rural Industrial (RI) zone are intended to extend down the driveway and encompass the 24'x24' storage building and the outside storage area further to the south. The northwest corner of the Rural Industrial designated area is at a point south and east of the residence in that location.

   The 1940 residence in the northeastern corner of the subject property and the 1973 residence further to the west are intended to remain in the Rural Residential RR5) zoning designation.

   If at a later time, it is discovered by a more accurate land survey that one or more of these points and distances does not include the intended structures, development, setbacks and uses, the survey shall be executed to include the described intent and the RI zoning designation shall comply with the amended survey boundaries.

   Refer to Exhibit "C": Diagram of Rural Industrial Zone on tax lot 800, TRS 16-04-20. Exhibit "C" illustrates the proposed Rural Industrial boundaries on a 2004 aerial photograph and in more detail on the diagram, depicts the two residences and the industrial structures in relation to the two zoning designations.

5. The request for the change of zone is to bring the existing industrial uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code 16.292. The use of a portion of the subject property in connection with the industrial manufacturing and commercial sales activities is inconsistent with the Rural Residential Zone (RR). The industrial uses and sales are consistent with the Rural Industrial (RI) zone and Lane Code 16.292(2)(a), 16.292(3)(b) and 16.292(3)(e):

   Lane Code 16.292(2) Permitted Uses and development.
   (a) Maintenance, repair and replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere in LC 16.292.

   Lane Code 16.292(3) Uses and Development Subject to Approval by the Director.

(b) Small-scale, low impact manufacturing, assembling, processing, packaging, storage, wholesale distribution, testing, or repairing that does not include radioactive materials or hazardous waste byproducts in the manufacturing process and they may occur outside a building or in one or more buildings containing not more than:

(iii) 35,000 square feet of floor area in any one of combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

Lane Code 16.292(2) Uses and Development Subject to Approval by the Director.

(e) Associated sale and administrative offices for the uses permitted by LC 16.292(3)(a) through (d) above. Offices that are for the uses permitted by LC 16.292(3)(b) above shall comply with the floor area requirements of LC 16.292(3)(b)(i) through (iii) above.

The use complies with the *Purpose* statement of *LC 16.292(1)(b) Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continue operation of existing industries; . . .*

6. There is no record of any historical compatibility issues occurring between the existing industrial uses or ancillary sales operation on the subject property and its neighbors. Nor is there any record of complaints from any surrounding property owners concerning the commercial or industrial activities associated with the Western Art Gallery regarding compatibility issues or conflicts.

7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010.

8. The subject property receives the following public services: Junction City School District No. 69 (schools); Emerald People's Utility District (electrical power); Lane Rural Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

9. There are no National Wetland Inventory delineated wetlands on the subject property per NWI map Junction City 3.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize existing industrial uses on the subject property in conjunction with ancillary sales that have been integrated into the surrounding rural area since 1953.

Industrial and commercial uses to the north with Exception Area 282-1 include:
DL Truck Parts (auto and truck salvage and parts dealership);
Eugene Livestock (livestock auction and stock yards;
Lane Truck Body (truck salvage and parts dealership);
Midway Auto Wreckers (auto salvage and parts dealership);
Meadow View Storage (mini-storage units – personal & household).

The subject property is directly west of the urban growth boundary of Junction City that is aligned on the eastern right-of-way of Highway 99.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located outside the urban growth boundary of the Junction City to the east. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the existing enterprise on the subject property which is industrial and has existed on the property for 30+ years.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

There are agricultural lands (EFU, E40) located adjacent to the southern and western boundary of the subject property. The land to the west is open pasture with parts of it utilized in conjunction with the feedlot and livestock auction business two tax lots north of the subject property. the lands to the south are cultivated. The next closest EFU lands are located 2,2500 feet to the east on the east boundary of the Junction City UGB.

The EFU land to the west is buffered from the industrial use and sale of the art work to the public by an undeveloped field on the western two-thirds of the subject property. The separation between the uses on the subject property and the adjacent EFU property is approximately 450 feet. There are no forest lands (F1 or F1) adjacent to the subject property.

During the past 30 years, the Western Art Gallery has operated as part of the fabric of the agrarian culture in the vicinity of Junction City. Its role has been complimentarily and beneficial to the agricultural interests in the area. No activities associated with the Western Art Gallery have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses.

(C) *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.*

The creation of western sculpture is industrial in nature and important art work to the surrounding rural and urban areas. The structures and uses of the subject property were established during the 1941 to 1971 period and have been compatible with the adjacent properties and nearby resources use.

This proposed zoning change, as it can be applied to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 282-1 of Lane County. It is proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural Industrial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure..*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property is relatively flat with no identified hazards due to slope, grade or terrain features. Development has been orderly and the structures predate land use regulations. All of the structures are lawful and could be replaced in the event of a calamity. The existing industrial use is provided for in the proposed zoning designation. The existing metal smith work and the Western Art Gallery have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.292 (RI).

(2) *Protect and diversify the economy of the County.*

Re-designation of 0.28 of-an-acre of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

There is no evidence in the record that the residential use of the subject property since 1941 or the industrial and commercial uses since 1953 have diminished the ability of nearby agricultural lands to be managed in an efficient manner.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of a portion of the subject property will acknowledge the existing industrial use and provide an opportunity for economic growth on the subject property. The current residential and industrial uses are served by on-site well and subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures and uses.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.292(4)(i) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing industrial and residential uses on the subject property have co-existed since 1953 with the agricultural product industries in the surrounding area. Any expansion or intensification of the uses would require compliance with Lane Code 16.292(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10: "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

RCP inventoried "significant species" have not been identified on the subject property. Therefore as a result of past practices, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential, commercial and industrial uses extending 1,300 feet from Milliron Road, south to and including the subject property. The existing uses have been a part of the rural cultural for decades and utilize a rural level of facilities. Recognizing the Western At Gallery for what it has been for 30 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

The subject property is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 615 of 2975 (6-2-99). There are no other natural hazards identified on the property.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a continued acceptance and patronage for the Western Art Gallery services in this area.

c. *Lane Code 16.292*

Lane Code 16.292(1) states *Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continue operation of existing industries; . . .*

The proposed rezoning and uses on subject property are consistent with these purpose statements.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited.

The subject property utilizes an onsite well.

The subject property is small in size (1.78 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.292(4)(i).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for 0.28 of-an-acre of TRS 16-04-20, tax lot 800 (1.73 acres) from Rural (R) to Industrial (I), and Rural Residential (RR5) to Rural Industrial (RI), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 3 of Ordinance No. PA 1226, amending the Official Plan Map No. 282 for 0.28 of-an-acre of tax lot 800 of Assessors Map TRS 16-04-20, from Rural (R) to Industrial (I); and

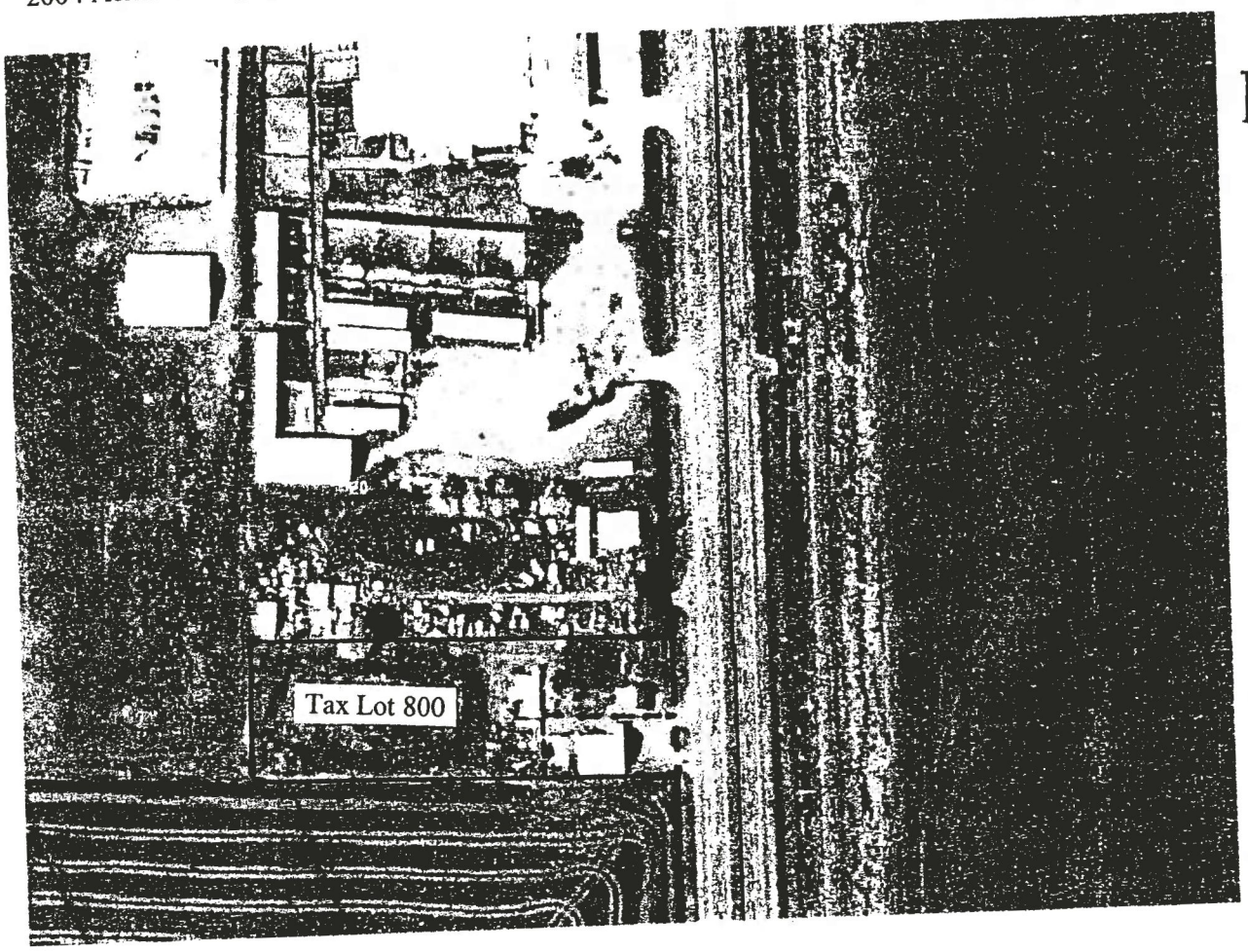
2. Approval of PRZC Control No. 3 of Ordinance No. PA 1226, amending the Official Zoning Map No. 282 designations for 0.28 of-an-acre of tax lot 800 of Assessors Map TRS 16-04-20, from Rural Residential (RR5) to Rural Industrial (RI).

V. EXHIBITS

A. Plan Map No. 282 with proposed plan change depicted.
B. Zoning Map Plot No. 282 with proposed zone change depicted.
C. Diagram of Rural Industrial Zone on tax lot 800, TRS 16-04-20:
   - Excerpt from 2004 aerial photograph;
   - Diagram depicting existing structures and proposed zoning boundaries.
D. Lane County Assessor's Map TRS 16-04-20

Exhibit C: Diagram of Rural Industrial Zone on tax lot 800, TRS 16-04-20

2004 Aerial Photograph



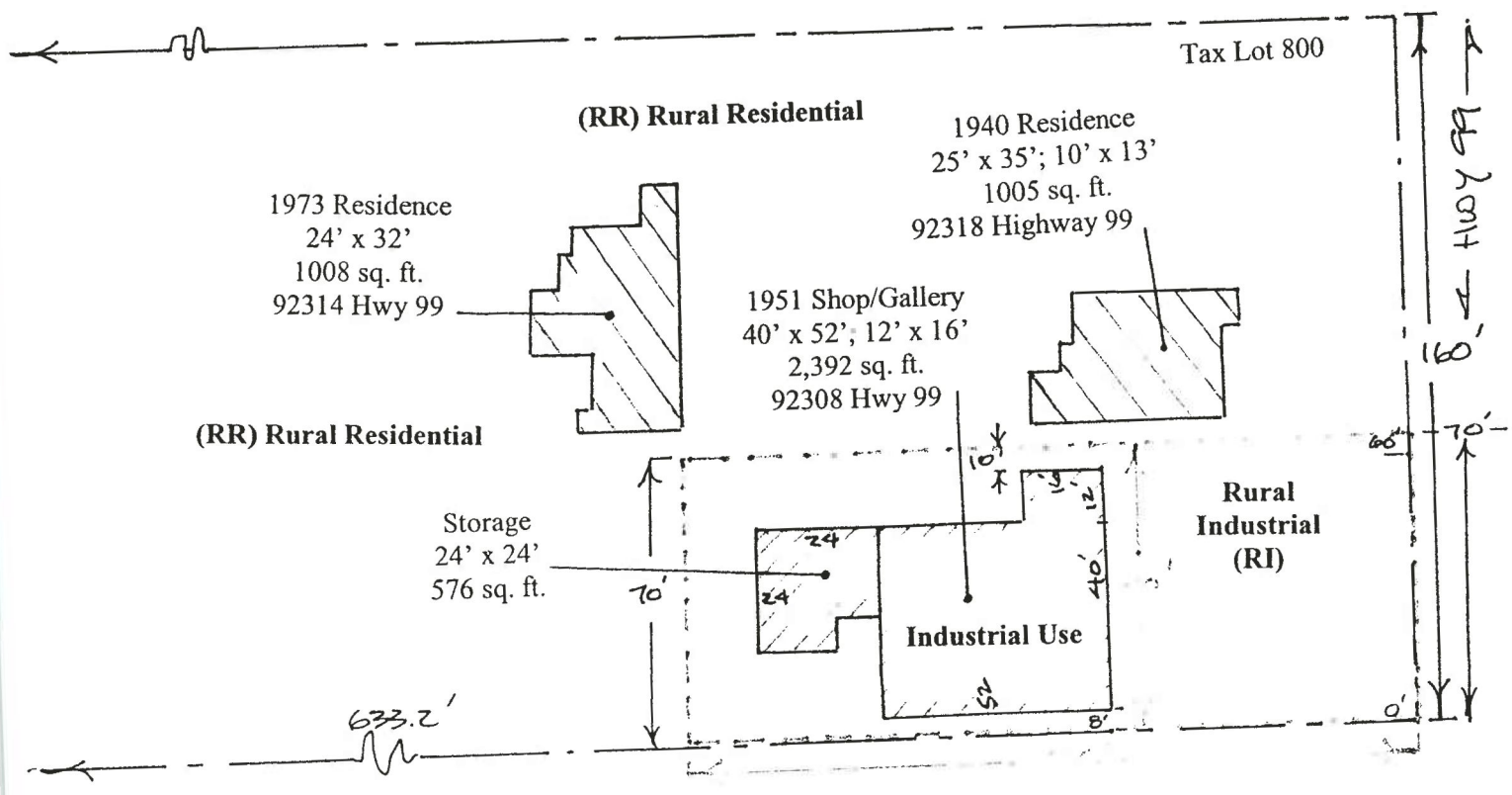
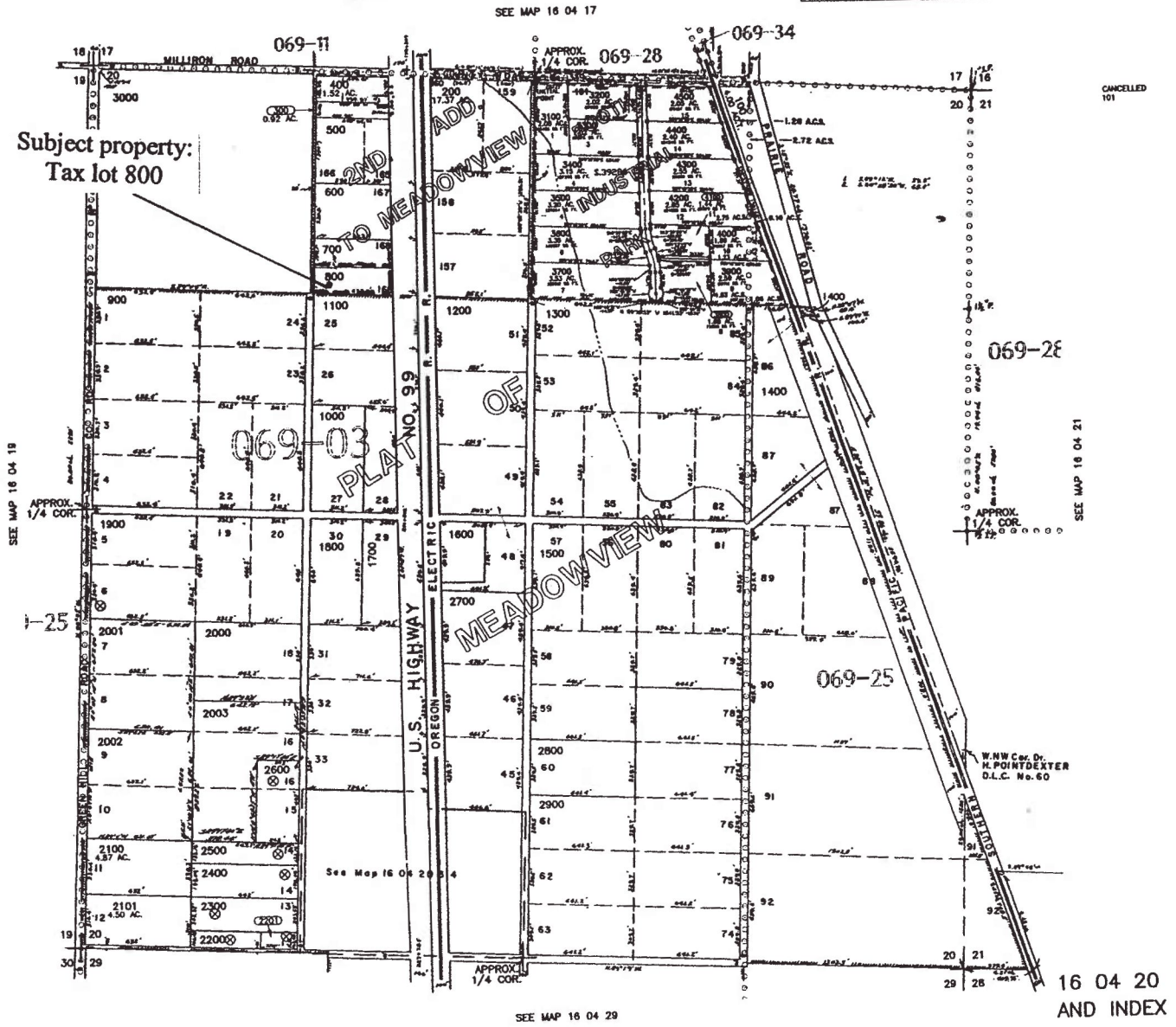


Exhibit D – Lane County Assessor's Map TRS 16-04-20

FOR ASSESSMENT AND TAXATION ONLY

SECTION 20 T.16S. R.4W. W.M.
LANE COUNTY
SCALE 1" = 400'

16 04 20
AND INDEX
NAD 83/91



16 04 20
AND INDEX

Exhibit No. _C-4_

PRZC Control No. _4_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 388-R2

Plan Amendment and Zone Change for Tax Lot 402 of Assessor's Map 20-03-21

Tax lot	Acreage	From	To
402	1.26	Rural Residential (RR5)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99 and approximately 3,000 feet north of the intersection of Bennett Creek Road (River Road) and the urban growth boundary of Cottage Grove. It is within the Developed & Committed Exception Area No. 388-R2. It can be identified as tax lot 402 of Assessor's map 20-03-21, with a rural address of 79370 Highway 99, Cottage Grove, OR 97424-9510, 1.26 acres in size.

2. The subject property, tax lot 402, is developed with a single-family dwelling assessed in 1967. At the time of the assessment, two other buildings were identified as accessory structures connected to the operation of a "cabinet shop". The buildings were 20' x 49' "shop" (980 sq. ft.) and 25' x 36' "storage shed" (900 sq. ft.). The "shop" which has been occupied by several cabinet makers in years past beginning with James Davis and currently Jerry Maddux, Maddux Fine Cabinetry.

3. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and the commercial use of the property was not acknowledged.

4. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the commercial activities is inconsistent with the Rural Residential Zone (RR). Both residential and commercial uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(f) or (g) and Lane Code 16.291(3)(c), respectively.

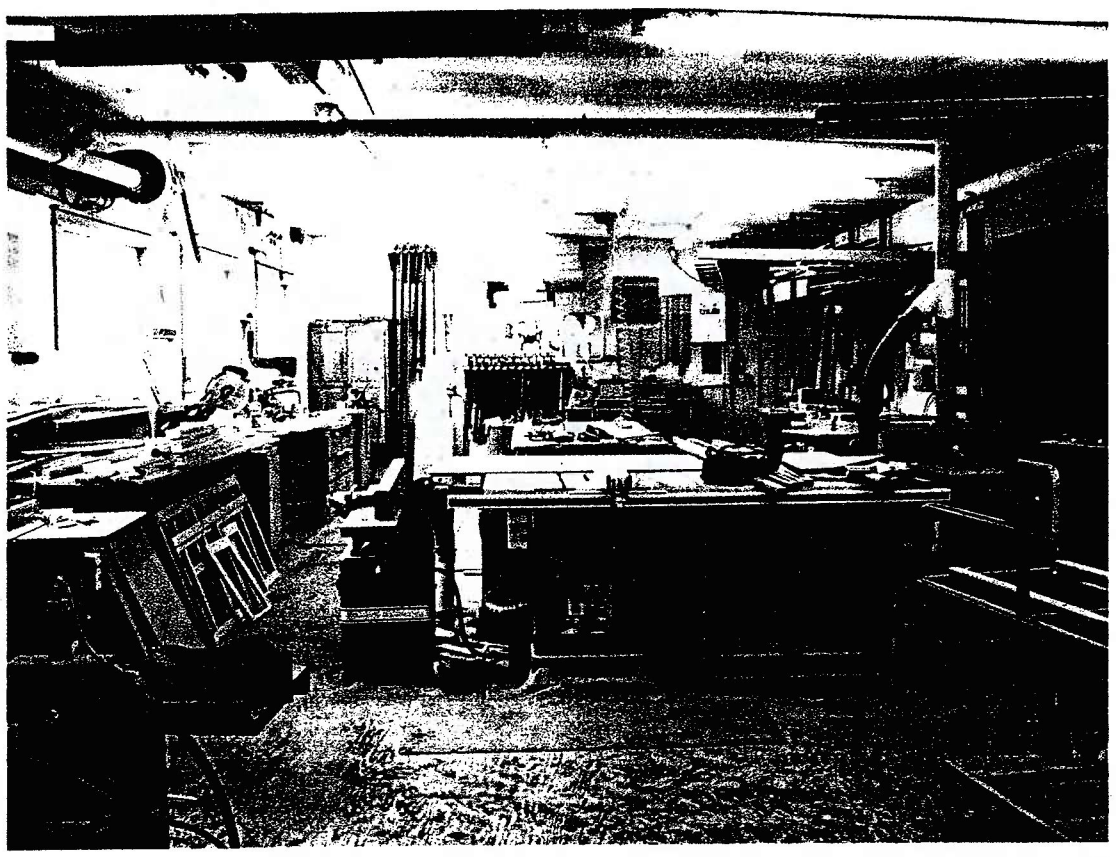
5. The existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(3)(c) Retail trade of services, including: personal, finance, insurance, banking, real estate, professional, and the construction trades including but not limited to general contracting, carpentry, cabinetmaking, electrical, plumbing and landscaping.*

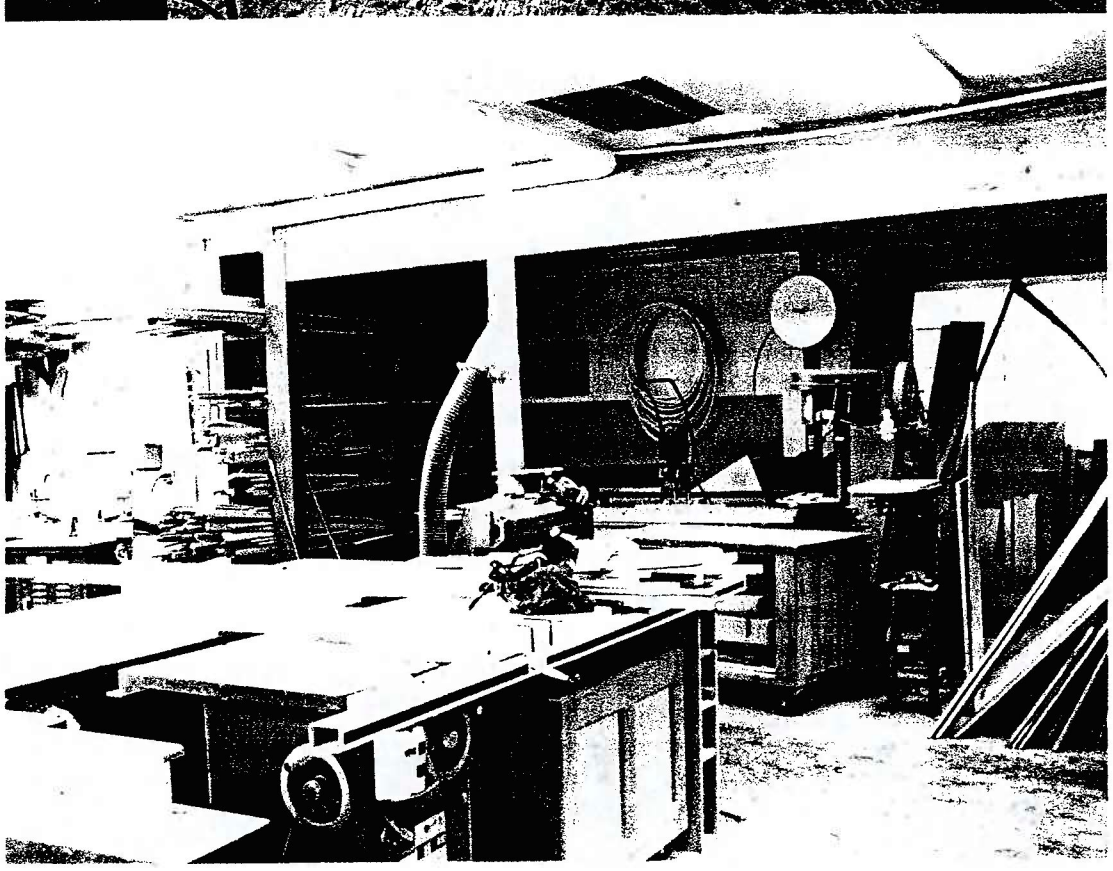
   The use complies with the *Purpose* statement of *LC 16.291(1)(b) Purpose: The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .*

Composite of two photos below: "shop" to the left , "office " in the center and "garage/storage" to the right.



Interior of Maddux Fine Cabinetry shop





6. There is no record of any historical compatibility issues occurring between the existing residential or commercial uses on the subject properties and their neighbors since the residence and business were established in the 1960s.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. Such an area exists 3,000 feet to the south in exception area No. 388-R3.
8. The subject property receives the following public services: South Lane School District #45 (schools); Emerald People's Utility District (electrical power); South Lane County Fire & Rescue Department (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Cottage Grove SE1.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site, or

The zone change requested by this application is intended to apply a zoning designation in conformity with the existing and anticipated commercial uses on the subject property in conjunction with the existing residential use that have been integrated into the surrounding rural area for 40 years.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located 3,000 feet north of the urban growth boundary of the City of Cottage Grove. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for the commercial uses that have existed on the subject property for almost 40 years (1965).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

There are (F2) Impacted Forest Lands located adjacent to and west of the subject property. The closest EFU lands are located approximately 2,000 feet to the northwest. Rural Residential (RR5) properties abut to the east, south and to the north along Highway 99. The RR5 lands were designated in 1984 within Developed and Committed Exception Area No. 388-2. The existing commercial and residential uses on the subject property were present at the time and no intensification has occurred since then. No new impacts or increased commitment to nonresource uses has been identified on the F2 lands to the west since 1984.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing cabinetry shop is commercial in nature and offered to the public from other businesses in the surrounding rural and urban area. The commercial use of the subject property has been compatible with the resource use of the adjacent forest lands since 1965.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

Plan Conformity

The subject property is located in a "developed and committed" area of Lane County, 3,000 feet north of the urban growth boundary of the City of Cottage Grove. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services either suffered or enjoyed by the Community. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject property is defined, in part, by the operation of commercial and residential uses on the subject property and residential uses to the north, east and south within D&C Area No. 388-2. The continuation of the uses on the subject property would provide services that are intended for the benefit of the citizens in the area. The existing uses on the applicant's properties have been serving residents of Cottage Grove and the rural areas for four decades and as such are part of the social and economic fabric of the area.

There is no evidence in the record for one to conclude that the current use has or will significantly affect surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the site and established uses.

While the impacts from the uses appear to be consistent with the livability and appropriate development of the surrounding area and the community–at–large, other uses allowable within the Rural Commercial Zone (i.e. restaurants, bars, night clubs, taverns or brew pubs, bus passenger terminals, and commercial kennel) may not be. The applicant has not done a compatibility analysis of these uses. Therefore, the rezoning request can be approved but the establishment of any new commercial use on the subject property shall require Planning Director approval of a special use permit under the provisions of LC 16.291(3), and the site review criteria of Lane Code 16.291(4) shall apply.

2. **Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.**

   The subject property is located within a mixed residential and commercial node of uses in D&C Area No. 388-2 and 3,000 feet north of intensive Rural Industrial uses in D&C Area 388-3 and the UGB of Cottage Grove. To the south along Highway 99 and south of River Road inside the UGB, the development includes commercially and industrially zoned properties including auto storage and impound yard, a heavy equipment repair and sales operation, a logging equipment sales store, a lumber yard and two mini-storage businesses. The subject property is within a corridor of commercial and residential uses influenced by the urban population of Cottage Grove.

B. <u>Water Resources Policies #3 and #5</u>:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. The proposed rezoning will not change the type or intensity of the existing use of the subject property and therefore will not alter the use or availability of groundwater, which is currently provided by a well on the subject property.

C. **Public Facilities and Services Policy #6.f**:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

D. **Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."**

The closest agricultural zoned properties (EFU) are 2,000 feet northwest of the subject property.

E. **Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."**

Significant, specific species wildlife habitat and other natural areas have not been identified on the subject property. The Coast Fork Willamette River to the east of Highway 99, is a Class I stream designated for protection in the RCP and identified as a Type F stream by Oregon Department of Forestry. The setback standard for RC lands to protect the riparian corridor in LC 16.291 and 16.253 is 50 feet. The proposed rezoning will not change the existing use of the subject property and therefore will not pose a risk of significantly altering the natural system in the area. The proposed rezoning is in compliance with these Plan Policies.

Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

A. **Lane Code 16.003.** Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

(1) **Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The subject property is small and adjacent to Highway 99. The existing commercial use has served to meet the needs of both private interests in the City of Cottage Grove and surrounding rural area since 1964-65 (forty years).

(2) **Protect and diversify the economy of Lane County**.

The proposed use addresses the need for personal and professional services for the rural citizens of Lane County and residents of nearby Cottage Grove.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject property is located within Exception Area #388-2 and is currently zoned Rural Residential (RR5). The 1.26-acre property has been developed with three structures, septic system and well, and is too impacted for production of resource products.

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed change occurs in an exception area with nearby UGB and rural properties already intensely developed with residential, commercial and industrial uses. The existing uses are rural uses that utilize a rural level of services.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

Development on the subject property is not in a flood hazard area and there are no known natural hazards on the land.

B. Not Contrary to the Public Interest

The "public interest" has not been defined, as such, but for the purposes of this decision it will be assumed that if the proposed use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use under the applicant's ownership strongly suggests that it is a compatible commercial service in this area.

C. Lane Code 16.291

Lane Code 16.291(1) notes that the purpose of the Rural Commercial Zone is to provide goods and services needed by rural residents and to provide services and facilities for tourists and travelers. The use existing on the subject property are consistent with these two purposes.

D. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d). The subject property is not located in an area identified as being water quantity limited and pumping records suggest that availability of water from the applicant's wells is not a concern. The subject property is 1.26 acre in size and any future partitioning is unlikely and would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

III. Conclusion

The applicant has shown by a preponderance of evidence that the criteria and standards applicable to this rezoning request have been met.

IV. Recommendation

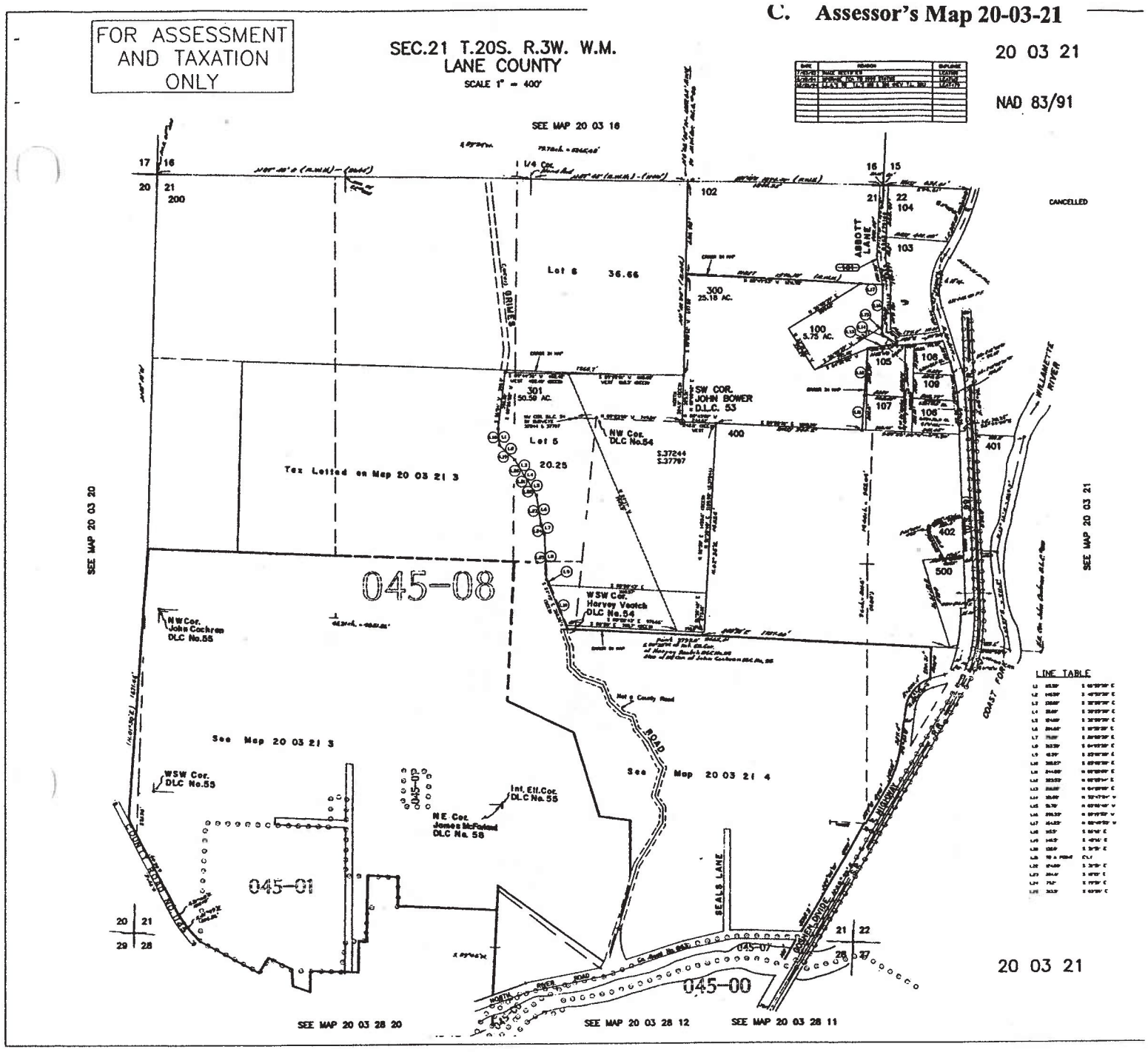
That the Jerry Maddux application PRZC Control No. 4 of Ordinance No. 1226 for the plan designation of tax lot 402, Assessors Map 20-03-21, from Rural (R) to Commercial (C), be approved.

That the Jerry Maddux application PRZC Control No. 4 of Ordinance No. 1226 for the rezoning of tax lot 402, Assessors Map 20-03-21, from Rural Residential (RR5) to Rural Commercial (RC), be approved.

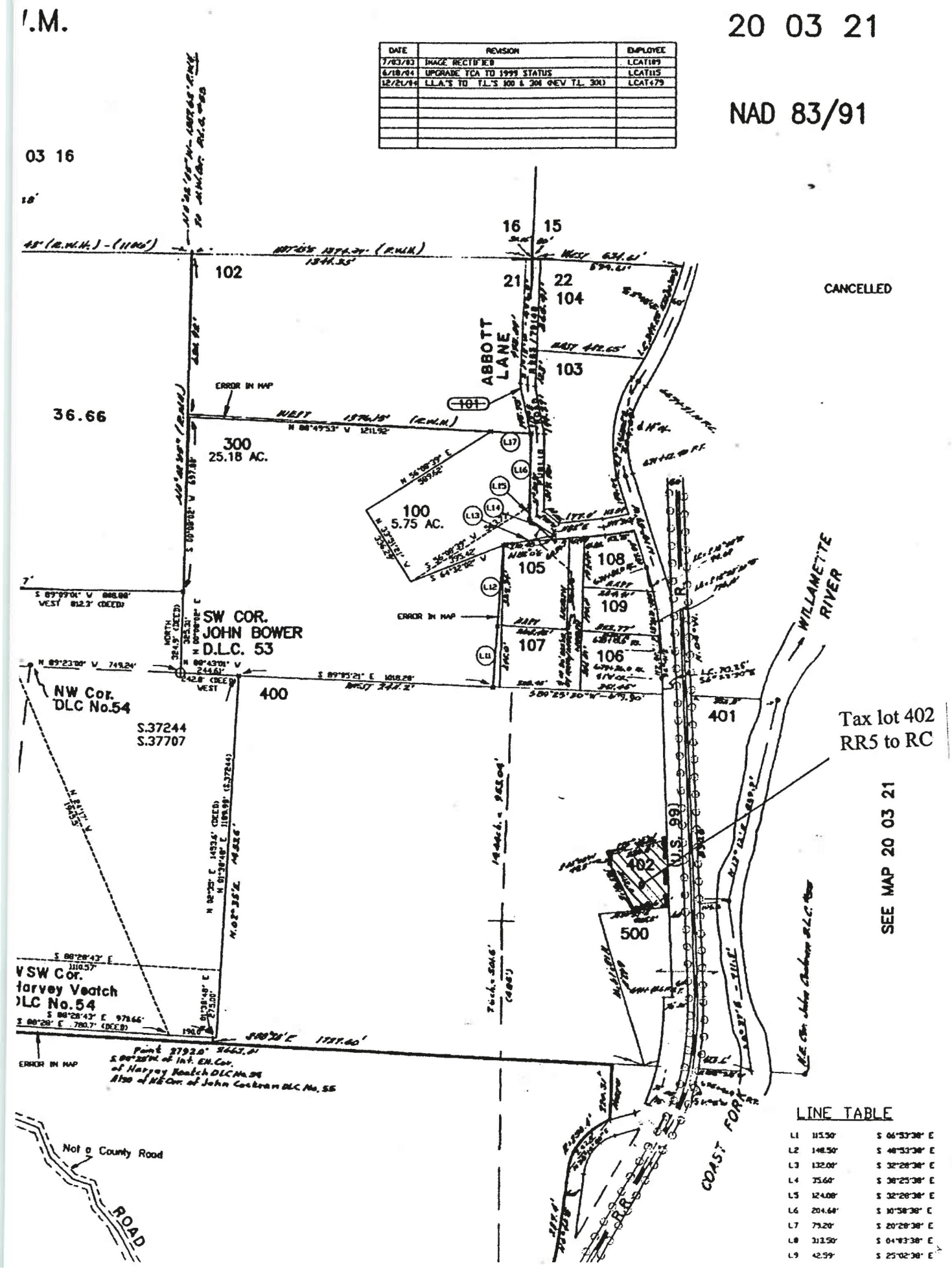
V. Exhibits

A. Plan Map, Plot # 388
B. Zoning Map, Plot # 388
C. Assessor's Map 20-03-21
D. Enlargement of Assessor's Map 20-03-21 depicting subject property.

C. Assessor's Map 20-03-21



D. Enlargement of Assessor's Map 20-03-21 depicting subject property.



DATE	REVISION	EMPLOYEE
7/03/03	IMAGE RECTIFIED	LCAT109
6/18/04	UPGRADE TCA TO 1999 STATUS	LCAT115
12/21/04	L.L.A.'S TO T.L.'S 100 & 300 (REV T.L. 300)	LCAT479

Exhibit No. _C-5_

PRZC Control No. _5_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 402-1

Plan Amendment and Zone Change for Tax Lot 1500 of Assessor's Map 20-03-03

Tax lot	Acreage	From	To
1500	3.73	Rural Residential (RR5)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99, south of Mill Road, and within the Developed & Committed Exception Area No. 402-1. It can be identified as tax lot 1500 of Assessor's map 20-03-03, with a rural address of 80886 Highway 99, Creswell, OR 97426-9337, 3.73 acres in size.

2. The subject property is developed with both residential and commercial uses.

   Residential structures include a 1997 Marlette manufactured home, 27' x 56' (SN H013849AB, X246317) authorized by S.I. 97-288 and BP 3051.97 and placed in 1997. The residence has access from Highway 99.

   Commercial development includes the Wagon Wheel Feed and Grain established in 1973-74 with two structures and several storage areas committed to the use. The two structures have access from Mill Road and include a 60' by 70' equipment storage and sales building (4,200 sq. ft. per) built in 1974 and a 50' x 108' feed and seed storage building (5,400 sq. ft. per LC 354-82) built in 1982. Sales from the indoor structures on the property include tack, livestock medications, farming and ranch equipment, feed, grain, hay, and agricultural supplies. Sales from the outdoor areas include fencing and livestock enclosure equipment as well as horse trailers. The exterior space dedicated to the business is approximately 5,000 sq. ft. for fencing and gate materials, 2,000 sq. ft. for trailers and larger ranch equipment such as water troughs, and 3,000 for deliveries and customer parking. In all, approximately 19,600 square feet of the property is committed to the feed and grain commercial use.

3. The subject property is a legal lot validated by legal lot verification PA 2605-97 per warranty deed as recorded in Lane County Deeds and Records on April 3, 1972, Reel 590-R, Instrument No. 3923.

4. The subject property is currently zoned for Rural Residential use (RR-5/RCP). Prior to 1984 the property was designated GR-10 (General Rural).

5. The legal owners of the subject property and operators of the Wagon Wheel Feed and Grain anticipate replacement of some of the above mentioned structures, enlargement of some, and development of the range and farm fencing and enclosure business and sale of horse trailers as associated activities but as separate commercial uses on the property.

6. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the property in connection with the commercial activities is inconsistent with the Rural Residential Zone

(RR). Both residential and commercial uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(g) and Lane Code 16.291(3)(a) and (b), respectively.

The existing residential use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code 16.291(2):*
(g) A single family dwelling or manufactured dwelling in conjunction with an existing commercial use provided there is no other dwelling or single family living quarters on the same lot of parcel.

The existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(3):*
(a) Retail trade of product, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment; and
(b) Retail trade of hay, grain or goods for animal consumption or care.

The use complies with the *Purpose* statement of *LC 16.291(1)(b) Purpose:*
The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .

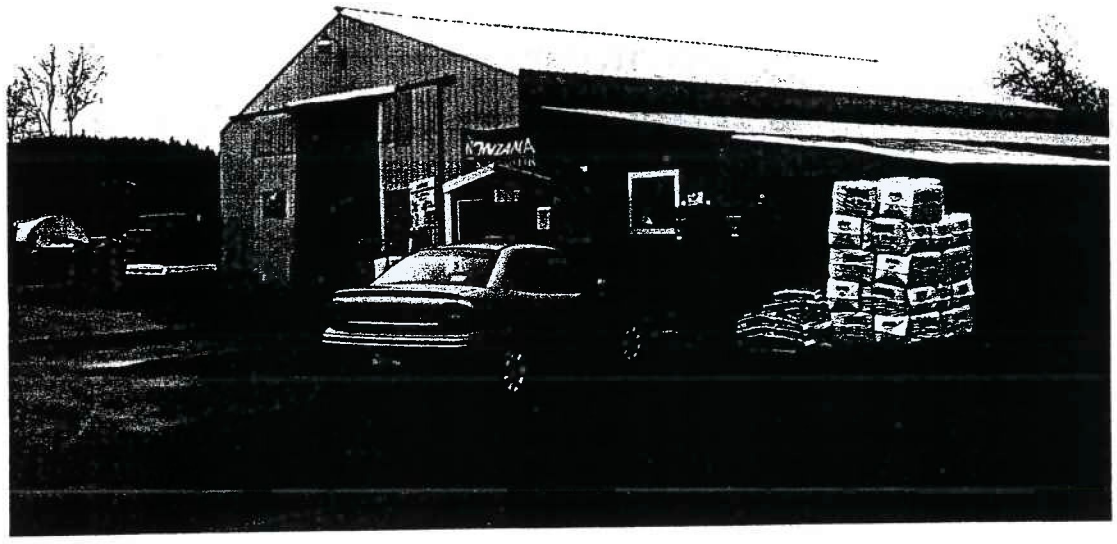
The change of zone would allow the applicants, William and Eloise Simon, to continue with the existing Wagon Wheel Feed and Grain and proceed with the anticipated development of the subject property.

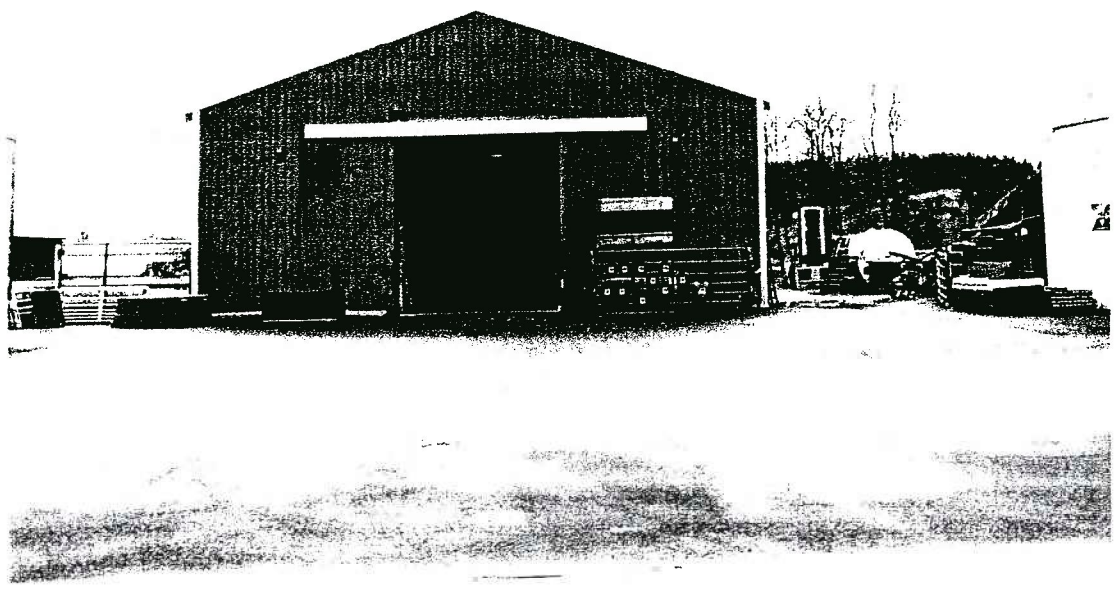
7. There is no record of any historical compatibility issues occurring between the existing commercial use on the subject property and its neighbors since the business was established circa 1973-74. Nor is there any record of complaints from any surrounding property owners concerning the commercial activities or the current use Wagon Wheel Feed and Grain regarding compatibility issues or conflicts.

8. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010.

9. The subject properties receives the following public services: Creswell School District No. 40J (schools); Emerald People's Utility District (electrical power); South Lane Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

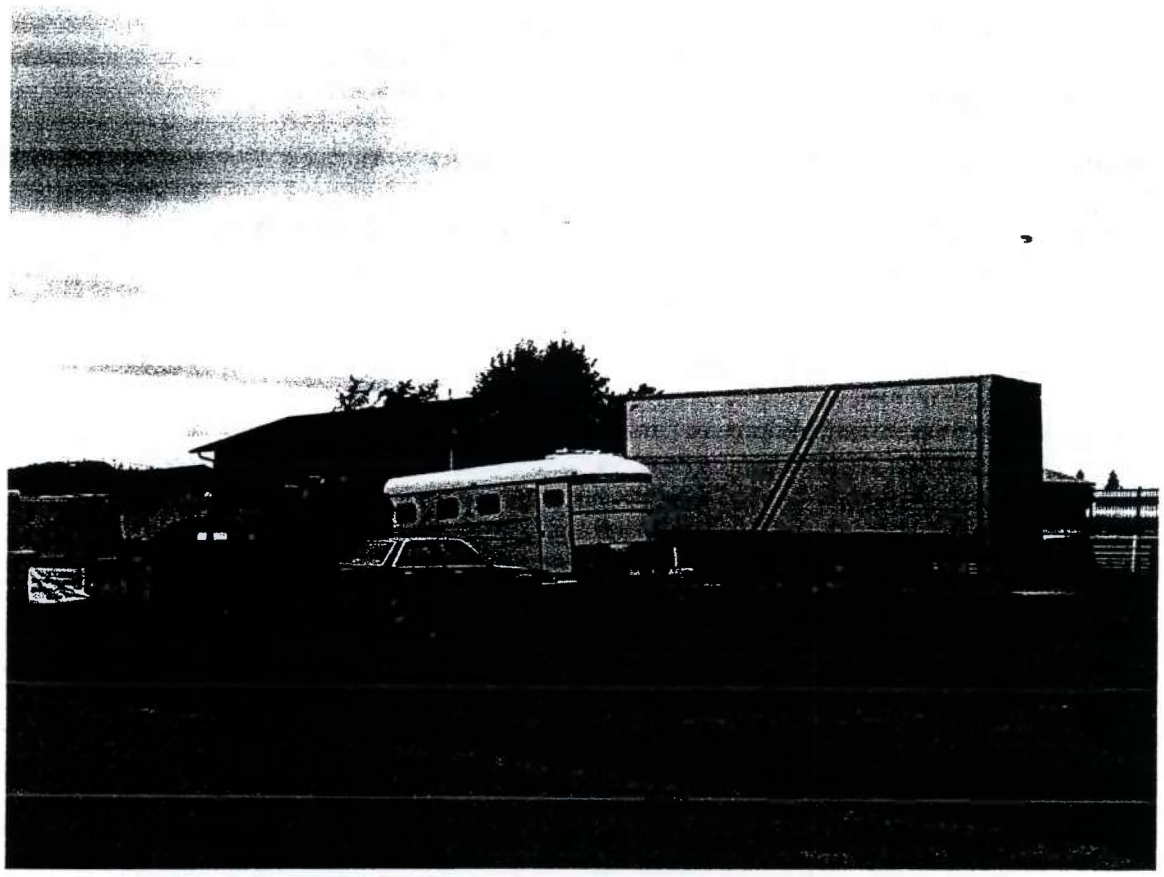
10. There is a stream-related wetland (PEMIY) on the subject property per NWI map Cottage Grove SE 1, approximately 300 feet northwest of the existing development. The steam crosses the property on a northeast to southwest diagonal and there are no known impacts from the commercial uses on the delineated wetland.





4

D&C 402-1
Wagon Wheel Feed & Grain



II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize existing commercial uses on the subject property in conjunction with the existing caretaker residential use that are integrated into the surrounding rural area.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located outside the urban growth boundary of the City of Creswell to the north and City of Cottage Grove to the south. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject property which are commercial and have existed on the property for 30+ years (1973-2005).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

- There are agricultural lands (EFU) located adjacent to the western boundary of the subject property. The next closest EFU lands are located 700 feet to the northeast on the east side of Highway 99. The EFU land to the west is buffered from the commercial use on the subject property by the intervening stream and wetland that traverses across the western half of the subject property parallel to the common property line. The separation between the commercial uses on the subject property and the adjacent EFU property is approximately 300 feet
- The land to the north across Mill Road is designated Rural Residential (RR5). Lands to the south are zoned Rural Residential (RR5). Lands to the east across Highway 99 are zoned Rural Residential (RR5).
- There are no forest lands (F1 or F1) adjacent to the subject property. Lands further beyond the EFU lands to the west discussed above are designated Impacted Forest Land (F2).

During the past 30 years, the Wagon Wheel has operated as part of the fabric of the agrarian culture in the southern Willamette Valley. Its role has been complimentarily and beneficial to the agricultural resource base in the area. No activities associated with the Wagon Wheel have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use in the trade of equestrian, animal husbandry and farm supplies and products is commercial in nature and an important and essential service to the surrounding rural area. The commercial use of the subject property is compatible with the adjacent properties and nearby resources use.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 402-1 of Lane County. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy #12.</u> Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure..

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property (tax lot 1500 of TRS Map 20-03-03) is relatively flat with no identified hazards due to slope, grade or terrain features. Development has been orderly and through application of land use regulations providing for the current uses. The resulting commercial uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.291 (RC).

(2) Protect and diversify the economy of the County.

Re-designation of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The role of the existing commercial use on the subject property in the Southern Willamette Valley agricultural community is to enhance the productivity and provide services required by the husbandry and farming clientele.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 1500 will acknowledge the existing commercial use and provide an opportunity for growth on the subject property. The current residential and commercial uses are served by on-site well and sand filter subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing commercial and residential use on the subject property has co-existed since 1973-74 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located 700 feet to the northeast across Highway 99. Feed, seed and grain stores commonly occur adjacent to resource lands and in some instances are essential to the distribution of veterinarian services and vital supplies. Any expansion or intensification of the business would require compliance with Lane Code 16.291(4) siting

standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10* *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

RCP inventoried "significant species" have not been identified on the subject property. There is a delineated wetlands identified on the Cottage Grove SE1 quad of the National Wetlands Inventory that traverses the western half of the subject property from northeast to southwest. No known impacts have occurred from the existing uses on the wetland area. The current development is approximately 300 feet from the stream wetland corridor. Therefore as a result of past practices, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential and industrial uses. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the Wagon Wheel Feed and Grain for what it has been for 30 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject property (tax lot 1500) is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2085 of 2975 (6-2-99). There are no other natural hazards identified on the property.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the commercial services in this area.

c. *Lane Code 16.294 and 16.292*

Lane Code 16.291(1) states that one of the purposes of the Rural Commercial Zone is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by the rural residents or by persons traveling through the rural area. . .*

The proposed rezoning and uses on tax lot 1500 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited.

The subject property utilizes an onsite well.

The subject property is small in size (3.73 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.291(4)(j).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 20-03-03, tax lot 1500 (3.73 acres) from Rural (R) to Commercial (C), and Rural Residential (RR5) to Rural Commercial (RC), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 5 of Ordinance No. PA 1226, amending the Official Plan Map No. 402 for tax lot 1500 of Assessors Map TRS 20-03-03, from Rural (R) to Commercial (C); and

2. Approval of PRZC Control No. 5 of Ordinance No. PA 1226, amending the Official Zoning Map No. 402 designations for tax lot 1500 of Assessors Map TRS 20-03-03, from Rural Residential (RR5) to Rural Commercial (RC).

V. EXHIBITS

A. Plan Map No. 402 with proposed plan change depicted.
B. Zoning Map Plot No. 402 with proposed zone change depicted.

C. Lane County Assessor's Maps TRS 20-03-03
D. Aerial Photograph BLM Eugene 3-65.2-2 (5-18-2000).
E. Aerial Photograph BLM Eugene 3-65.2-2 Enlargement x 400 percent.

Exhibit C. Lane County Assessor's Map TRS 20-03-03

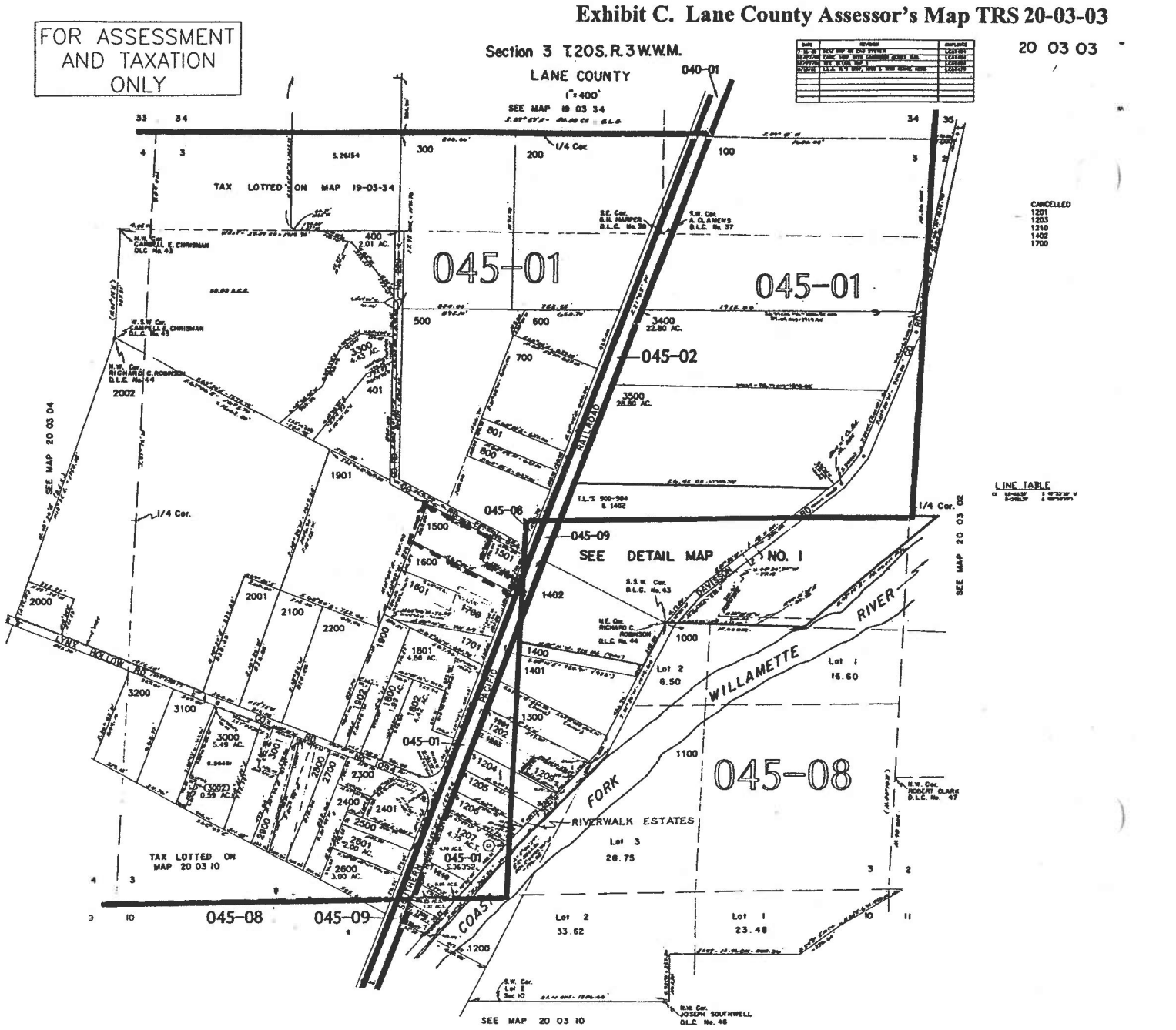


Exhibit D. Aerial Photograph BLM Eugene 3-65.2-2 (5-18-2000).



Exhibit E. Aerial Photograph BLM Eugene 3-65.2-2 Enlargement x 400 percent.

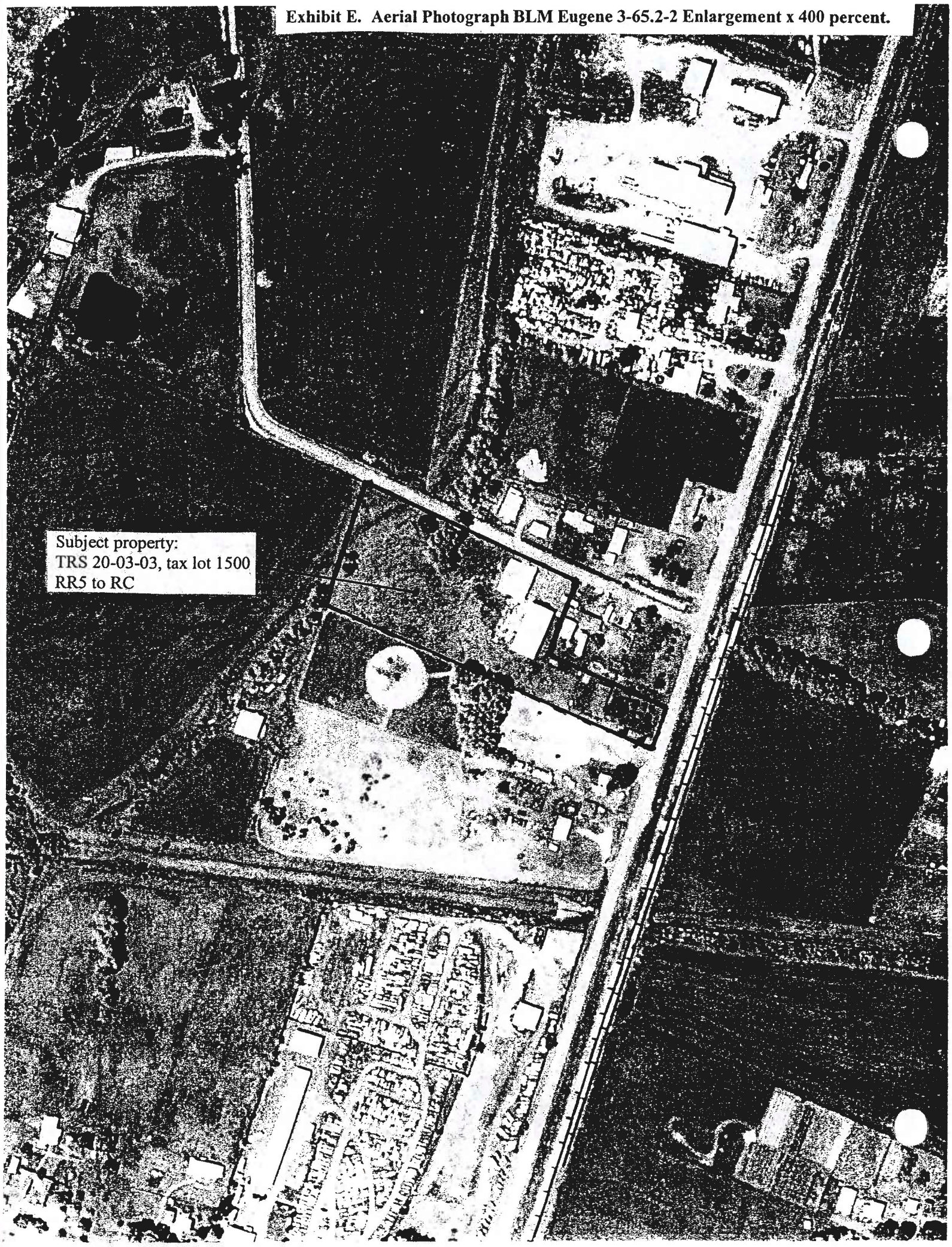


Exhibit No. C- 6

PAPA Control No. __6_

__Lane County -/- Coast Fork and Middle Fork Willamette Watersheds Legislative Rezoning Project__

Rural Community of Saginaw
Developed & Committed Exception Area No. 403-1

Plan Amendments and Zone Changes for:

Tax lots 902 of Assessor's Map TRS 20-03-15
and
Tax lots 700 and 900 of Assessor's Map TRS 20-03-15.2.3

TRS - Tax lot		Acres	From/Action	To
20-03-15,	902	3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C)
20-03-15.2.3,	700	*	Rural Residential (RR5/C)	Rural Commercial (RC/C) *portion of tax lot 700 = 90 ft. (N-S) x 60 ft. (E-W) @ 5,400 sq. ft.
	700	0.52	Rural Commercial (RC/H/C)	Remove "Historical" (/H) suffix.
20-03-15.2.3,	900	0.65	Rural Commercial (RC/C)	Add "Historical" (/H) suffix. Rural Commercial (RC/H/C)

Table of Contents

Statement of Criteria 2

I. Background 3

II. General Findings of Fact 3

III. Three Subject Parcels - Specific Findings of Fact 7

TRS 20-03-15	tax lot 902	3.82 acres	7
TRS 20-03-15.2.3	tax lot 700	0.52 acre	9
TRS 20-03-15.2.3	tax lot 900	0.65 acre	11

IV. Justification for the Conclusions and Recommendations 13
- Applicable to all three subject properties.

A.	Statewide Planning Goals	13
B.	OAR 660-022-0030(6), (7), (8) -- Unincorporated Community Rule	15
C.	Plan Conformity	16
D.	Zone Conformity	19

V. Conclusions 21

VI. Recommendations 21

VII. Exhibits 22

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive General Plan Policy - Goal Two - Policy 27
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.294 - *Rural Public Facility Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.291 – *Rural Commercial Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

Pursuant to Lane County Rural Comprehensive Plan, General Plan Policies – Goal Two (Policy 10), Saginaw was designated as an "unincorporated rural community" by the Board of County Commissioners on June 15, 2005.

These proposed amendments to the Official Plan Map and Zoning Map Plot # 403 would:

- rezone one property (TRS 20-03-15, tax lot 902) and 3.82 acres to Rural Public Facility (RPF/C);
- rezone a portion of one property (TRS 20-03-15.2.3, tax lot 700) and 0.12 of an acre (5400 square feet) to Rural Commercial (RC/C);
- remove the "Historical" (/H) suffix from TRS 20-03-15.2.3, tax lot 700; and
- add the "Historical" (/H) suffix to TRS 20-03-15.2.3, tax lot 900.

II. GENERAL FINDINGS OF FACTt

Rural Community of Saginaw
Exception Area Plot # 403, Area 1

TRS: 20-03-15; 20-03-15.2.3.

1. Located four miles south of Creswell on Highway 99 and one mile north of Cottage Grove, Saginaw is a small rural community that was established in the 1880's when the J. I. Jones Lumber Company opened a lumber mill east of Highway 99 and west of the Coast Fork of the Willamette River. The mill was purchased by the Booth-Kelly Lumber Company in the 1890's and rebuilt. The "Booth-Kelly Lumber Company Store" was constructed circa 1900-1910 west of Highway 99 and exists today as the Saginaw Market. The market is listed in the Oregon State Historical Preservation Office registry as a historical building on Map P-52.

2. Residential development originated from the Plat of Saginaw filed in 1897 with the Lane County Clerk in Book 2, Page 26. The "community" of Saginaw was acknowledged by LCDC in 1989 to consist of 127.58 acres divided into 21 parcels with an average parcel size of 6.07 acres. Saginaw consisted of 1.6 acres of commercial lands, 74 acres of industrial lands, and 29 acres of rural residential with 35 residences. Seventy-two percent of the "community" (D&C Area No. 403-1) was zoned commercial or industrial lands.

   A Land Management Division analysis in 1998 (Mann-Hoglund) found that there were 32 residences within the 1984 adopted community boundaries and one parcel had

potential for future residential development. All residential lands are designated as Rural Residential (RR5) with a five-acre minimum division standard.

The Mann-Hoglund analysis also found that within D&C Exception Area 403-2 to the east across the Coast Fork Willamette River, 32 parcels were developed with residences and five parcels had potential for future residential development. All residential lands are designated as Rural Residential (RR5) with a five-acre minimum division standard and ten new parcels could be created at the minimum density.

3. The adopted boundaries of Saginaw include two commercial uses: the Saginaw Market that includes a limited grocery store and U. S. Post Office, and the Mitchell Mercantile, a small convenience store situated approximately 150 feet to the north.

4. The former Booth Kelley lumber mill site east of Highway 99 and north of Saginaw Road East has been rebuilt, expanded and operated by several timber companies during the past 100 years and is currently operated by Weyerhaeuser Company. The Bohemia lumber mill site located south of Saginaw Road East and west of the Coast Fork Willamette River was closed in 1988. It consists of a 45.52-acre, underutilized facility with 165,000 square feet of structures and was recently purchased by new owners. These two parcels represent the combined 74 acres of Rural Industrial land in the community.

5. Although not included in the community boundaries in 1984 and 1989, the public facilities most commonly associated with a community are located east of the Coast Fork Willamette River and aligned along Saginaw Road East and Delight Valley School Road in Developed & Committed Exception Area 403-2.

   Public uses in D&C Plot 403-2 include:
   Delight Valley Elementary School (K-5)
   Delight Valley Church of Christ (1981 – CUP 81-289)
   Cottage Grove-South Lane Fire District – Saginaw Substation (2000).

6. In addition to the above three uses, D&C Exception Area 403-2 also includes 37 parcels in a Rural Residential RR5 designation. The total of 40 parcels envelope 120.02 acres with an average parcel size of 3.0 acres. Refer to Exhibit "F".

7. Services are provided to the rural community of Saginaw (Levy code 45-08) by:

Electricity:	Emerald Peoples Utility District
Fire/Ambulance:	Cottage Grove – South Lane Fire Protection District
School:	South Lane School District #45J
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police

8. All development is supported by individual onsite water and subsurface disposal systems.

9. For the reasons mentioned above, Saginaw complies with the OAR 660-22-010(7) definition of an unincorporated rural community.

10. The request for the two site specific changes of zone designations is to bring the current and proposed uses of the three properties into conformity with the economical, cultural and public safety aspirations of the community-at-large, and the existing uses on one

publicly-owned and two privately-owned properties into conformity with appropriate zoning designations.

11. The existing uses on the two subject properties (TRS 20-03-15.2.3, tax lots 700 and 900) are conditionally allowed in the Lane Code 16.291 Rural Commercial zone:

    Lane Code 16.291(3)(a) Retail trade of products, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment.

    The *Purpose* section of *LC 16.291(1)* states:

    (1) Purpose: The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .

13. The re-designation of one subject property (TRS 20-03-15, tax lot 902) for development of the fire station is provided for in Lane Code 16.294 Rural Public Facility zone:

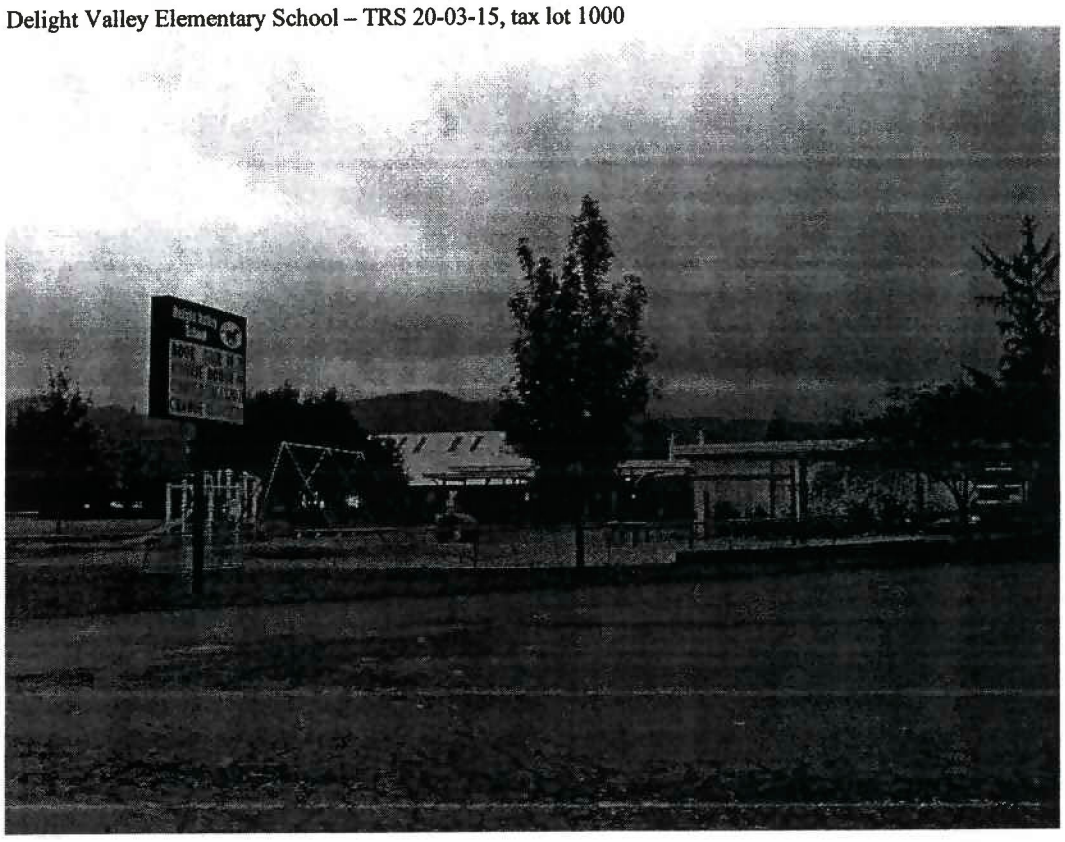
    Lane Code 16.294(1)(b) states that one of the *Purposes* of the Rural Public Facility Zone is: *To provide land for public and semi public uses and development that serve rural residents and people traveling through the area and that are by nature intensive and or unusual uses not normally associated with other zones.*

    Lane Code 16.294(3)(o) allows as a conditional use: *The governmental services, such as: post office, fire station and sheriff or police station. Such uses must be located inside an unincorporated community.*

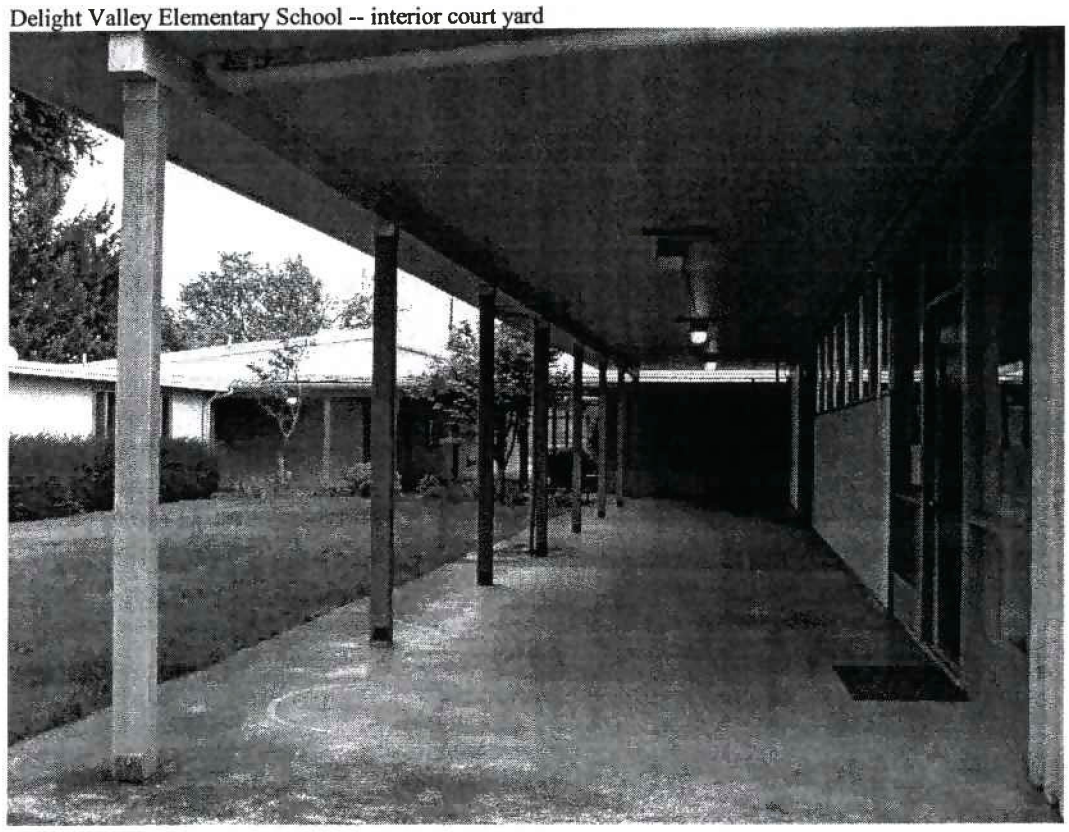
    The subject property is 3.82 acres in size and currently in a D&C Area No. 403-2. The fire station use is on property owned by and adjacent to the South Lane School District #45J facility – Delight Valley Elementary School. The fire station and school are not within the 1984 rural community boundaries of Saginaw.

14. The 1984 designation of the eastern community boundary for Saginaw was drawn along the west bank of the Cost Fork Willamette River. It included the industrial mill sites and the two small commercial stores and approximately 32 residential properties. The designated boundary did not include the residential core of the community east of the river consisting of approximately 114 residential properties, the community church or the Delight Valley Elementary School. It also did not include the property that would eventually become the Saginaw fire station in 2000. Thus, 78% of the residential uses and all of the public facilities normally associated with rural communities were omitted from the designation.

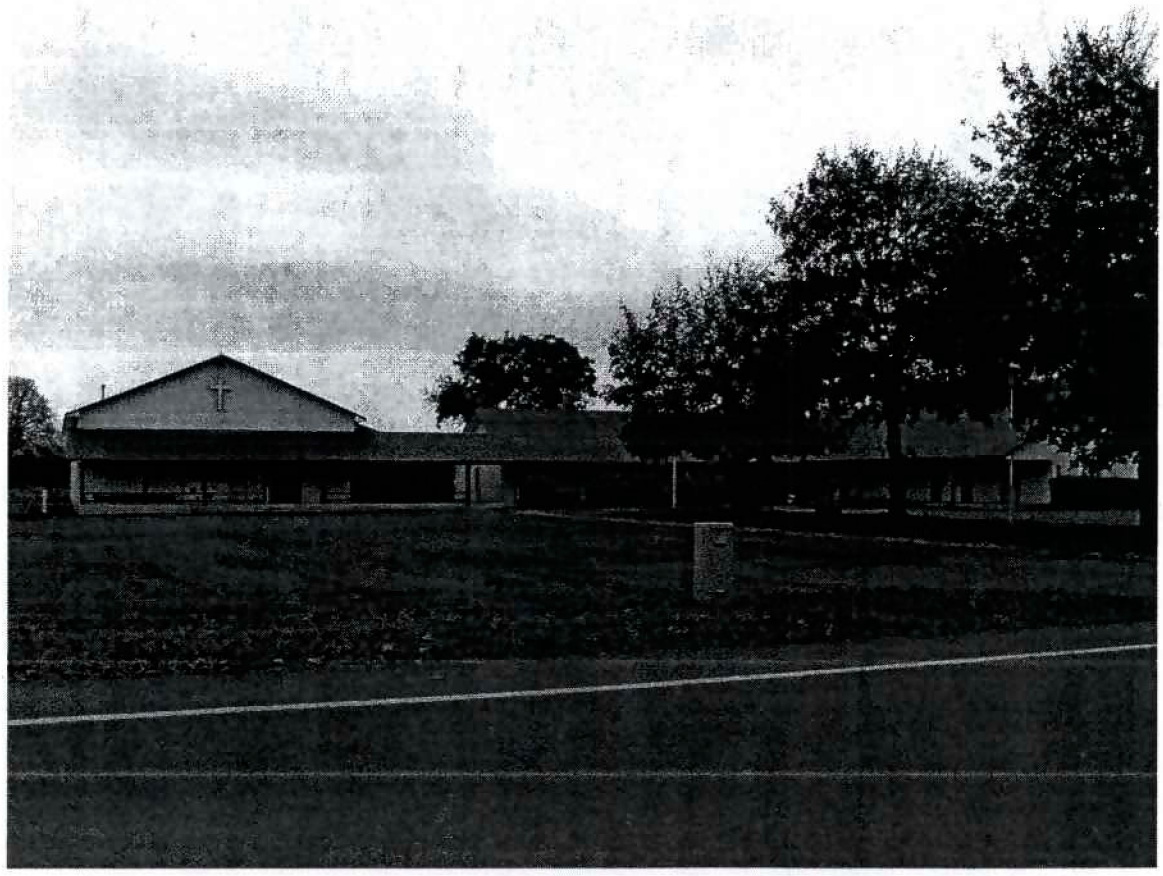
Delight Valley Elementary School – TRS 20-03-15, tax lot 1000



Delight Valley Elementary School -- interior court yard



Delight Valley Church of Christ TRS 20-03-15, tax lot 2100



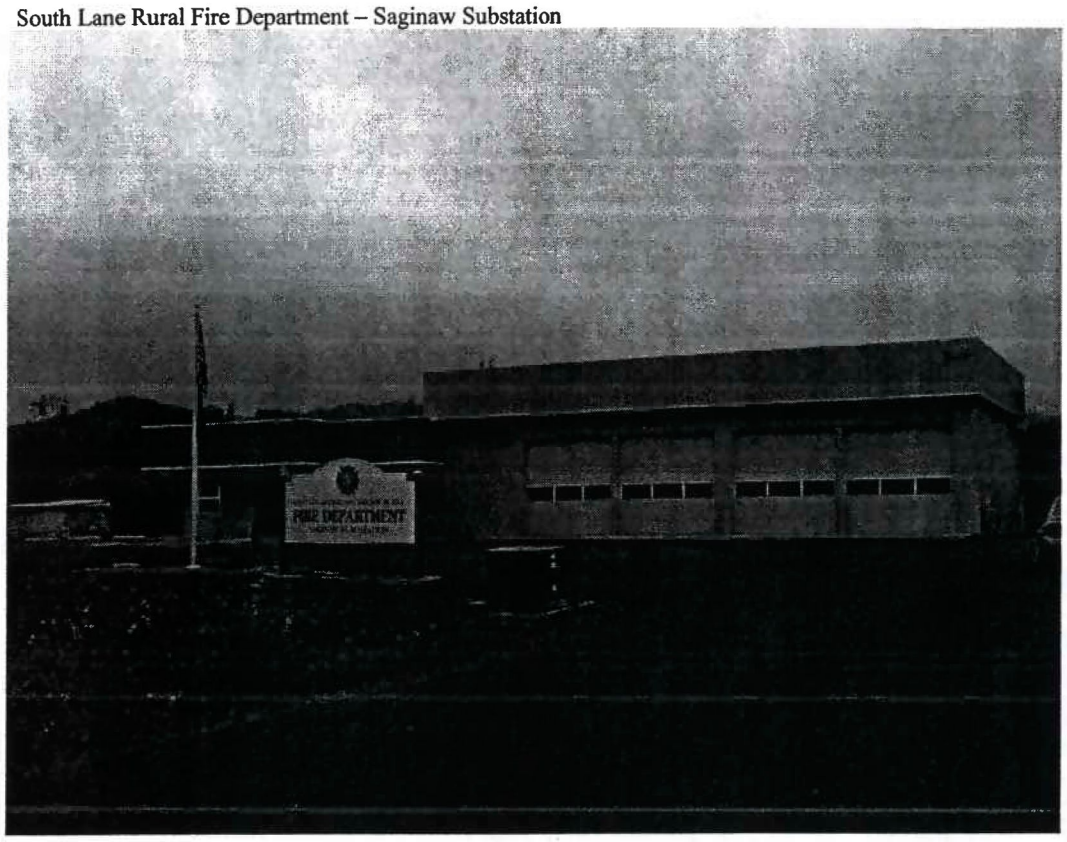
IIi. THREE SUBJECT PARCELS - SPECIFIC FINDINGS OF FACT

TRS 20-03-15, tax lot 902, 3.82 acres.
Property Owner: South Lane School District #45J
Proposed change in zoning designation from Rural Residential (RR5-C) to Rural Public Facility (RPF-C).

Findings of Fact

1. The property subject to this amendment, hereinafter referred to as the "subject property," can be identified as tax lot 902, TRS 20-03-15.2.3. The subject property is a rectangle shaped parcel, 3.82 acres in size with direct access to Delight Valley School Road along its eastern boundary. Tax lot 1000 to the south is also owned by the South Lane School District and developed with the Delight Valley Elementary School. The subject property is developed with the South Lane Rural Fire Department – Saginaw Substation.

South Lane Rural Fire Department – Saginaw Substation



2. When Saginaw was designated as a "community" in the Rural Comprehensive Plan in 1984, the subject property was vacant.

3. The property owner, South Lane School District #45 and the leasee/operator, South Lane RFD, are requesting a zone change for the subject property to Rural Public Facility (RFP-C), that would provide the parties with the option to continue operating the existing facility as an "rural public facility" as well as a possible expansion area for the adjacent elementary school as provided for in Lane Code 16.294(3)(f) and (o):

   (3)(f) Educational facilities and services such as: primary and secondary education, colleges and professional schools; special training schools such as those for: vocations, trades, arts, music, dancing, driving, gymnastics and correspondence. Such uses must be located inside an unincorporated community, and

   (3)(o) Governmental services, such as : post office, fire station, and sheriff or police station. Such uses must be located inside an unincorporated community.

4. The subject property is not within an area identified as a "water quantity limited" area in Lane Manual 13.010. The fire station on the subject property and the school to the south have onsite wells and a storage tank that is adequate for the facilities' needs.

5. There are no apparent wetlands on the subject property, per NWI map Cottage Grove SE1.

6. All of the soils present on the subject property are Chehalis Silty Clay Loam (26), with no Douglas fir site index or fiber productivity rating, and is listed as agricultural capability class 2, which is considered high value in Lane County's inventory.

7. The subject property is in the interior of developed & committed exception area No. 403-2 that is east of and contiguous with the rural community of Saginaw. It is separated from the management practices of nearby farm or forest operations on four sides: Between Highway 99 to the west and the subject property, there are Rural Residential (RR5) and Rural Industrial (RI) lands. To the east beyond Delight Valley School Road, there are Rural Residential (RR5) lands that abut Interstate 5. To the north and southwest are zoned Rural Residential (RR5). Lands to the south are zoned Rural Public Facility (RPF) and Rural Residential (RR5)

Conclusion

The designation of Public Facility on the Plan Diagram and Rural Public Facility (RPF/C) on the zoning diagram of Plot No. 403-2 is justified by the above findings of fact. Refer to Exhibit "C".

TRS 20-03-15.2.3, tax lot 700 (northern portion 60 ft. x 90 ft. = 5,400 sq. ft.)
Property Owner: Kenneth Mitchell
Proposed change in zoning designation from Rural Residential (RR5/C) to Rural Commercial (RC/C); and

TRS 20-03-15.2.3, tax lot 700 (southern portion 150 ft. x 150 ft. = 22,500 sq. ft.)
Property Owner: Kenneth Mitchell
Removal of "historical designation" suffix (/H).

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99, and within the unincorporated rural community of Saginaw (Plot No. 403-1). It can be identified as tax lot 700, of Assessor's map TRS 20-03-15.2.3. The subject property is "L"-shaped property and approximately 0.52 of an acre in size. The parcel's configuration includes approximately 190 feet of frontage along Highway 99. The property is developed with the Mitchell's Mercantile also known locally as Small Mart.

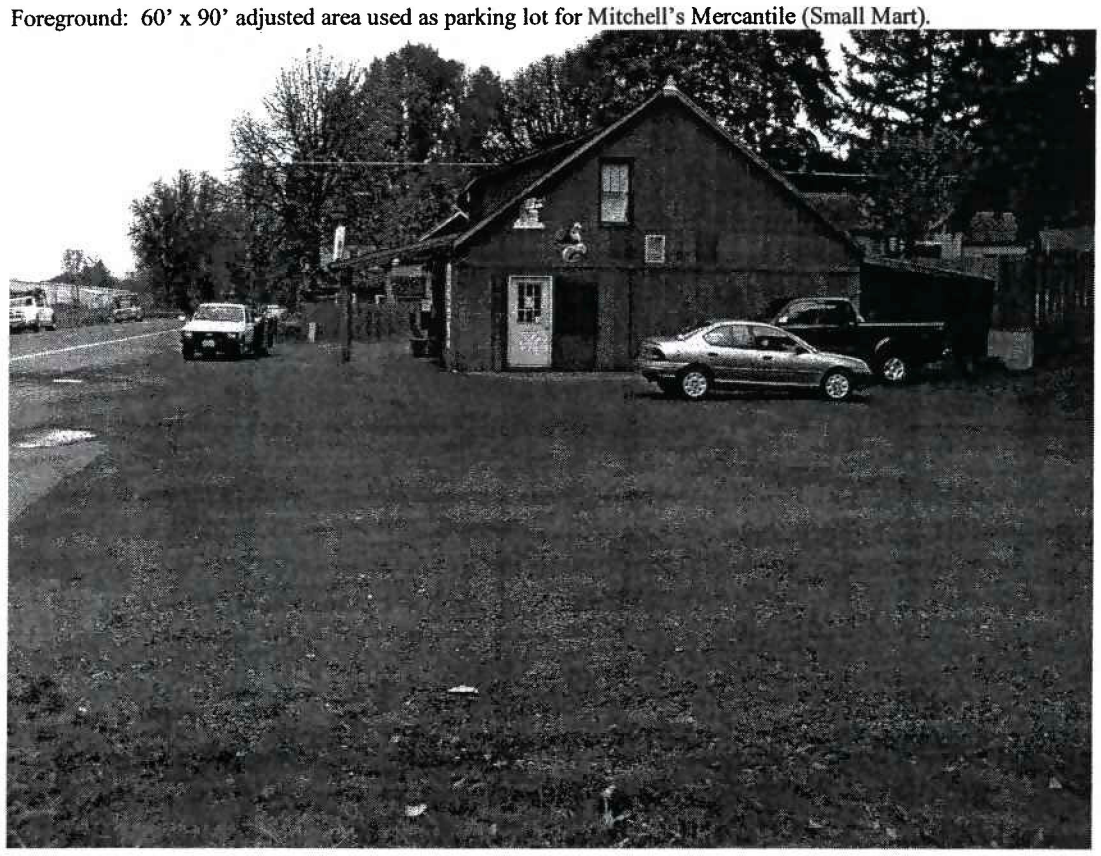
2. The subject property has an assigned rural address of 79926 Old Highway 99, Cottage Grove, OR 97472, 0.52 of an acre in size, and is situated at the intersection of Highway 99 and Saginaw Road East and west of the Southern Pacific railroad right-of-way that has been the center of the rural community since the establishment of the lumber mills along the railroad tracks at the turn of the century. The property is separated from the management practices of nearby farm or forest operations to the north, west and south by Rural Residential (RR5/C) and Rural Industrial (RI/C) zoning to the east.

3. On April 23, 1996, the property owner, Kenneth Mitchell recorded a property line adjustment in the Lane County Surveyors Office as CS File No. 33541. The adjustment amended 6o linear feet of the northern property line of the subject property with the property to the north, tax lot 600 of TRS 20-03-15.2.3. The common boundary was moved 90 feet to the north adding an area 60 feet x 90 feet (5,400 sq. ft.) to the subject property. Refer to Exhibits "D" and "D-1"

Mitchell's Mercantile (Small Mart) TRS 20-03-15.2.3, tax lot 700



Foreground: 60' x 90' adjusted area used as parking lot for Mitchell's Mercantile (Small Mart).



The purpose for the adjustment was to provide off-street parking area for the retail uses of the Mitchell's Mercantile. The adjusted area has been utilized by the owner as a gravel parking lot since that time.

4. Rezoning the 60-foot by 90-foot adjusted area of the subject property to Rural Commercial (RC/C) will allow the property owner the right to continue the existing use of the land and an opportunity to expand or diversify commercial uses or services provided for in Lane Code 16.291.

5. The subject property is not within an area identified as a "water quantity limited" area in Lane Manual 13.010.

6. There is no apparent wetland on the subject property, per NWI map Cottage Grove SE1.

7. The soil present on the subject property is Nekia Silty Clay Loam (89C and 89E), with a Douglas fir site index of 113, a fiber productivity of 160cubic feet per acre per year, and is listed as agricultural capability class 3 and considered high value in Lane County's inventory. The Nekia 89C soils (2-12 % slopes) make up 37% of the property and are developed with the market structure and parking lot.

8. In 1984, the original metes and bounds of the subject property (150' x 150') was also designated as a "historical" site and given a "/H" suffix in error. The actual location of the historical designation should have been placed on a commercial property approximately 100 feet to the south. The subject property does not include any sites or buildings identified in the Oregon State Historical Preservation Office records and the suffix should be removed..

Conclusions

1. The designation of Commercial on the Plan Diagram and Rural Commercial (RC/C) for the 1996 adjusted area 60' x 90' on the zoning diagram of Plot No. 403-2 is justified by the above findings of fact. The amended designation will conform to the existing lawful uses of the 5,400 sq. ft. area.

2. The removal of the "historical" designation suffix (/H) from the subject property is justified.

TRS 20-03-15.2.3, tax lot 900, 0.62 of an acre.
Property Owner: Scott L. Rhodes
Addition of "historical" suffix (/H) to the zoning designation Rural Commercial (RC/H/C).

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of and adjacent to the right-of-way of Old Highway 99 and approximately 100 feet south of the intersection with Saginaw Road East. It can be identified as tax lot 900, of Assessor's map TRS 20-03-15.2.3. The subject property is rectangular in shape (190 feet E-W and 150 feet N-S) and 0.65 of an acre in size. The parcel's configuration includes 150 feet of frontage along Old Highway 99 to the east. It is developed with the Saginaw Market. Refer to Exhibit "E".

Saginaw Market - TRS 20-03-15.2.3, tax lot 900



2. When Saginaw was designated as a "community" in the Rural Comprehensive Plan in 1984, the Saginaw Market was designated as Rural Commercial in keeping with its commercial use. The "market" was constructed circa 1900-1910 and originally known as the Booth-Kelly Lumber Company Store. The original two-story, wood frame structure with a gable roof and false front has had two porches added and some additional alterations.

3. The Saginaw Market building was listed as an historical building in 1976 by the Oregon State Historic Preservation Office on Map No. 52.

4. In 1984, the historical suffix (/H) for this building and tax lot was inadvertently applied to a commercial property, tax lot 700, 100 feet to the north. This misplaced designation has been addressed previously in this report. Refer to TRS 20-03-15.2.3, tax lot 700 subsection above.

5. Adding the "/H" designation suffix to the subject property will bring the historical designation into conformance with the State of Oregon designation and Lane Manual Chapter 11.300(2) Significant (1C) Sites inventory.

Conclusion

Adding the historical suffix (/H) to the subject property is justified by Findings of Fact 1.-5., above. The amendment to the zoning designation will comply with subject property's 1984 listing in Lane Manual 11.300(2) as a component adopted in the Rural Comprehensive Plan.

IV. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistent with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site, or

The plan amendments and zone changes requested by this application are intended to:

1. Amend the Rural Residential (RR5/C) zoning on tax lot 902 of TRS 20-03-15.2.3, to Rural Public Facility (RPF/C), to comply with the establishment of the South Lane Rural Fire Department -- Saginaw Substation in 2000.

2. Amend the Rural Residential (RR5/C) zoning on the 60' x 90' adjusted area added to tax lot 700 of TRS 20-03-15.2.3) to Rural Commercial (RC/C) in recognition of the existing commercial use on the subject property (Mitchell's Mercantile).

3. Remove the historical suffix (/H) from tax lot 700 of TRS 20-03-15.2.3 in acknowledgement that there are no identified historical buildings or sites on the subject property.

4. Add the historical suffix (/H) to tax lot 900 of TRS 20-03-15.2.3 in acknowledgement of the Saginaw Market's listing on the Oregon State Historic Preservation Office listing and Map No. 52, and the listing of the building and site on the Lane County Lane Manual 11.300(2) Significant (1-C) Sites inventory.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within to the rural community of Saginaw and are not located within an urban growth boundary. The properties receive a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The rural community of Saginaw was founded as a lumber mill community along the Old Highway 99 and Coast Fork of the Willamette River in the 1880s. The rural community is within Developed & Committed Exception Area # 403-1 which is approximately one-third of the actual community with the other two-thirds being adjacent to the east in D&C Exception Area 403-2. There is no evidence in the record that the extensive facilities and uses in the past on the subject properties or within the community have committed nearby resource lands to nonresource uses. The public record indicates that the prior uses have been compatible with forest industry's use of the regional and nearby Impacted Forest lands to the northwest, west and southwest.

The EFU E30 landS to the northeast, east and south are developed with residences and a winery.

The adjacent Forest Lands (F2) and Agricultural Lands has been managed for decades on the periphery of the rural community boundaries of Saginaw without conflict from the communities' facilities and uses. No foreseeable impacts to resource lands have been identified resulting from the amendments to the three subject properties.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The community of Saginaw includes relatively dense rural residential, rural commercial, and rural public facility uses. The rural commercial uses are a mixture of retail sales that normally support small communities including the two convenience markets. All properties within the community are developed with onsite water systems and subsurface sanitation systems. The elementary school, church and fire station provide essential public services. Old Highway 99 and Saginaw Road East intersect within the community and link the community with the urban areas of Eugene to the north via Old Highway 99 and Interstate 5 on the eastern boundary.

The residential, commercial, and public facility uses have co-existed compatibly with the surrounding resource base for decades and there is no indication that the continued or anticipated uses of the properties and structures will adversely affect resource uses in any fashion.

B. OAR 660-022-0030(6),(7),(8) -- Unincorporated Community Rule

OAR 660-022-0030 (6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

Development standards and uses allowed conditionally by LC 16.291 in the Rural Commercial Zone were adopted in April 2002 in compliance with the Unincorporated Community Rule. The operation of the existing businesses within the community have not adversely affected the management practices of forest or farm operators in the area of Saginaw and there is no foreseeable way that the continued operation of the existing structures in the designated commercial or public facility uses could pose any new adverse impact to management of farm or forest lands in the vicinity. Any new commercial use proposed on tax lots 700 or 900 of TRS 20-03-15.2.3 shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.291(3) and (4). Any new public facility use proposed on tax lot 902 of TS 20-03-15 shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.294(3) and (4).

OAR 660-022-0030(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall 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. This shall be accomplished by either:

> *(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;*

Some change in the uses on the subject properties may occur in the future as a direct result of the proposed rezoning of a portion of one subject property to Rural Commercial (RC/C) and one to Rural Public Facility (RPF/C). Operation of the existing fire station and two convenience markets are two of the common uses to be found in rural settings and have been found to be compatible with draw-down on groundwater resources, disposal of septic waste, and use of public transportation corridors.

All of the properties have developed access points to public roads and the current uses are compatible with the capacity of the public roads.

> *(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;*

ODOT has adopted a TSP, which includes Highway 99 and Interstate 5. Lane County adopted a new TSP in May 2003 for county and public roads. Any proposed expansion of the

current uses or request for a new use on the subject properties shall be required to comply with the permitting process and the siting standards and criteria of LC 16.291(3) and (4) in the RC-C zone and LC 16.294 (3) and (4) in the Rural Public Facility Zone. The criteria of LC 16.291(4)(e), (f), (g) and (h) and LC 16.294(4)(e), (f) and (g) requires that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, and to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone changes has been identified. No need to reduce automobile travel by citizens of Saginaw or the general traveling public to or through the rural community is warranted. Use of the county road system is essential to the tourism and local trade that supports the commercial development in Saginaw, the current employment options in Saginaw, and any potential development of the proposed commercial or public facility properties, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development.

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RC/C zone or RPF/C zone require Planning Director approval and compliance with LC 16.291(4)(i) or LC 16.294(4)(h) criteria: *"(--) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RC/C zone or RPF/C zone require Planning Director approval and compliance with LC 16.291(4)(j) or LC 16.294(4)(i) criteria: *"(--) The proposed use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available."*

C. Plan Conformity

The three subject properties are located in "developed and committed" Exception Areas No. 403-1 or 403-2, which is part of the unincorporated rural community of Saginaw. They are proposed to be designated Commercial or Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC/C) or Rural Public Facility (RPF/C). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

a. **Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:**

1. **The proposed use will not adversely affect the livability or appropriate development of the surrounding area;**

   The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services either suffered or enjoyed by the community. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

   The livability in the area surrounding the subject properties was defined, in part, by the existing operations on the subject properties. Services to the public by the Saginaw Market and Mitchell's Mercantile have been located on the subject properties, tax lot 900 and 700 for decades, and the South Lane RFD - Saginaw Fire Station have been located on tax lot 902 since 2000. Those uses will still be available for the foreseeable future and provide services directly in support of the livability of the rural community of Saginaw. There is no evidence in the public record for one to conclude that the proposed uses on any of the subject properties have significantly affected surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the sites.

   While the impacts from the existing uses appear to be consistent with the livability and appropriate development of the surrounding area and the community–at–large, other uses conditionally allowed within the Rural Commercial Zone or Rural Public Facility Zone may not be. The applicants have not done a compatibility analysis of these uses. Therefore, the rezoning requests can only be approved if the change in zone is limited to the existing uses and expressed uses contemplated on the subject properties. Any future change of use shall be required to comply with the special use permit processes and the site review criteria of LC 16.291(3) and LC 16.291(4) in the Rural Commercial Zone and LC 16.294(2), (3), (4) and (6) in the Rural Public Facility Zone.

2. **Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.**

   All of the subject properties are located adjacent to Old Highway 99 or Delight Valley School Road. The properties being considered for rezoning reflect existing structures or uses within clustered commercial or public facility development. The proposed rezoning of the subject properties to Rural Commercial or Rural Public Facility will augment the employment and commercial uses as well as public services in the area and are most favorably located.

b. **Water Resources Policies #3 and #5**:

   These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. All of the current uses on the three subject properties are served by the existing

onsite wells and therefore will not alter the use or availability of groundwater that is currently provided to the development. In the event that more intensive uses are proposed for any of the subject properties the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) or Lane Code 16.294(4)(i) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. **Public Facilities and Services Policy #6.f**:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties. Refer to II. GENERAL FINDINGS OF FACT.

d. **Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."**

The existing commercial, residential or public service operations on the subject properties and the current commercial and public services within the rural community of Saginaw have co-existed for decades with the agricultural and forest product industries in the surrounding area. The existing development on the three subject properties, tax lots 902, 700 and 900, has existed for decades as a part of the community of Saginaw without any known adverse impacts on forest operations in the area. The rezoning from RR5 to RPF for tax lot 902 is compatible with the surrounding RR5 density and is viewed as an improvement of fire protection services to structures in the surrounding resource and nonresource designations.

e. **Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."**

Significant species or wildlife habitat and other natural areas have not been identified on the subject properties.

There are no wetlands identified on the Cottage Grove SE1 quad of the National Wetlands Inventory for any of the three subject properties proposed for zone changes. Therefore, the proposed uses will not pose any anticipated risk of significantly altering the natural wetland system in the area.

The proposed zone changes for the three subject properties are in compliance with these Plan policies.

D. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

(1) Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.

The purposes of the zone change requests for three subject properties are:

- Tax lot 902, TRS 20-03-15 - to conform the zoning designation with the public ownership and development of the property was the South Lane Rural Fire Department Saginaw Substation;
- Tax lot 700, TRS 20-03-15.2.3 - to acknowledge the ancillary use of the area added to the subject property in conjunction with the existing commercial use;
- Tax lot 700, TRS 20-03-15.2.3 – to remove a historical suffix (/H) from the property where no historical structures or sites have been identified;
- Tax lot 900, TRS 20-03-15.2.3 – to add the historical suffix (/H) to the property to acknowledge the listing of the Saginaw Market as a historical building in 1976 on the Oregon State Historical Preservation Office (Map No. 52);

Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.291(4) or Lane Code 16.294(5), promoting and protecting public health, safety, convenience and welfare.

(2) Protect and diversify the economy of Lane County.

The proposed rezoning to Rural Commercial for a portion of one of the subject properties promotes the opportunity to further provide services to citizens. The proposed rezoning of the subject property to Rural Commercial seeks to support current and anticipated uses and services on the subject parcel in the community of Saginaw.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject properties are small ranging from 0.52 of an acre (tax lot 700), 0.65 of an acre (tax lot 1900), and 3.82 acres (tax lot 902). None have been managed for the production of crops, livestock or timber products for the past 25 to 95 years. Two of the subject properties have been used in connection merchandizing groceries and supplies and the third was developed with the fire station in 2000. The total acreage for the three subject properties is 5.09 acres. Due to the location of the subject properties and their development with structures or facilities, none of the subject properties could effectively be managed for either commercial farm use or forest activities.

On October 25, 1989 the Lane County Board of commissioners voted unanimously to approve Board Order 89-10-25-4, which adopted the 1989 Addendum to the Lane County RCP Developed and Committed Lands Working Paper. The 1989 Addendum includes the findings of a panel of agricultural and forestry experts who formulated the following guidelines for determining whether land that is otherwise suitable for resource production may be so used:

"(a) Parcels of 20 acres or less with dwellings on three or more sides are committed to non-resource uses that make it impractical to conduct farm or forest management.

(b) Parcels with dwellings on two adjoining sides are impracticable for farm management if 15 acres or less, and impracticable for forest management if 20 acres or less.

(c) Parcels with a dwelling on one adjoining side are impracticable for farm management if 5 acres of less, and impracticable for forest management if 15 acres or less."

The zoning designations of either RC or RPF for the three subject properties complies with category "(c)" above.

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential, commercial, industrial and public facility uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

No natural hazards have been identified.

b. Not Contrary to the Public Interest

Development on the subject properties are not, or need not be, contrary to the public health, safety convenience and welfare in that they will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services. The "public interest" has not been defined, as such, but for the purposes of this decision it will be assumed that if the proposed use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for acknowledging existing commercial and public uses, and promoting employment and the retailing of commercial products in this area. While the potential impacts of a commercial use conditionally allowed pursuant to LC 16.291(3) and (4) appear to be culturally consistent with the livability and appropriate development of the surrounding area, the exact uses to which the properties could be put could change in time. This application does not include a compatibility analysis of all conditional uses in the Rural Commercial (RC) or the Rural Residential (RR) zones. To provide a level of comfort for the surrounding residential properties, the special use permit processes of LC 16.291(3) or LC 16.294(2), and (3), and the site review criteria of Lane Code 16.291(4) or LC 16.294(4) would be used to achieve this end.

c. Lane Code 16.290, Lane Code 16.291 and Lane Code 16.294

Lane Code 16.291(1) states that the purposes of the Rural Commercial Zone is *to provide commercial goods and services needed by rural residents and to provide services and facilities for tourists and travelers, and to provide employment that rely on a rural location and work force.*

Lane Code 16.294(1) states that the purpose of the Rural Public Facility Zone is *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and are by nature intensive or unusual uses not normally associated with other zones.*

The proposed zone changes and uses are consistent with these purposes.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are not located in an area identified as being water quantity limited. Any future partitioning or change of use would by necessity have to comply with the carrying capacities of the groundwater aquifer and soils for subsurface waste disposal system requirements.

V. CONCLUSION

This application has shown by a preponderance of evidence that the standards and criteria applicable for amendments of Plot No. 403-1 and Plot No. 403-2 Official Plan and Official Zoning designations for the following subject properties have been met:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C).
20-03-15.2.3	700	0.12	Rural Residential (RR5/C	Rural Commercial (RC/C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

VI. RECOMMENDATION

1. Approval of PRZC Control No. 6 of Ordinance No. PA 1226, amending the Official Plan Map No. 403 for the following subject properties:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural (R)	Public Facility (PF).
20-03-15.2.3	700	0.12	Rural (R)	Commercial (C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

2. Approval of PRZC Control No. 6 of Ordinance No. PA 1226, amending the Official Zoning Map No. 403 designations for the following subject properties:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C).
20-03-15.2.3	700	0.12	Rural Residential (RR5/C	Rural Commercial (RC/C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

VII. EXHIBITS

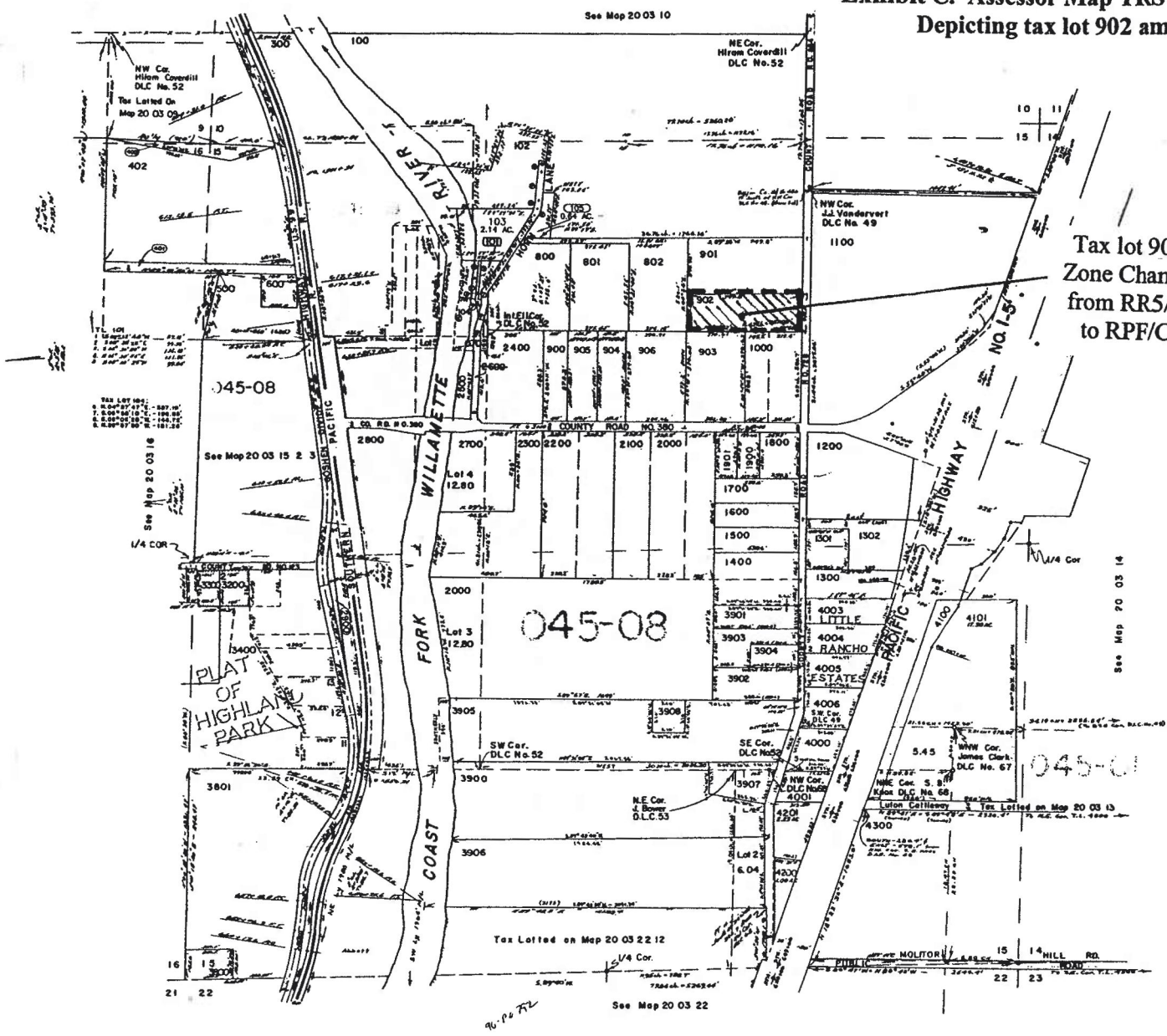
A. Amendments to Official Plan Map #403:
B. Amendments to Official Zoning Map #403:
C. Assessor Map TRS 20-03-15: depicting tax lot 902 amendment.
D. Assessor Map TRS 20-03-15.2.3: depicting tax lot 700 amendments.
D-1. TRS 29-03-15.2.3 recorded property line adjustment (C.S. File No. 33541).
E. Assessor Map TRS 20-03-15.2.3: depicting tax lot 900 amendment.
F. Aerial Photograph: BLM 7-65.1-6 (5-21-2000)

FOR ASSESSMENT AND TAXATION ONLY

Section 15 T.20S. R.3W.W.M.
LANE COUNTY
1"=400'

20 03 15
& INDEX

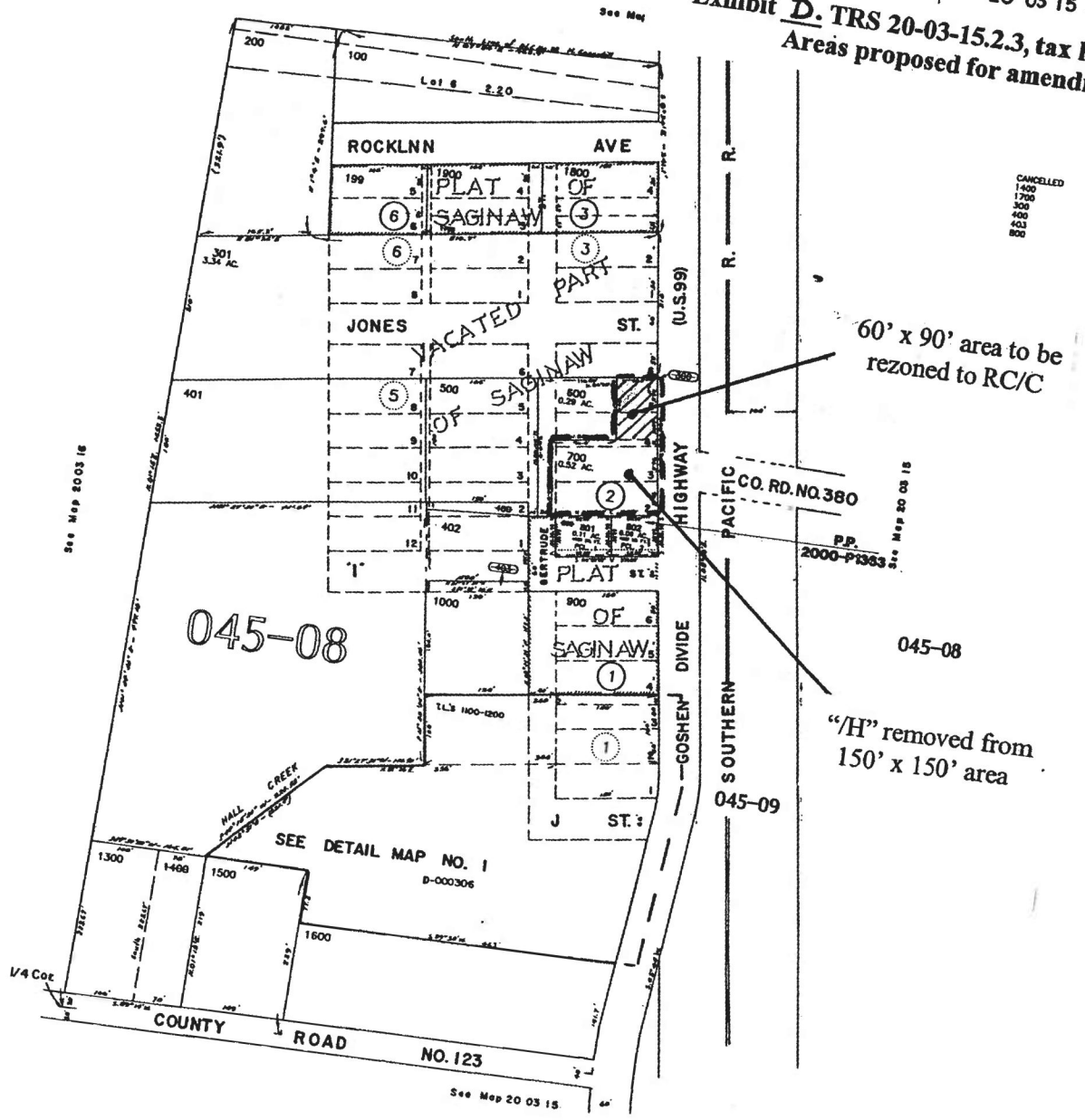
Exhibit C. Assessor Map TRS 20-03-15
Depicting tax lot 902 amendment



SW1/4 NW1/4 Sec.15 T.20S. R.3W.W.M.
LANE COUNTY
1"=100'

20 03 15 2 3

Exhibit D. TRS 20-03-15.2.3, tax lot 700
Areas proposed for amendments



LANE COUNTY SURVEYORS OFFICE
C.S. FILE No. 33541
FILING DATE 5-6-96 C

BOUNDARY LINE ADJUSTMENT SURVEY FOR

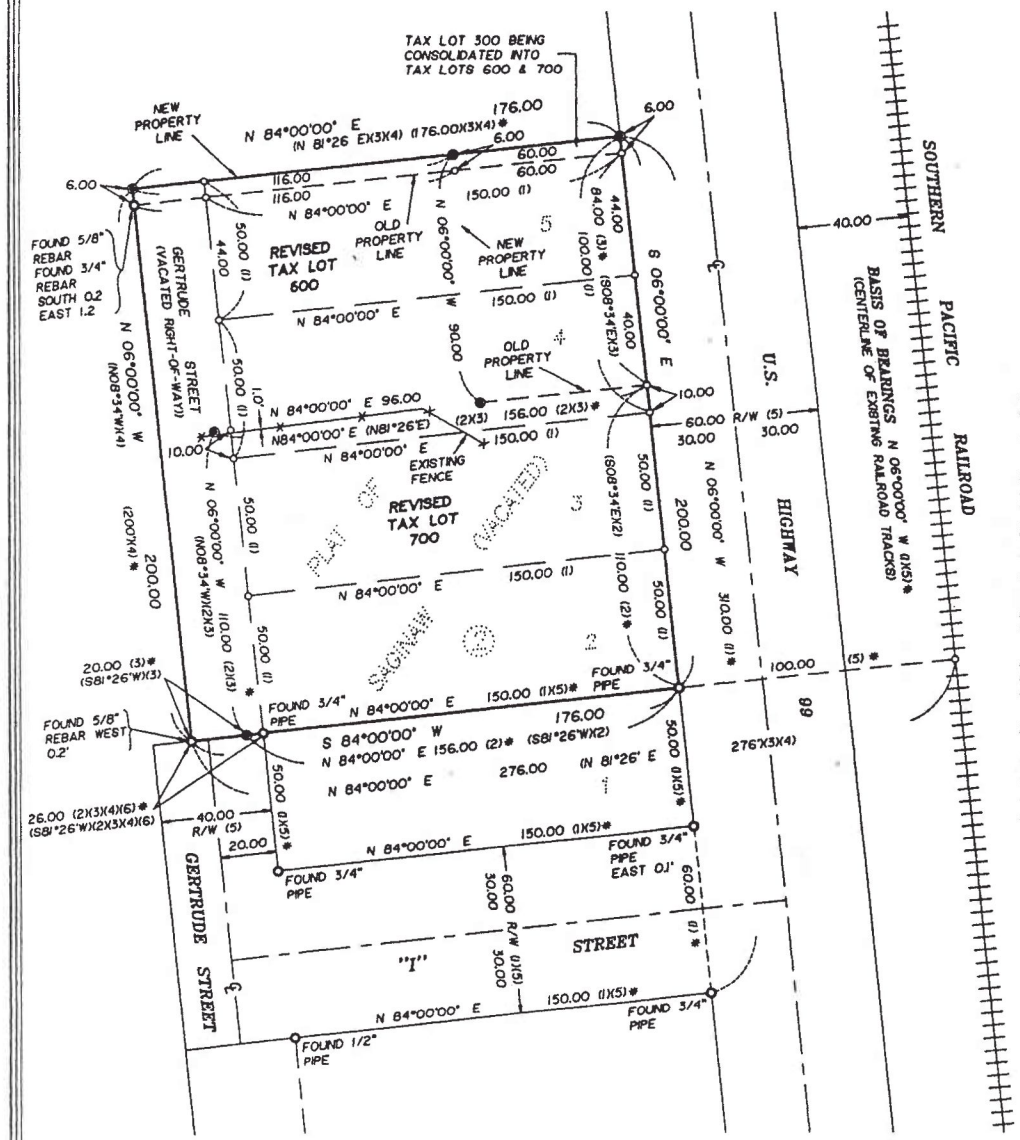
KENNETH E. MITCHELL

N.W. 1/4, SEC. 15, T.20S., R.3W., W.M.

LANE COUNTY, OREGON

APRIL 23, 1996

SCALE 1"=30'



TAX MAP 20-3-15-2-3, TAX LOT 300, 600 & 700

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO MONUMENT A PROPERTY LINE ADJUSTMENT IN AN UNINCORPORATED AREA IN LANE COUNTY, OREGON AND TO COMPLY WITH THE OREGON REVISED STATUTES (O.R.S. CHAPTER 92) REQUIREMENTS FOR PROPERTY LINE ADJUSTMENTS.

THE SOUTH BOUNDARY OF THIS SURVEY WAS ESTABLISHED BY HOLDING FOUND MONUMENTATION AT THE NORTHEAST AND NORTHWEST CORNERS OF LOT 1, BLOCK 2 OF THE PLAT OF SAGINAW. THE SOUTHWEST CORNER OF THE SURVEY WAS ESTABLISHED PER DEED CALL AT 276.00 FEET WESTERLY BY PERPENDICULAR MEASUREMENT TO THE CENTERLINE OF THE SOUTHERN PACIFIC RAILROAD TRACKS AND 25.00 FEET FROM AND ON THE EXTENSION OF THE NORTH LINE OF SAID LOT 1.

THE WEST BOUNDARY OF THIS SURVEY WAS ESTABLISHED PARALLEL TO AND 276.00 FEET FROM CENTERLINE OF SAID RAILROAD TRACKS.

THE NORTH BOUNDARY WAS ESTABLISHED BY HOLDING RECORD DEED CALL (200.00 FEET PARALLEL) AND RECORD PLAT DISTANCES FROM THE AFORESAID SOUTH BOUNDARY.

THE EAST BOUNDARY OF THIS SURVEY WAS HELD PER DEED CALL 100.00 FEET WESTERLY OF AND PARALLEL TO THE CENTERLINE OF SAID RAILROAD TRACKS.

THE REVISED LOT LINES WERE SET AT THE DIRECTION OF THE OWNER WHO IS IN COMMON OWNERSHIP OF ALL PARCELS BEING ADJUSTED.

MONUMENTS WERE SET AS SHOWN.

REFERENCES

1. PLAT OF SAGINAW, BOOK 2, PAGE 26, LANE COUNTY OREGON PLAT RECORDS.
2. DEED RECORDED IN REEL NO. 980R, RECEPTION NO. 7915881, LANE COUNTY OREGON DEED RECORDS.
3. DEED RECORDED IN REEL NO. 1471R, RECEPTION NO. 8735162, LANE COUNTY OREGON DEED RECORDS.
4. DEED RECORDED IN REEL NO. 1513R, RECEPTION NO. 8818661, LANE COUNTY OREGON DEED RECORDS.
5. COUNTY SURVEY FILE NO. 8704, LANE COUNTY OREGON RECORDS.
6. COUNTY SURVEY FILE NO. 20446, LANE COUNTY OREGON RECORDS.
7. COUNTY SURVEY FILE NO. 13371, LANE COUNTY OREGON RECORDS.

LEGEND

- O FOUND MONUMENT AS NOTED.
- ● SET 5/8" x 30" REBAR WITH YELLOW PLASTIC CAP MARKED "BRANCH ENG. LS 2609".
- o CALCULATED POINT - NOTHING FOUND NOR SET.
- * DENOTES MEASURED BEARINGS AND DISTANCES ARE EQUAL TO DATA OF RECORD.
- ( ) DENOTES DATA OF RECORD.

ALL DISTANCES SHOWN ARE IN FEET.

REGISTERED PROFESSIONAL LAND SURVEYOR
David L. Brown
OREGON JULY 20, 1995 DAVID L. BROWN 2609
EXPIRES DEC. 31, 1997

Branch Engineering
310 North 5th Street
Springfield, Oregon 97477
(541)746-0637 FAX (541)746-0389

PROJECT No. 96-081

DWG. No. E:\96\96-081\9608IS.DWG 4-23-96 AMW

Exhibit D-1: TRS 20-03-15.2.3, tax lot 700
Recorded property line adjustment

SW1/4 NW1/4 Sec. 15 T.20S. R.3W.W.M.
LANE COUNTY
1"=100'

20 03 15 2 3

Exhibit E. TRS 20-03-15.2.3, tax lot 900
Parcel receiving historical suffix "/H"
Saginaw Market OSHPO Map # 52

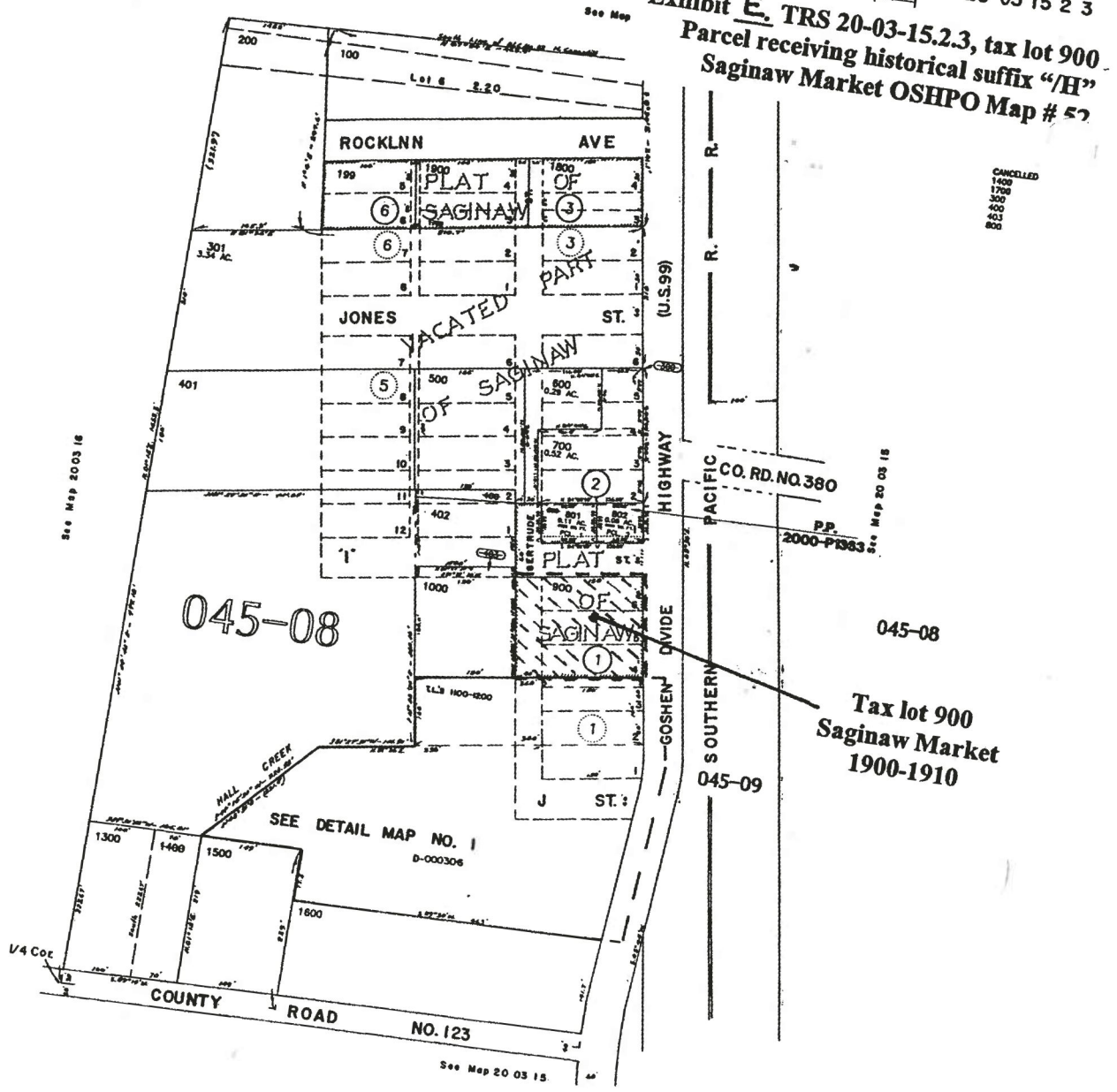
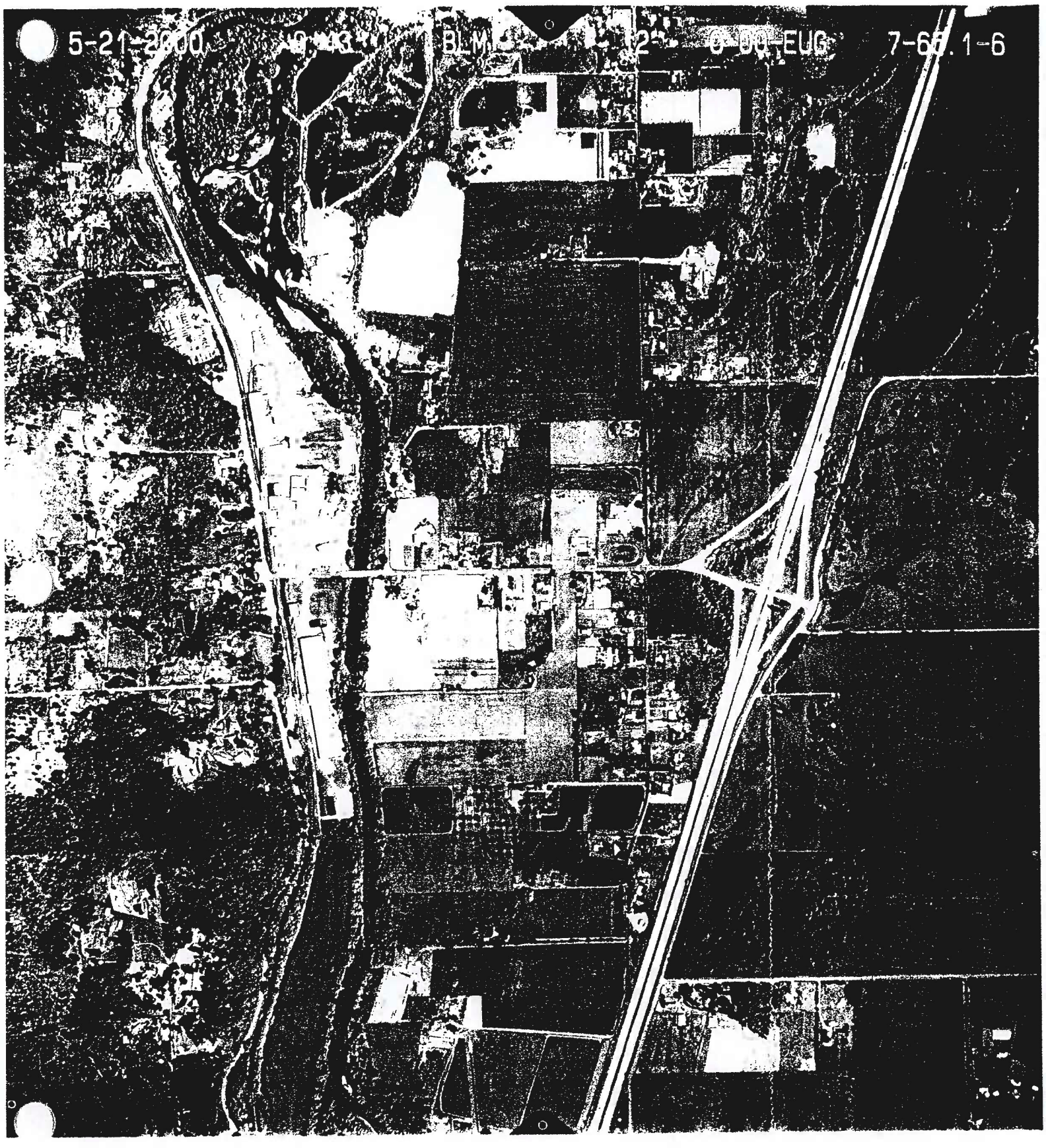


Exhibit G. Aerial Photograph: BLM 7-65.1-6 (5-21-2000)



Attachment E – Control No. 7

Exhibit No. _C-7 _

PAPA Control No. _7_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 412-1

Plan Amendments and Zone Changes for:

Tax lots 102, 3800, 3801 and 3803 of Assessor's Map TRS 18-03-11.3

TRS - Tax lot	Acres	From/Action	To
18-03-11.3,	102	1.41 Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3,	3800	5.74 Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3,	3801	1.03 Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3,	3803	4.10 Rural Industrial (RI)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone (RI)*
Lane Code 16.294 – *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

One public ownership of four contiguous properties is being considered for a zone change.

Four contiguous tax lots in the ownership of Emerald People's Utility District (EPUD) were designated as Rural Residential (RR5) in 1984 and rezoned Light Industrial (M2) in 1986. The 12.28-acre facility includes the EPUD headquarters, service buildings and equipment yards. The appropriate land use designation for the EPUD subject properties is Rural Public Facility (RPF).

II. FOUR SUBJECT PROPERTIES -- FINDINGS OF FACT

TRS 18-03-11.3, tax lot 102 -- 1.41 acres
TRS 18-03-11.3, tax lot 3800 -- 5.74 acres
TRS 18-03-11.3, tax lot 3801 -- 1.03 acres
TRS 18-03-11.3, tax lot 3803 -- 4.10 acres
Properties Owner: Emerald People's Utility District
Proposed change in zoning designation from Rural Industrial (RI) to Rural Public Facility (RPF).

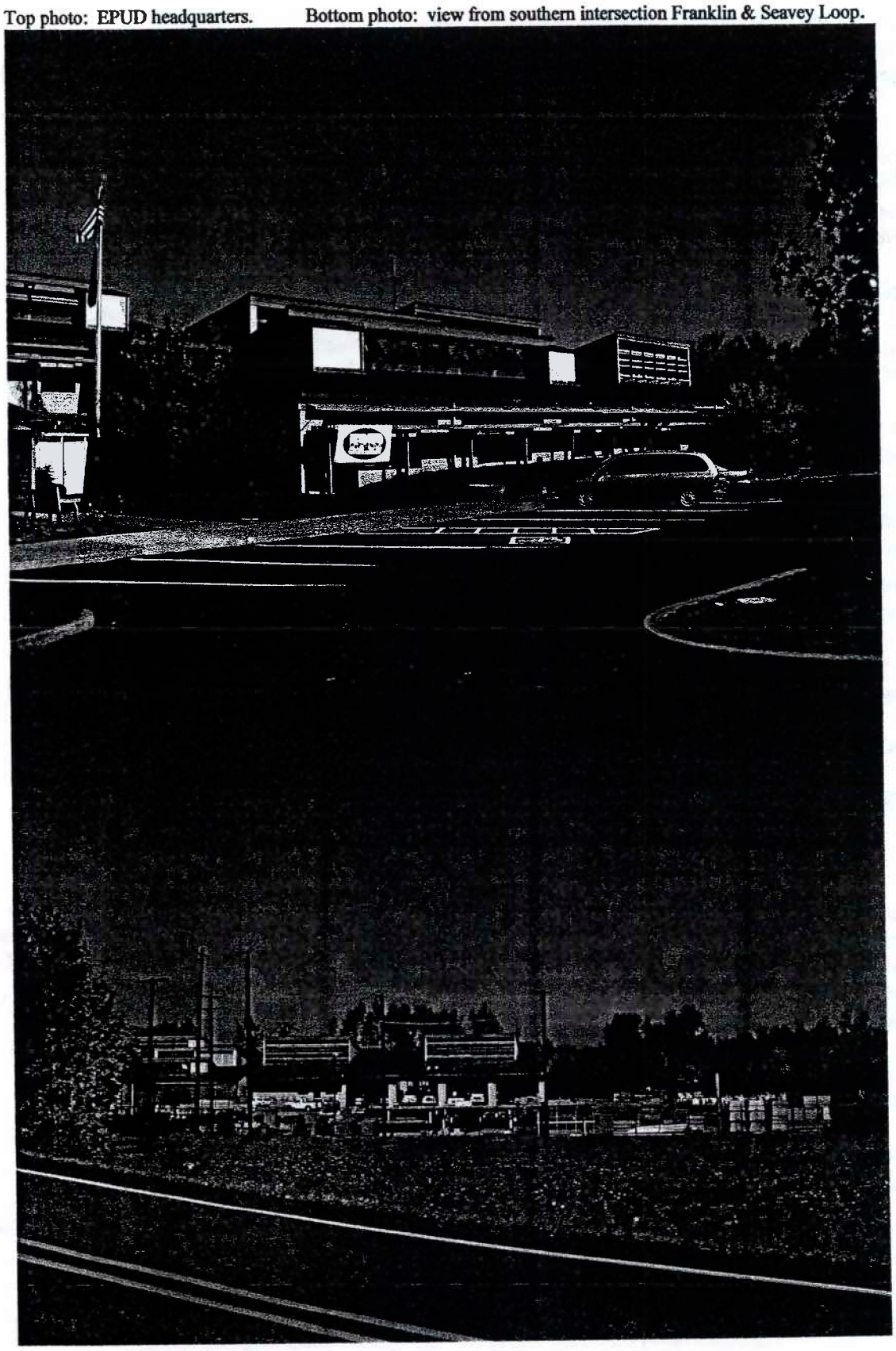
Findings of Fact

1. The four properties subject to this application, hereinafter referred to as the "subject properties," are located within an "island" of land south of Franklin Boulevard and east of Seavey Loop Road created by the two intersections of the two roads at the northwestern and southeastern ends of the properties. They are within the Developed & Committed Exception Area No. 412-1. They can be identified as tax lots 102, 3800, 3801 and 3803 of Assessor's map 18-03-11.3, with a rural address of 33735 Seavey Loop Road, Eugene, OR 97405, and the four contiguous properties total 12.28 acres in size.

2. The subject properties are developed with the headquarters of Emerald People's Utility District including the offices, warehouses, vehicle maintenance shops and parking, and pole/equipment storage yards.

3. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and was vacant at the time. In 1986, the four properties were rezoned from RR-5 to M-2, Light Industrial by Ordinance PA 919. The development of the properties as the EPUD headquarters and main service center followed in 1987. In May of 2002, the properties were legislatively rezoned from M-2 to RI in compliance with the Rural Community Rule and Goal 14 as county-wide amendments within all developed & committed exception areas outside designated unincorporated communities.

Top photo: EPUD headquarters. Bottom photo: view from southern intersection Franklin & Seavey Loop.



4. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject properties in connection with the utility's public service and facilities is inconsistent with the Rural Industrial Zone (RI).

5. The existing public facility uses of the subject properties are allowable uses in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution..*

   The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

6. There is no record of any historical compatibility issues occurring between the existing uses on the subject properties and their neighbors since the facilities were established in the 1987.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility is provided with community water via an extraterritorial water extension from the Willamette Water Company in 1987.
8. The subject property receives the following public services: Springfield School District #19 (schools); Emerald People's Utility District (electrical power); Springfield Department of Fire and Safety (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Eugene East 4.

IV. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this application are intended to recognize the "public facility" uses of Emerald People's Utility District (EPUD) which were established on the subject properties in 1986-87 and amend the zoning designation to conform with the uses on those tax lots 102, 3800, 3801 and 3803 of TRS 18-03-11.3.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within developed & committed exception area No. 412-1, east of the Metro Plan Boundary that is defined by the western right-of-way of Interstate 5 (I-5). The subject property is southeast of the interchange of I-5 and 30th Avenue. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for expansion of the EPUD facility uses that have existed on the property for nineteen years (1986).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The four subject properties are enveloped by developed and committed exception lands on two sides and resource lands on two sides Lands to the north of Seavey Loop Road are zoned Sand and Gravel. Rural residential (RR5) lands are located northeast of the subject property on the east side of Seavey Loop Road. Rural Industrial (RI) lands are located to the west across Seavey Loop Road. The EFU lands are located to the east and separated from the subject property by Seavey Loop Road. No foreseeable impacts from these proposed zone changes or increased commitment to nonresource uses has been identified on the EFU lands to the east since 1986.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area #412-1 includes relatively dense Rural Residential development along Seavey Loop Road, strip commercial development along College View Road, consolidated public facility uses, and extensive industrial uses along Seavey Loop Road and Franklin Road.

The Emerald People's Utility District facility has been providing a service in southeastern Lane County for 19 years (1986) and the record indicates this facility has been compatible with the resource use of forest and agricultural lands to the east.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 412-1 of Lane County, 4,500 feet southeast of the urban growth boundary of the City of Eugene. It is proposed to be designated Public Facility (PF) by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject properties (tax lots 102, 3800, 3801 and 3803 of TRS 18-03-11.3) are relatively flat with no identified hazards due to slope grade or terrain features. Development from the designations Rural Industrial (RI) to the proposed designations of Rural Public Facility RPF (tax lots 102, 3800, 3801 and 3803) has been orderly and through application of land use regulations providing for the current uses. The resulting public facility uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.294 (RPF).

(2) Protect and diversify the economy of the County.

Re-designation of the subject properties will allow diversification of the current uses and avenues for new facilities in compliance with the required permit processes, criteria and standards.

(3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.

This application seeks to aid in the development of existing public facility uses on 12.28 acres (tax lots 102, 3800, 3801, 3803) of land. This action would remove the 12.28 acres from the industrial lands inventory in acknowledgement of existing public service facilities on the land. In this instance, the public has derived considerable benefit from the EPUD facility over the past 19 years that offsets the reduction in the RI inventory.

(8) Provide for the ultimate development and arrangement of efficient public services and facilities within the County.

The EPUD facility includes the operations headquarters and the maintenance facilities in a consolidated setting. The facility is well located for distribution of services to their customers.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lots 102, 3800, 3801 and 3803 will acknowledge the existing public facility on the subject properties. The current uses of the facility are served by Willamette Water Company and therefore will not alter the use or availability of groundwater that is currently provided to the structures.

In the event that more intensive uses are proposed for any of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing public services on the EPUD subject properties (tax lots 102, 3800, 3801 and 3803) have co-existed since 1986 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located to the east across Franklin Boulevard. Electrical utility facilities commonly occur adjacent to resource lands and in some instances are essential to the distribution of power to rural uses including resource operations. Any expansion or intensification of the 1986 facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on any of the subject properties. There are no wetlands identified on the Eugene East 4 quad of the National Wetlands Inventory for the four subject properties proposed for rezoning. Past development on all of the subject properties has significantly altered the natural flora and fauna communities and habitat. Therefore as a result of past uses, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the four subject properties are in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject properties are small ranging from 1.03 to 5.74 acres. None have been managed for the production of crops, livestock or timber products for the past twenty years. All of the subject properties have been used for public facility activities in the past.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential, commercial, industrial, and public facility uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The EPUD properties (tax lots 102, 3800, 3801 and 3803) are partially within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1144 of 2975 (6-2-99). Any future development of the subject properties will require review under the criteria and standard of Lane Code 16.244 Floodplain Combining Zone.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing and proposed uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the public services in this area.

c. *Lane Code 16.294*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and uses on tax lots 102, 3800, 3801 and 3803 are consistent with these purposes.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are not located in an area identified as being water quantity limited.

The EPUD properties (tax lots 102, 3800, 3801 and 3803) receive service from an existing water system, Willamette Water Company.

The four subject properties are small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

1. This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 18-03-11.3, tax lots 102 (1.41 acres), 3800 (5.74 acres), 3801 (1.03 acres), and 3803 (4.10 acres) from Rural Industrial (RI) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 7 of Ordinance No. PA 1226, amending the Official Plan Map No. 412 designations for tax lots 102, 3800, 3801 and 3803 of Assessors Map TRS 18-03-11.3, from Industrial (I) to Public Facility (PF); and

2. Approval of PRZC Control No. 7 of Ordinance No. PA 1226, amending the Official Zoning Map No. 412 designations for tax lots 102, 3800, 3801 and 3803 of Assessors Map TRS 18-03-11.3, from Rural Industrial (RI) to Rural Public Facility (RPF); and

VII. EXHIBITS

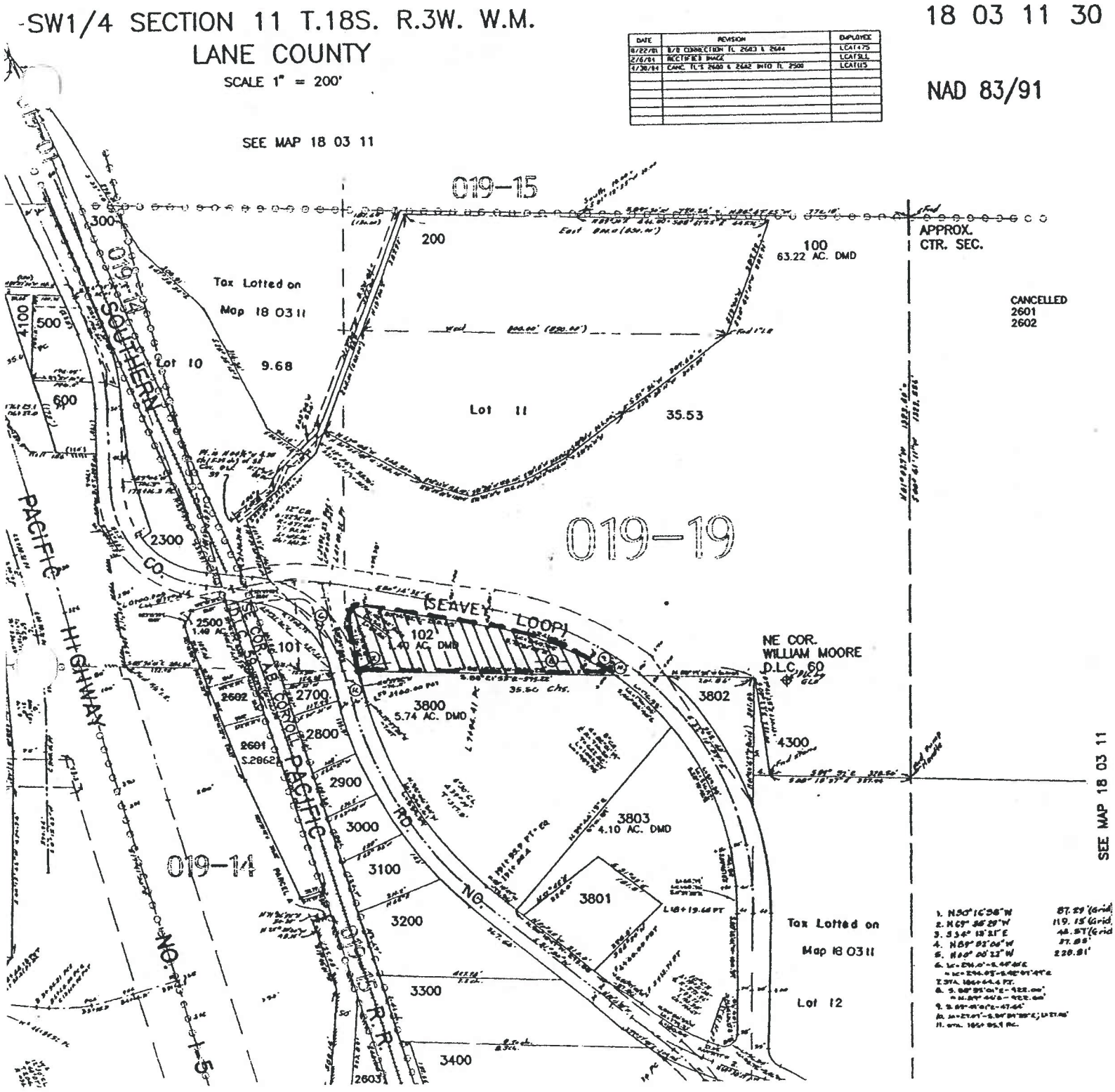
A. Plan Maps:
   A-1. Plan Map Plot No. 412 with four proposed plan changes depicted.
B. Zoning Maps:
   B-1. Zoning Map Plot No. 412 with four proposed zone changes depicted.
C. Lane County Assessor's Maps TRS 18-03-11.3:
   C-1. Depicting tax lot 102 of TRS 18-03-11.3.
   C-2. Depicting tax lot 3800 of TRS 18-03-11.3.
   C-3. Depicting tax lot 3801 of TRS 18-03-11.3.

C-4. Depicting tax lot 3803 of TRS 18-03-11.3.

D. Site plan of EPUD properties (1987).

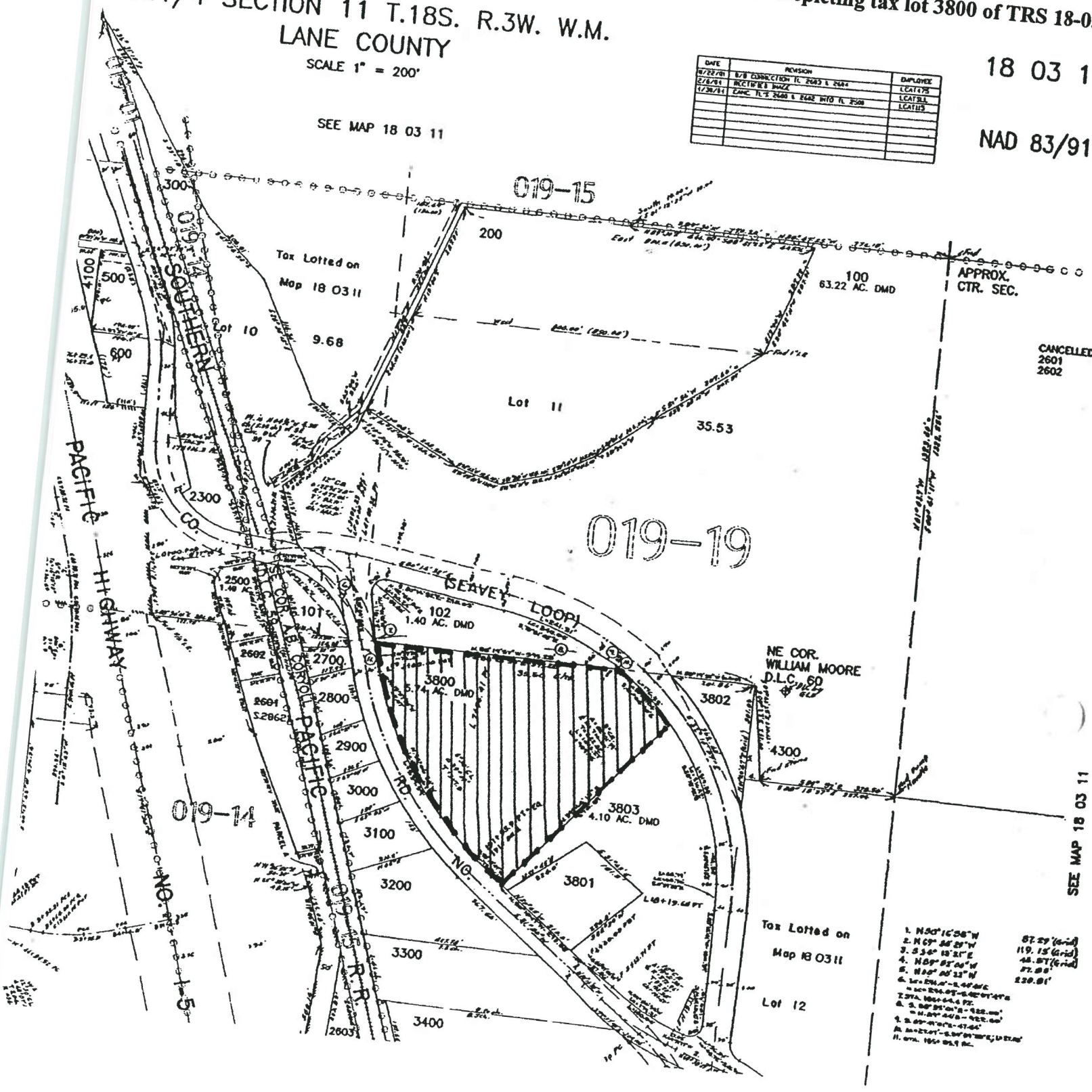
E. Aerial Photograph and enlargement of EPUD site.

C-1. Depicting tax lot 102 of TRS 18-03-11.3.

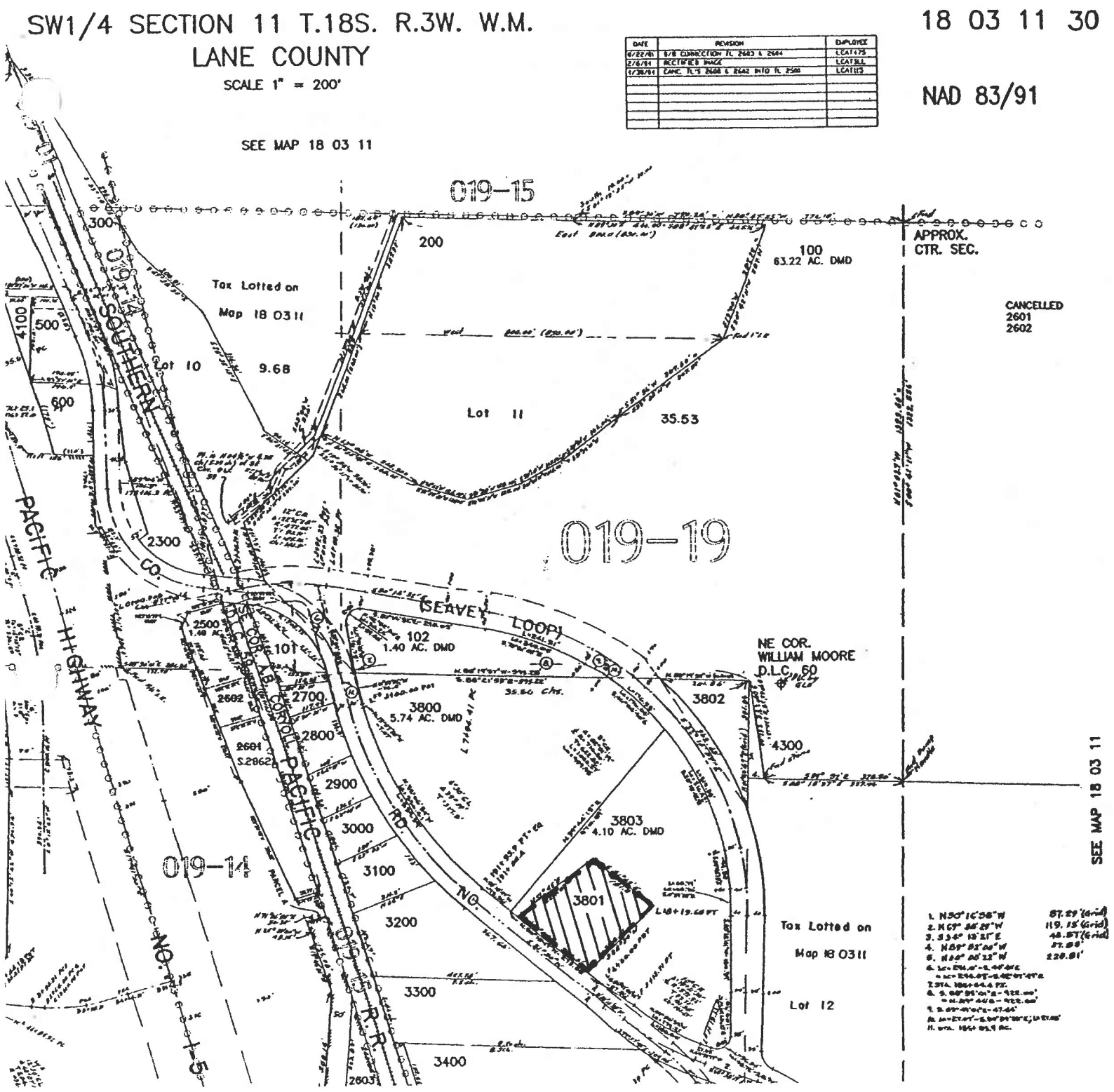


DATE	REVISION	EMPLOYEE
8/22/91	B/B CORRECTION TL 2603 & 2604	LCAT475
2/6/84	RECTIFIED IMAGE	LCAT5LL
4/30/84	CANC. TL'S 2600 & 2602 INTO TL 2500	LCAT1L3

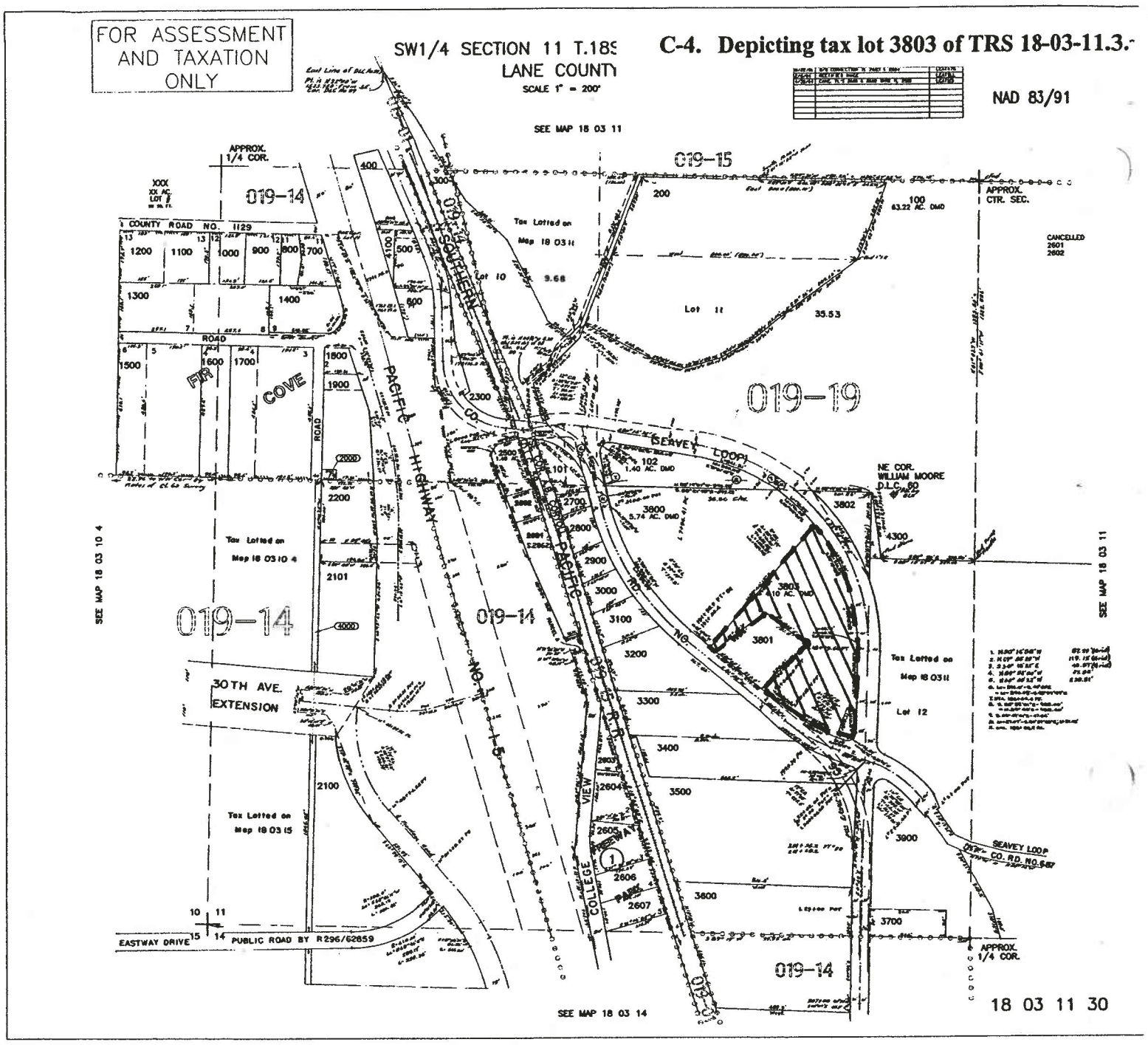
C-2. Depicting tax lot 3800 of TRS 18-03-11.3.

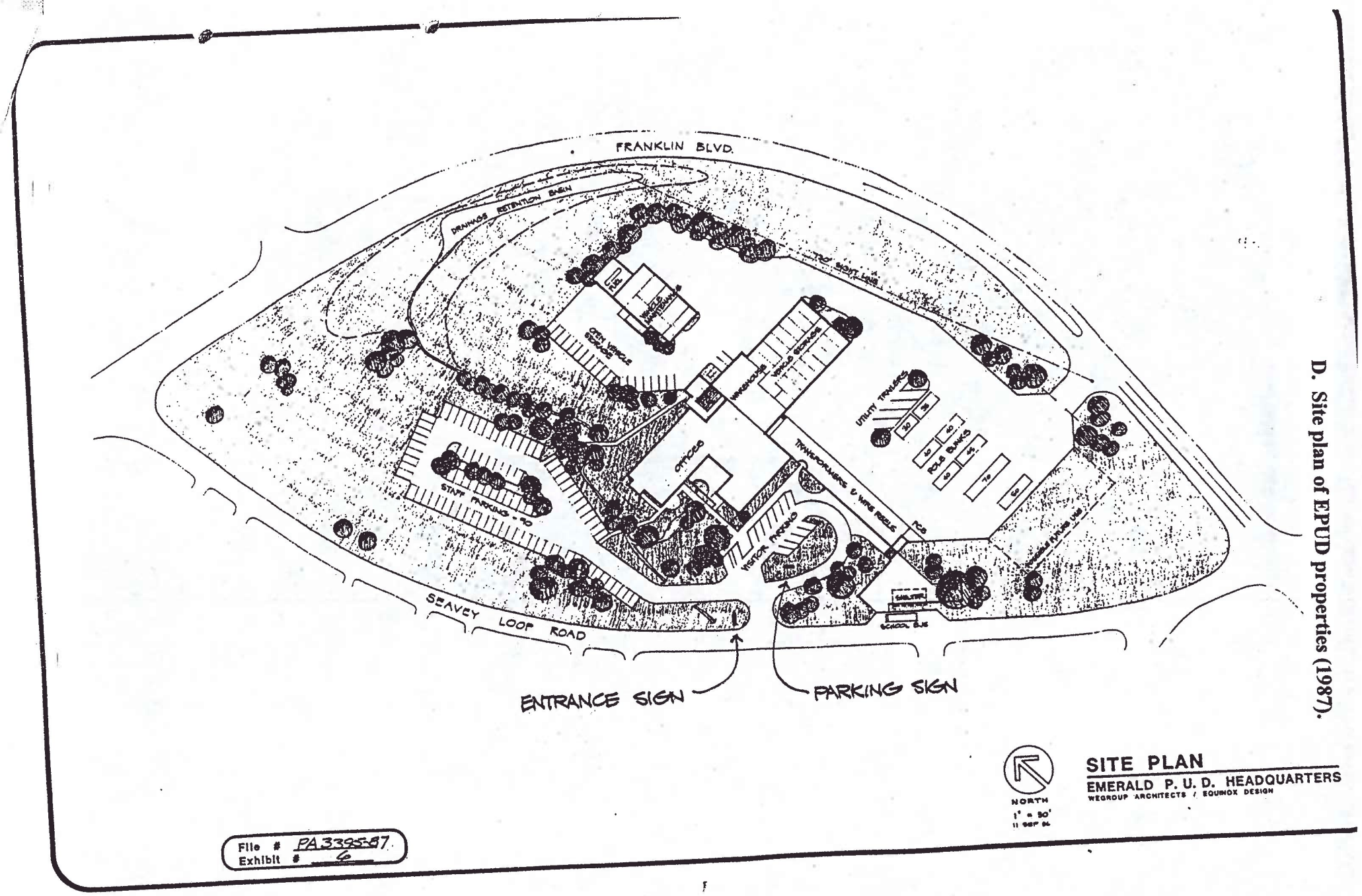


C-3. Depicting tax lot 3801 of TRS 18-03-11.3.



C-4. Depicting tax lot 3803 of TRS 18-03-11.3.





File # PA 3385-87
Exhibit # 6

D. Site plan of EPUD properties (1987).

Exhibit E. Aerial Photograph and enlargement of EPUD and Minnis sites:

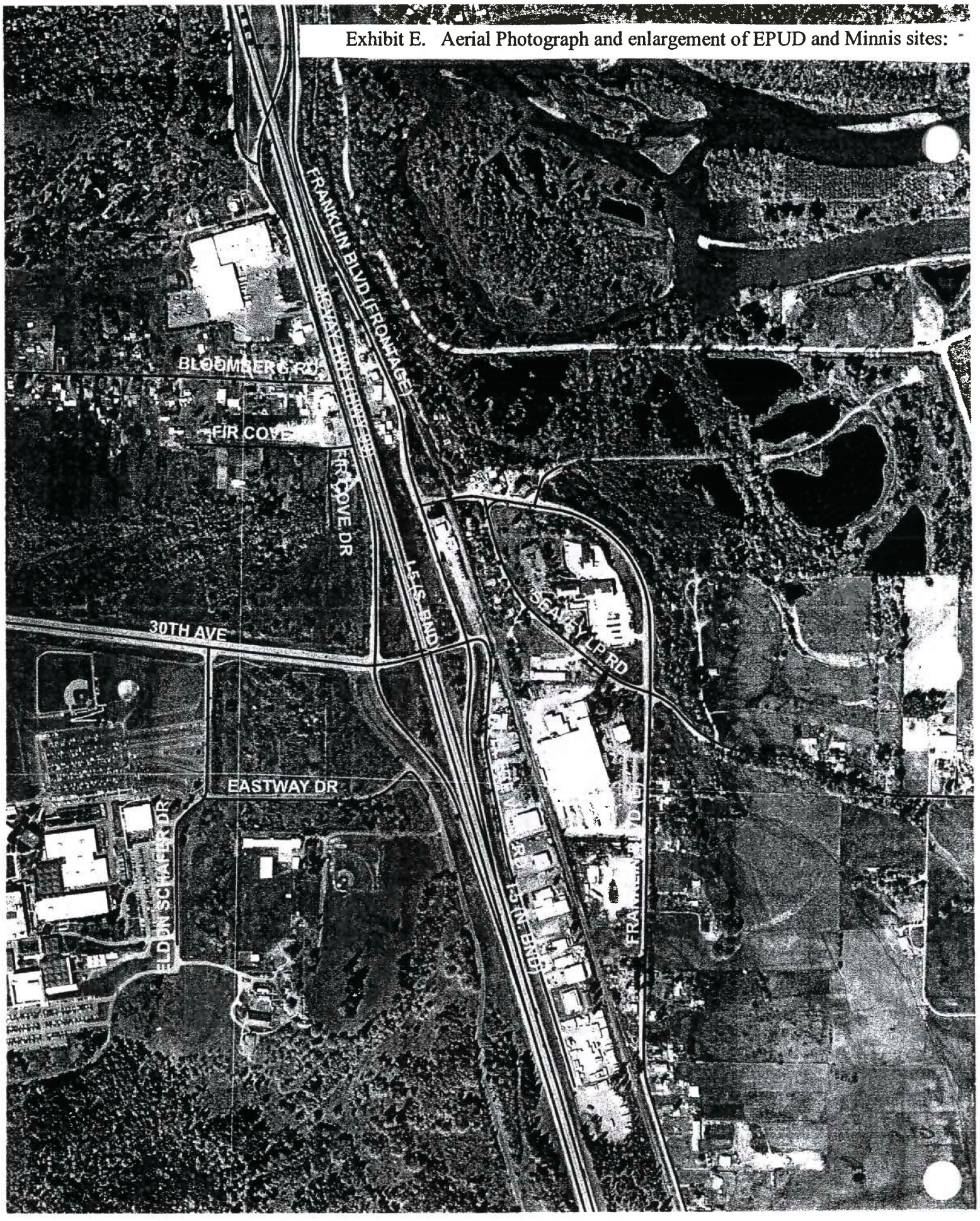


Exhibit E-1. Enlargement of Aerial Photograph EPUD and Minnis sites:

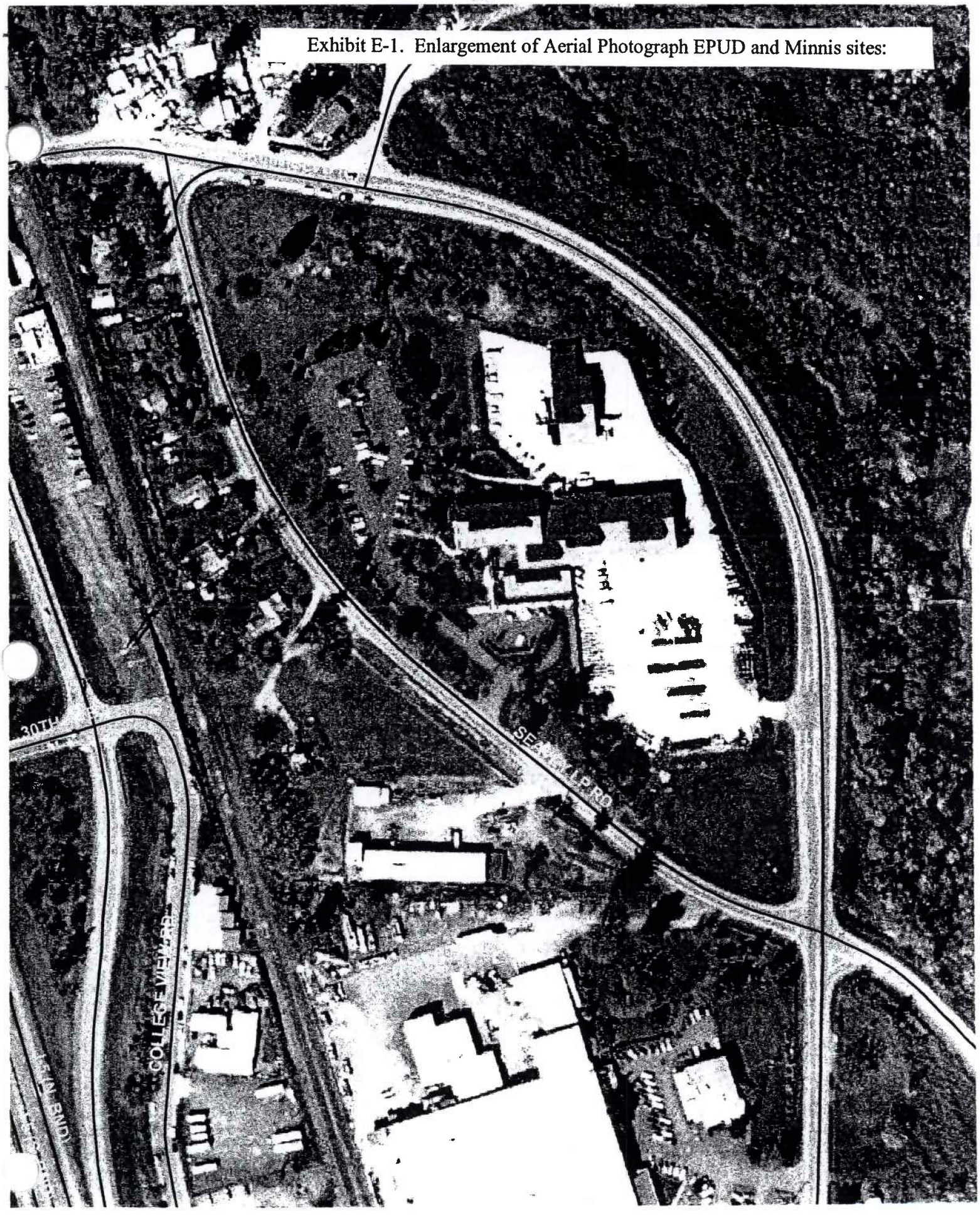


Exhibit No. _C-8_

PAPA Control No. _8__

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 413-2

Plan Amendments and Zone Changes for:

Tax lots 1300 and 1400 of Assessor's Map TRS 18-03-14

TRS - Tax lot	Acres	From
18-03-14, 1300	0.54	Rural Commercial (RC)
18-03-14, 1400	0.58	Rural Commercial (RC)
Consolidated:	1.12	

	Acres	To
	0.45	Rural Commercial (RC)
	0.67	Rural Industrial (RI)
Consolidated:	1.12	

Applicable Criteria and Standards

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.014(6) and (7)(h) – *Plan Designation and Zoning Maps*
Lane Code 16.291 - *Rural Commercial Zone (RC)*
Lane Code 16.292 - *Rural Industrial Zone (RI)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. General Findings of Fact

1. Two contiguous properties under the applicant's ownership are being considered for zone changes to facilitate the development of a total of 1.25 acres within three contiguous properties and the combined uses provided for in the Rural Commercial (RC) and Rural Industrial (RI) zoning designations under the ownership and operation of a single entity know as Doyle's Harley Davidson. Two contiguous properties subject to these zone changes are tax lots 1300 and 1400 of TRS Map 18-03-14. The third property is tax lot 1500 of TRS Map 18-03-14.

   The owners of the three properties, Janie and Mike Doyle, currently operate Doyle's Harley-Davidson motorcycle dealership located on a property, tax lot 1200, to the north of their tract of three contiguous properties, tax lots 1300, 1400 and 1500. The applicants have operated their warehouse service and sales business since 1996 through a lease of an existing structure on tax lot 1200. The 18,000 square-foot structure was constructed in 1985 and leased by the Doyles in 1986. For the past 19 years the applicants operated their distributorship in the C-3 Commercial Zone pursuant to Lane Code 16.222 provisions that included *(o) Stores (retail and wholesale) and business uses similar to the above and normally located in a commercial zone . . ..*

   In the last decade, a shift in soils and water table beneath the concrete floor of the occupied building have resulted in a significant fracture and misalignment of two, now askew, slabs. As a result, the applicants acquired title to the three contiguous properties, tax lots 1300, 1400 and 1500 to the south along College View Road, with the intent to construct a new building and move the dealership to their ownership.

2. Tax lots 1300 and 1400 of TRS map were zoned C-3 Commercial Zone from 1984 to 2002, and tax lot 1400 was previously developed with Irwin Marine Center in a 7,606 square-foot building, which is now used by the applicants for storage of their product line. Tax lot 1300 is a gravel parking lot. Tax lot 1500 is an asphalt parking lot that was zoned M-1, Limited Industrial Zone from 1984 to 2002.

3. In 2002, the applicants' properties and adjacent properties along the east right-of-way of College View Road were rezoned in compliance with the Rural Community Rule (OAR 660-22) and statewide Goal 14. Tax lots 1300 and 1400 were rezoned RC - Rural Commercial (Lane Code 16.291) and tax lot 1500 was rezoned RI - Rural Industrial (Lane Code 16.292). Both zoning designations include limitations on floor area for allowable uses within the zones.

   Lane Code 16.291(4)(a) limits commercial development on tax lots 1300 and 1400.
   (a) Floor Area and Lot or Parcel Coverage. . . . If not located in an area designated by the RCP as an unincorporated community, no commercial building or combination of commercial buildings

on a lot or parcel shall contain more than 3,500 square feet of floor area for the same commercial use . . .

Lane Code 16.292(3)(b) limits industrial development on tax lot 1500.

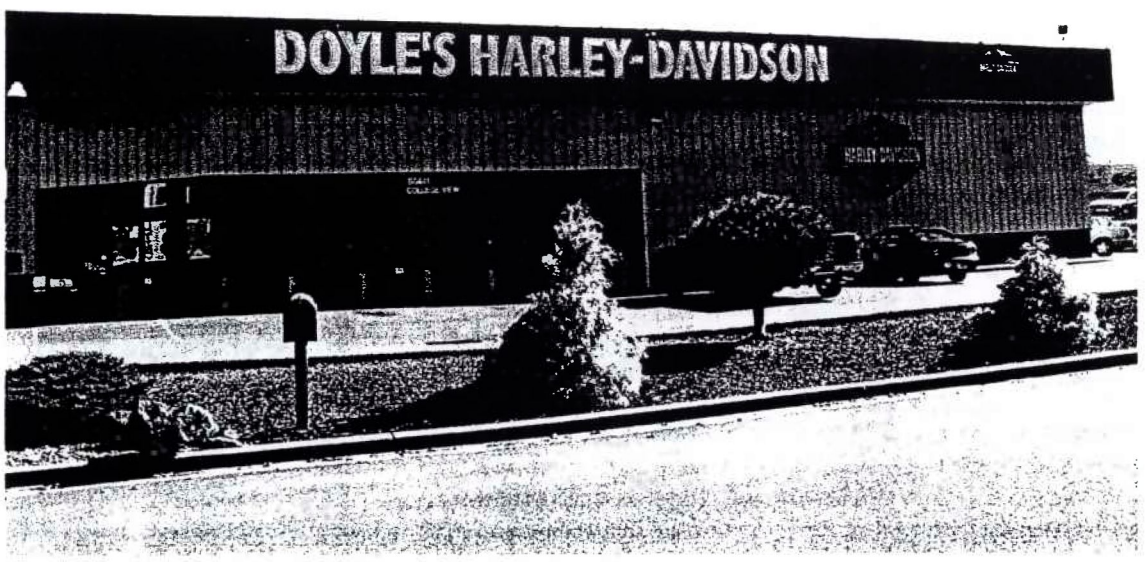
(b) Small-scale, low impact manufacturing, assembling, processing, packaging , storage, wholesale distribution, testing or repairing that does not include radioactive materials or hazardous waste byproducts in the manufacturing process and that may occur outside a building or in one or more buildings containing not more than:

(iii) 35,000 square feet of floor area in any one or combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

Tax lots 1300, 1400 and 1500 of TRS map 18-03-14 are located in developed & committed exception area 413-2 and are not within the designated boundaries of the unincorporated community of Goshen located to the south along Highway 999 and west of Interstate 5.

4. The applicant's are confronted with a hardship caused by the structural deficiencies of the leased building and a prudent need to move into a safe and healthy environment for customers and staff. The applicants are also faced with limitations in LC 16.291(4)(a) on floor area square-footage for commercial uses which would severely restrict their previous retail operation of approximately 11,000 square-feet to 3,500 square feet without some relief from the standard. Of the original 18,000 square feet, approximately 7,000 square feet was used for warehousing of parts and storage of motorcycles, or assembly and maintenance of the motorcycles for retail display and sales.

Retail store and industrial warehouse occupied by Doyle Harley-Davidson since 1986.



5. The applicants are requesting a zone change on tax lot 1300 to retain 0.45 of-an-acre of the current 0.54 of-an-acre lot in the Rural Commercial Zone (RC) and split-zone the remaining 0.09 of-an-acre as Rural Industrial (RI).

   The applicants are also requesting a zone change on contiguous tax lot 1400 to retain a 11.25-foot wide (N-S) strip for a distance of 184 feet (2,070 square feet or 0.0475 of-an-acre) along the northern boundary of tax lot 1400 in the Rural Commercial Zone (RC) and rezone the remaining 0.4925 of-an-acre as Rural Industrial (RI). The rezoning actions would create a rectangular-shaped RC zoned area in the northwestern corner of the two contiguous lots and an "L"-shaped area in the Rural Industrial Zone to the south and east.

   If the requests are granted, the applicants, as a condition of approval, would vacate to the current, common property line between tax lots 1300 and 1400 creating a single lot, 1.12 acres in size. The action would allow construction of a building across the zoning boundaries and provide for retail sales in the RC zoned land and industrial warehousing and assembly in the RI zoned land in compliance with LC 16.291 and LC 16.292, respectively.

6. LC 16.292(3)(a) provides for 35,000 square feet for industrial uses on a lot or parcel, in this case the consolidated tax lots 1300 and 1400, which is more than adequate for the industrial aspects of the Harley-Davidson business. Without some relief, the 3,500 square-feet provided for in the LC 16.291(4)(a) for a commercial use would be inadequate for the continuation of the 20-year old, retail business.

   As stated in General Finding of Fact 2. above, the existing commercial building on tax lot 1400 is 7,606 square feet. The building qualifies as a lawful nonconforming use predating the application of LC 16.291 to the two properties in 2002. The applicant's have a right to occupy the existing building for commercial use or replace the building at the same square footage. This right is provided for in the Rural Comprehensive Plan, General Plan Policy – Goal Two, Policy 17:

   17. Lane County shall recognize and incorporate into the Lane County Comprehensive Plan all prior land use applications approved since January 1980 with respect to the Statewide Planning Goals to the extent legally possible.

   The right is also provided for in Lane Code 16.291(2)(a):

   (a) Maintenance, repair or replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere by LC 16.291.

7. The applicant's also have the option to exercise a one-time exception to the square-footage standard as provided for in Lane Code 16.291(4)(a):

   (a) . . . An exception to the 8,000, 4,000 or 3,500 commercial building square feet floor area requirement in LC 16.291(4)(a) above may be allowed if it complies with these requirements:
   (i) The exception shall be adopted by ordinance as part of an amendment to the RCP for a specific lot or parcel.
   (ii) The exception shall be for a expansion of up to 50% of the existing square feet building floor area used for commercial uses.
   (iii) The existing and proposed commercial uses shall:
   (aa) Provides foods and services to primarily rural residents or persons traveling through the area;

(bb) Notwithstanding the small-scale commercial building floor area limits in OAR 660-022-0030(10), comply with OAR 660-022 (for commercial uses located inside unincorporated communities) or with the Statewide Planning Goals (for commercial uses located outside unincorporated communities); and

(cc) Fit within the uses allowed by LC 16.291(2) and/or (3) above.

This exception is addressed in the Findings of Fact and Zone Conformity sections below.

II. Two Subject Properties – Specific Findings of Fact

TRS 18-03-14, tax lot 1300 -- 0.54 acre
TRS 18-03-14, tax lot 1400 -- 0.58 acre
Property Owners: Janie and Mark Doyle

Findings of Fact

1. The two properties subject to this application, hereinafter referred to as the "subject properties," are located along the eastern right-of-way of College View Road and within the Developed & Committed Exception Area No. 413-2. They can be identified as tax lots 1300 and 1400 of Assessor's map 18-03-14. Tax lot 1300 is developed with a flat gravel parking lot. Tax lot 1400 is developed with a commercial building with a rural address of 86417 College View Road, Eugene, OR 97405.

2. The subject properties, tax lot 1300 and 1400, were lawfully created as Lots 9 and 10, respectively, of the 19-lot Freeway Park subdivision in September 1966.

3. Lane County records verify that the commercial building on tax lot 1400 and the two subject properties were a retail business known as Irwin Yacht Sales dba Irwin Marine Center circa 1994-1997. The building and lots were utilized as a retail business known as Truck Trailer Sales of Eugene Inc. for a period of time beginning in 2000. The building is presently used for storage of inventory by Doyle's Harley-Davidson. The two contiguous subject properties total 1.12 acres in size.

4. The subject properties were designated as C-3 Commercial Zone (LC 16.222) in 1984 in conjunction with adjacent properties along College View Road. In May of 2002, the properties were legislatively rezoned from C-3 to RC Rural Commercial (LC 16.291) in compliance with the Rural Community Rule and Goal 14 as county-wide amendments within all developed & committed exception areas outside designated unincorporated communities.

5. The proposed commercial use of the subject properties is an allowable use in the Rural Commercial Zone (RC) and similar to other commercial uses provided for in *Lane Code 16.291(3)*:

   (a) Retail trade of products, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment.

   (q) Recreational vehicle or boat storage, sales, repair and subordinate boat building that comprises less building floor area that used for boat sales or rentals.

   (s) Outdoor car or truck sales lots, indoor truck or auto repair, and not including the outdoor storage of inoperable vehicles.

   The proposed commercial use complies with the Purpose statement of *LC 16.294(1)(b) Purpose: The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products and services needed by rural residents or by people traveling through the rural area;*

6. The proposed industrial use of the subject properties is an allowable use in the Rural Industrial Zone (RI) provided for in *Lane Code 16.292(3)*:

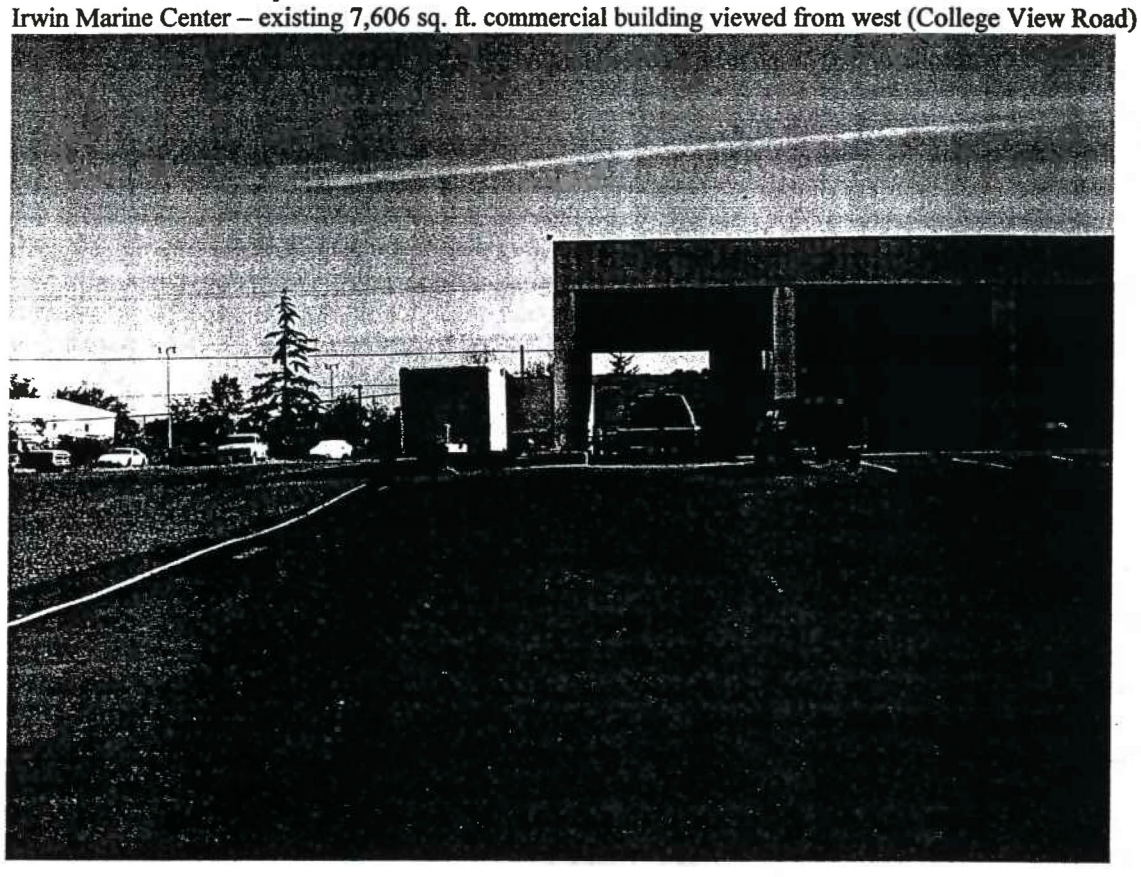
(b) Small-scale, low impact manufacturing, assembling, processing, packaging, storage, wholesale distribution, testing or repairing that does not include radioactive materials or hazardous waste byproduct in the manufacturing process and that may occur outside a building of in one or more buildings containing not more than:

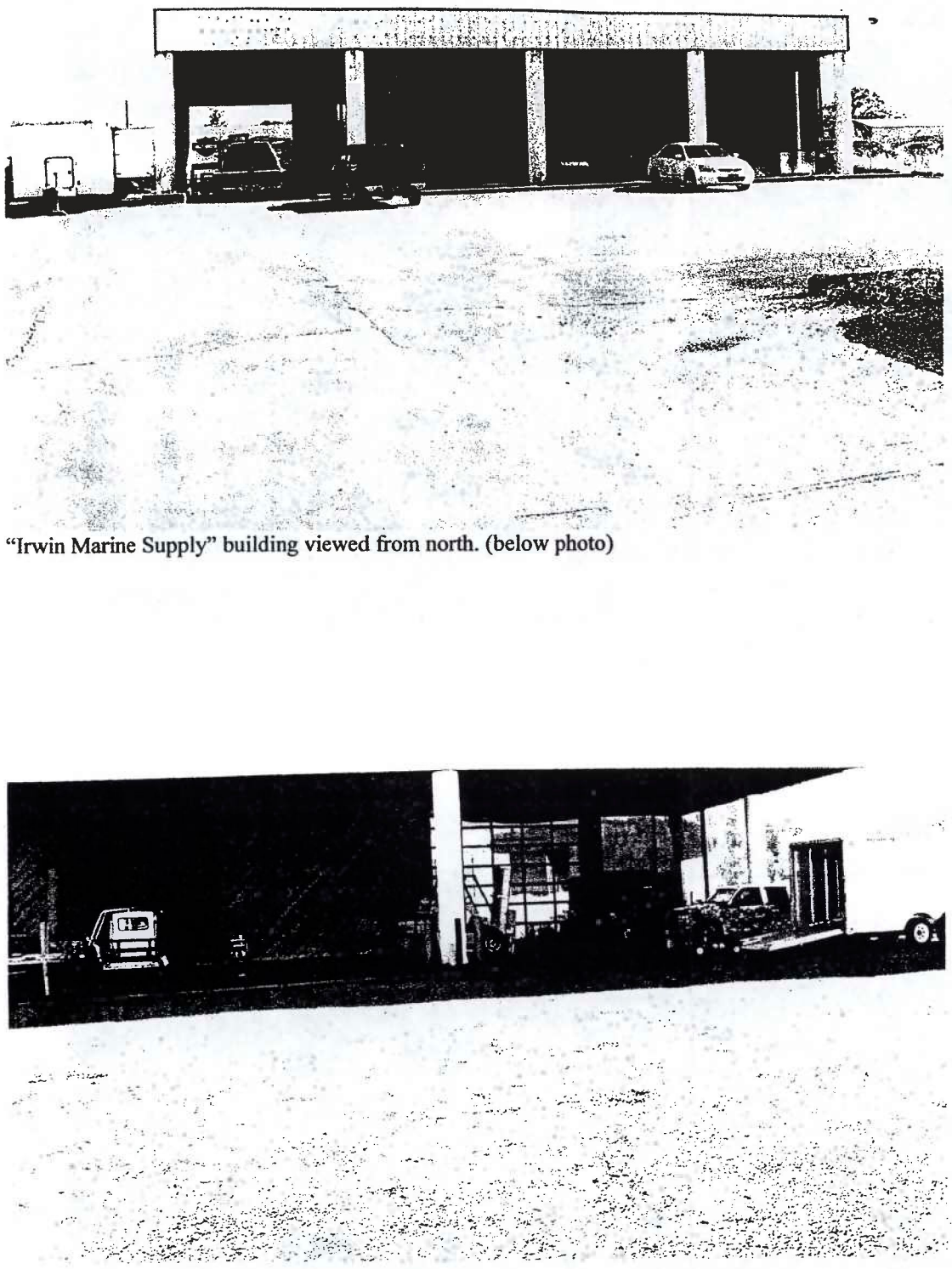
(iii) 35,000 square feet of floor area in any one or combination of buildings or the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

The proposed industrial use complies with the Purpose statement of *LC 16.294(2)(b) Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are . . . to allow industrial uses and development that are consistent with Goal 14 and that include areas for small scale industrial uses . . .; to allow continued operation of existing industries;*

7. There is no record of any compatibility issues occurring between Doyle's Harley-Davidson dealership on tax lot 1200 to the north or their operations on the subject properties and their neighbors since the dealership was established in the 1986.

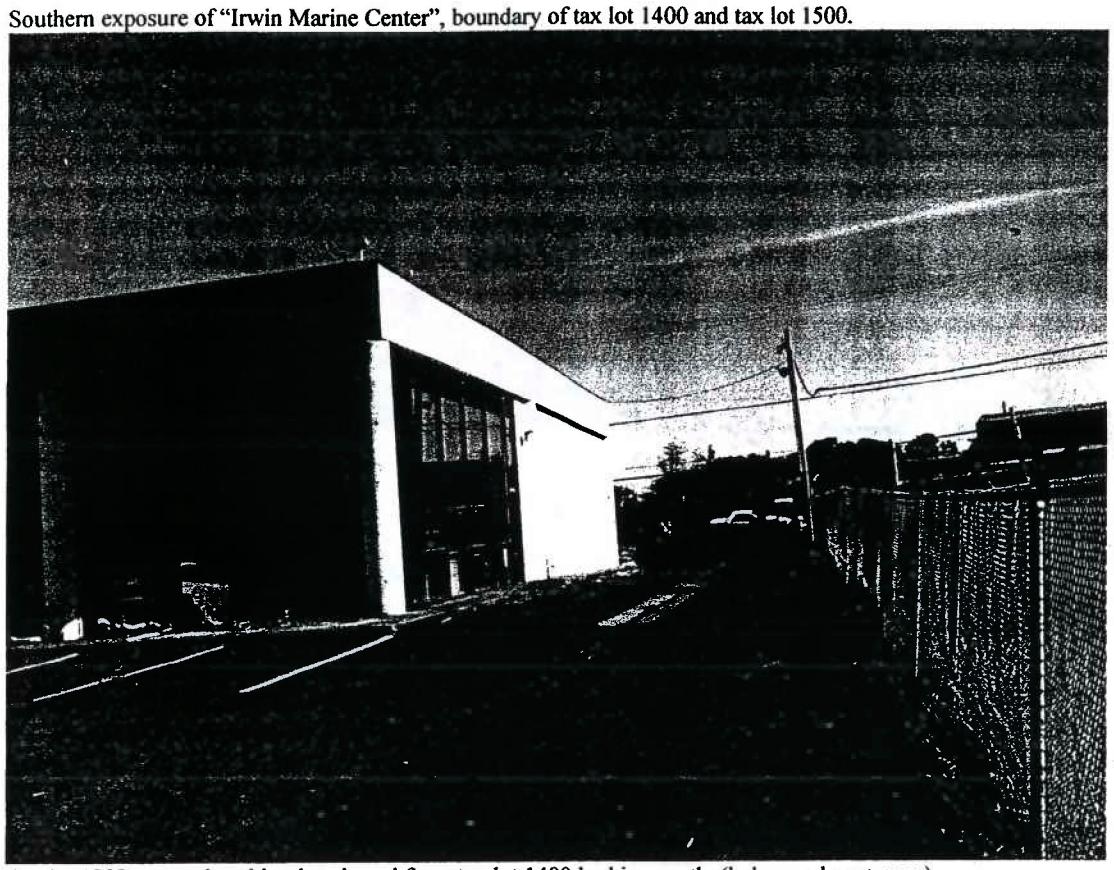
8. Existing structures and uses on the subject properties include:
Tax lot 1400 of TRS map 18-03-14
Irwin Marine Center – existing 7,606 sq. ft. commercial building viewed from west (College View Road)



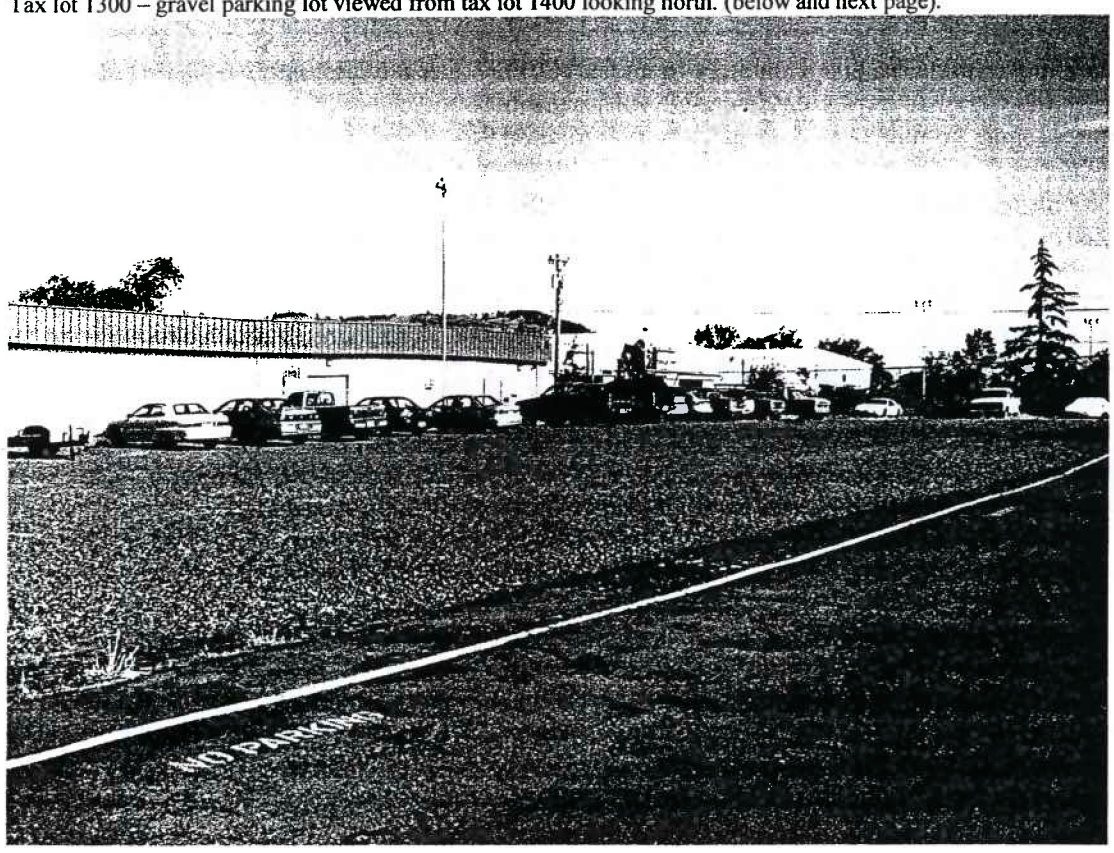


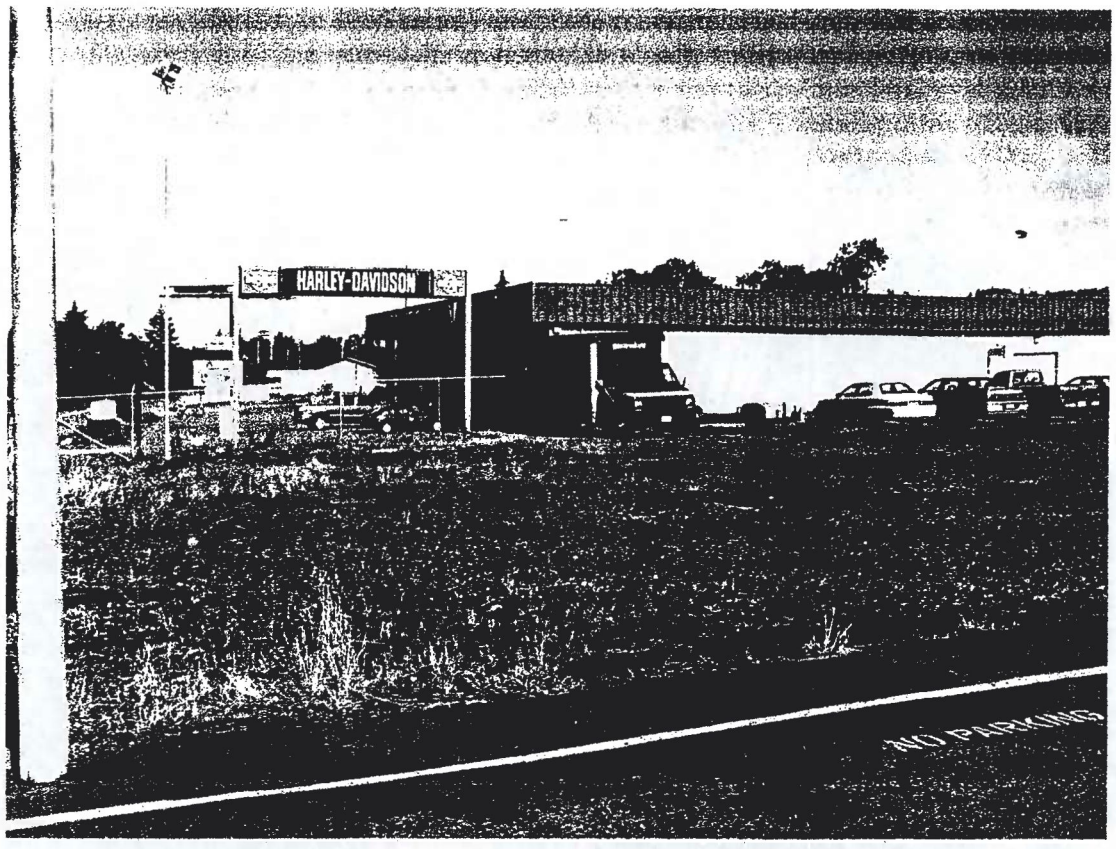
"Irwin Marine Supply" building viewed from north. (below photo)

Southern exposure of "Irwin Marine Center", boundary of tax lot 1400 and tax lot 1500.



Tax lot 1300 – gravel parking lot viewed from tax lot 1400 looking north. (below and next page).





9. Existing uses along College View Road to the north and south of the subject properties include:

   Commercial uses: TECO (testing of equipment and structural components)
   Northwest RV Supply (retail of recreational vehicle parts and accessories)
   The Baron's Den (gun shop and shooting range)

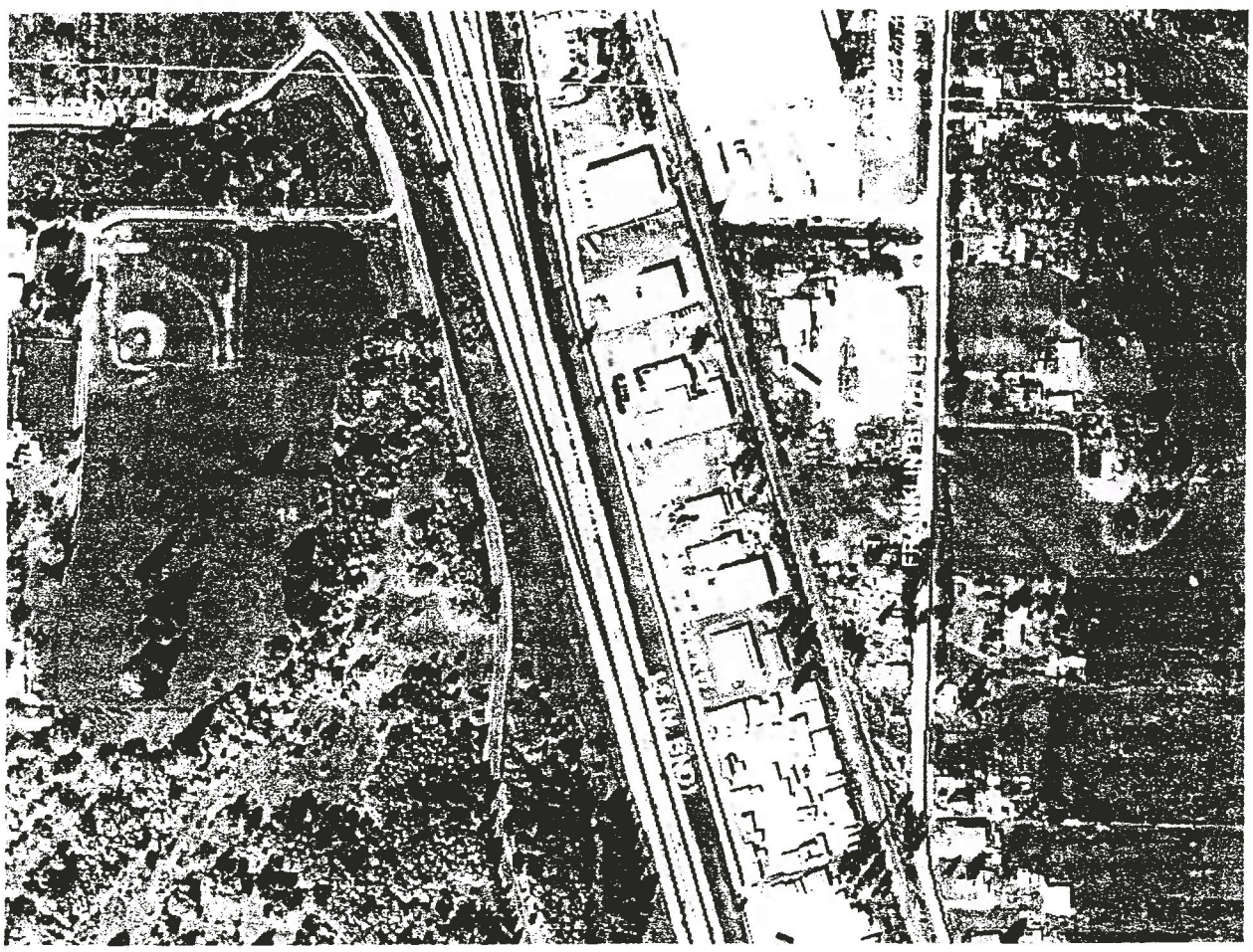
   Industrial uses: Northwest Stamping and Precision (manufacturing and distribution)
   Rosen Sunvisor System (manufacturing and distribution)
   Wrico International Generators (wholesale distribution)
   Crowley Equipment Company (heavy equipment sales)
   Western Storage Trailers (conex containers and trailer storage/sales)

10. Lands to the north of the subject properties are zoned Rural Commercial RC (LC 16.291). Lands to the south are zoned Rural Industrial RI (LC 16.292). Lands to the east are zoned Rural Industrial RI (LC 16.292). The exposure to the west includes the right-of-ways of College View Road and parallel to it, Interstate 5.

11. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility is provided with community water from the Willamette Water Company.

12. The subject property receives the following public services: Eugene School District #4J (schools); Emerald People's Utility District (electrical power); Springfield Department of Fire and Safety (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

13. An 2004 aerial view of the commercial and industrial development in the vicinity of the subject properties illustrates the developed status and mix of uses in the vicinity of the subject properties.



III. Justification for the Conclusions and Recommendations.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this application are intended to:

1. Acknowledge the "commercial" and "industrial" uses of the existing Doyle's Harley-Davidson distributorship on tax lot 1200 which were established adjacent to the subject properties in 1986;

2. Acknowledge the existing commercial development on the subject properties, tax lots 1300 and 1400; and

3. Apply zoning designations on the subject properties in conformity with the existing commercial and industrial uses of the Doyle's Harley-Davidson distributorship with the proposed commercial and industrial uses on the subject properties.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 413-2, east of the Metro Plan Boundary that is defined by the western right-of-way of Interstate 5 (I-5). The subject property is southeast of the interchange of I-5 and 30th Avenue. The property receives a rural level of police and fire protection.

The proposed rezoning will conform with and provide for continuation of the commercial and industrial aspects of the applicant's business that have co-existed with other commercial and industrial uses within the "business park" created by plat along College View Road in 1966 and developed over a 20-year period between 1966 to 1986.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject property is enveloped by developed and committed lands. Rural Commercial and Rural Industrial (RR5) lands envelope the subject properties to the north, east and south. Three major transportation corridors, Southern Pacific Railroad and Highway 99 to the east and Interstate 5 to the west, traverse the area along north-south axis. The lands further to the east are developed with the Emerald People's Utility District headquarters and support facilities on the four properties. The closest EFU lands are located approximately 400 feet to the west and separated from the subject property by the Interstate 5 (I-5) right-of-way.

The Doyle distributorship has occupied the present location since 1986 without any known impacts on resource lands in the vicinity and no foreseeable impacts or increased commitment to

nonresource uses from these proposed zone changes and relocation of the business have been identified for the EFU lands to the west or east.

(C) *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.*

D&C Area #413-2 includes Rural Residential development along Seavey Loop Road to the east, extensive commercial and industrial development along College View Road, consolidated public facility uses to the east, and extensive industrial uses along Seavey Loop Road and Franklin Road to the east and southeast.

The Doyle business has been providing a service in Lane County and southern Oregon for 19 years (1986) and the record indicates these uses have been compatible with the resource use of forest and agricultural lands in the adjoining sections to the east and west.

These proposed zoning changes, as they can be restricted to the uses that exist, is in accord with the requirements of state law.

B. Plan Conformity

The subject properties are located in developed and committed exception area number 413-2 of Lane County, and 4,500 feet southeast of the urban growth boundary of the City of Eugene. They are proposed to be split zoned after consolidation with a portion designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural Industrial (RI), and a portion designated Commercial and zoned Rural Commercial. The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy #12.</u> *Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Refer to Zone Conformity section below for findings addressing these criteria.

Lane Code 16.003 Purpose.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject properties (tax lots 1300 and 1400 of TRS 18-03-14) are excavated sites with no identified hazards due to slope, grade or terrain features.

Development of the 19 lots of the Freeway Park as commercial and industrial zones from 1984 to 2002 has been orderly and through application of land use regulations providing for the current uses. The resulting industrial and public facility uses within the lots have not contributed any identified adverse impacts to the immediate area or resources.

The development of the subject properties with the commercial and industrial uses will require compliance with the applicable criteria and siting standards of the base zones [Lane Code 16.291 (RC) and Lane Code 16.292 (RI)] at the time of review of the construction project plans.

(2) *Protect and diversify the economy of the County.*

Re-designation of the subject properties will allow continuation of an existing business and diversification of the current uses in compliance with the required permit processes, criteria and standards.

(3) *Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.*

This application seeks to preserve the established commercial activities and provide for the industrial activities associated with the applicant's business. Currently zoning districts limit the blend of these two activities under one operation thus the applicant's are seeking a split-zoning to accommodate the two essential aspects within one structure on one property.

Lane Code 16.014 Plan Designation and Zoning Maps.

Applicable criteria from the *Lane Code 16.014* subsection include:

(7)(h) Except as hereinafter noted, where a zone boundary divides an ownership of property, unless the same is indicated by dimensions, map coordinates or similar notation, the boundary shall be determined by the use of scale appearing on the Zoning Map . . .

The circumstances surrounding these amendments require specific dimensions delineating the zoning boundaries which will be carried forth to the construction drawings to define commercial and industrial uses within a single structure.

After consolidation of tax lots 1300 and 1400 into one parcel of 1.12 acres, the zoning district boundaries of the Rural Commercial Zone (RC) subject to Lane Code 16.291 shall have the following metes and bounds:

> Beginning at the northwest corner of tax lot 1300 with College View Road, east along the northern property line for a distance of 173 feet, 2 inches; south through the subject properties (1300 and 1400) a distance of 110 feet, 8 inches; west parallel to the northern property line for a distance of 184 feet, 6 inches to the right-of-way of College View Road; hence north along the western property line and right-of-way for a distance of 112 feet to the point of beginning.

The above metes and bounds defines a trapezoid of approximately 0.45 of-an-acre for development of commercial uses. The remaining, "L"-shaped zoning district of approximately 0.67 of-an-acre defines the area for development of industrial uses. Refer to Exhibit "C" -- Zoning Boundaries and

Schematic First Floor Plan. The RC and RI boundaries are highlighted on the Schematic illustrating the proposed construction of the distributorship with the interior dimensions and defined activities and uses for both first and second floors therein.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of the subject properties will provide an opportunity for continuation and growth of the existing commercial and industrial uses associated with the Doyle Harley-Davidson distributorship. The proposed rezoning will also allow the redevelopment of the subject properties with a use currently on another property to the north. The current uses are and the relocated uses will be served by the Willamette Water Company and therefore will not alter the use or availability of groundwater that is currently provided to the overall use in the area.

In the event that more intensive uses are proposed for the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) [RC] or Lane Code 16.292(4)(i) [RI] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing commercial and industrial uses on tax lot 1200 abutting the subject properties have co-existed since 1986 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located 400 feet to the west across Interstate 5 and over 1,000 feet to the east across Franklin Boulevard. By definition, "exception areas" including commercial and industrial uses occur adjacent to resource lands in the rural areas. The proposed development and any expansion or intensification of the proposed facility in the future would require compliance with Lane Code 16.291(4) or 16.292(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

The existing, dense commercial and industrial development along Seavey Loop Road, Franklin Boulevard, and College View Road effectively buffer any developed & committed uses on the properties from the management of resource parcels in the vicinity.

e. <u>Flora and Fauna, Policies 1 and 10</u> *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on the subject properties. There are no wetlands identified on the Eugene East 4 quad of the National Wetlands Inventory for the two subject properties proposed for rezoning. Past development on the subject properties has significantly altered the natural flora and fauna communities and habitat. Therefore as a result of past uses, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the two subject properties are in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. <u>Lane Code 16.003.</u> Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 3 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject properties are small ranging from 0.54 to 0.58 acres. None have been managed for the production of crops, livestock or timber products for the past forty years. The subject properties have been used for commercial or industrial activities in the past.

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed changes occur in an exception area where development is focused in an area already intensely developed with commercial and industrial uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

Development on the subject properties are not, or need not be, contrary to the public health, safety convenience and welfare in that they will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

The subject properties are not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1144 of 2975 (6-2-99).

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing and proposed uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the Doyle distributorship on the adjacent property strongly suggests that there is a need for this specific use in this area.

c. *Lane Code 16.291 and 16.292*

Lane Code 16.291(1) states that one of the purposes of the Rural Commercial Zone is . . . *to allow commercial uses and development that care consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area* . . .

The proposed rezoning and uses on tax lots 1300 and 1400 are consistent with these purposes.

Lane Code 16.292(1) states that one of the purposes of the Rural Industrial Zone is *(1)(b) To allow industrial uses and development that are consistent with Goal 124 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries* . . .

The proposed rezoning and uses on tax lots 1300 and 1400 are consistent with these purposes.

d. *Lane Code 16.291(4)(a)*

The applicant's also have elected to exercise a one-time exception to the square-footage standard for a commercial use as provided for in Lane Code 16.291(4)(a):

(a) . . . An exception to the 8,000, 4,000 or 3,500 commercial building square feet floor area requirement in LC 16.291(4)(a) above may be allowed if it complies with these requirements:
(i) The exception shall be adopted by ordinance as part of an amendment to the RCP for a specific lot or parcel.

This exception to the 3,500 square foot, floor area limitation is a part of this Ordinance No. PA 1226.

(ii) The exception shall be for a expansion of up to 50% of the existing square feet building floor area used for commercial uses.

The Irwin Marine Center conducted a retail sales operation in the existing structure with a floor area of 7,606 square feet. Fifty percent of 7,606 square feet is 3,802 square feet. The existing floor area and the allowable expansion for floor area equals 11,407 square feet.

The applicant is requesting approval for an exception to allow 11,301 square feet of commercial space in the proposed building which is less and complies with the maximum allowable.

(iii) The existing and proposed commercial uses shall:
(aa) Provides foods and services to primarily rural residents or persons traveling through the area;

The Doyle Harley-Davidson distributorship has served the southern Oregon region since 1986 on a site within developed and committed exception area number 413-2. The dealership serves rural and

urban riders as well as persons traveling to the business, or traveling through the area and requiring services.

(bb) Notwithstanding the small-scale commercial building floor area limits in OAR 660-022-0030(10), comply with OAR 660-022 (for commercial uses located inside unincorporated communities) or with the Statewide Planning Goals (for commercial uses located outside unincorporated communities); and

The applicants seek approval for an exception to the 3,500 square foot limitation *for commercial uses located outside unincorporated communities.*

(cc) Fit within the uses allowed by LC 16.291(2) and/or (3) above.

The existing commercial and industrial uses were allowable uses in the C-3 Commercial Zone (LC 16.222) in 1986. The more restrictive Rural Commercial (LC 16.291) and Rural Industrial (LC 16.292) zones do not address a mix of commercial and industrial uses as separate but combined aspects of a single business. For this reason the applicants are required to pursue a split-zoning to continue the 20-year old business.

LC 16.291(3)(c-c) provides for *Expansion of a lawfully existing commercial use that shall: (ii) Not result in more than a 50% increase in the total square foot floor area devoted to the commercial use that existed on the subject lot or parcel when LC 16.291 became applicable to the subject lot or parcel;*

The Irwin Marine Center was constructed on tax lot 1400 and occupied as a commercial use in 1986. LC16.291 standards were first applied to the subject properties in May 2002.

LC 16.291(3)(a) also provides for the *Retail trade of products . . .*

LC 16.292(3)(b) allows *Small-scale, low impact manufacturing , assembling, processing, packaging , storage, wholesale distribution, testing or repairing . . . in one or more buildings containing not more than: (iii) 35,000 square feet of floor area in any on e or combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.*

The proposed floor area devoted to industrial uses within the proposed building is 12,906 square feet on the first floor and 12,234 square feet on the second floor for a total of 25,140 square feet. The exception complies with the allowable use and standard.

(iv) No more than one exception pursuant to LC 16.291(4)(a) shall be allowed for the same lot or parcel.

Adoption of this exception will preclude any other processing of an exception on tax lots 1300 and/or 1400 pursuant to this provision.

The applicant's request for an exception complies with the applicable criteria and standards of LC 16.291(4)(a)(i)-(iv).

e. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are not located in an area identified as being water quantity limited.

The subject properties receive service from an existing water system, Willamette Water Company.

The subject properties are small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

IV. Conclusions

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of amendments of the Official Plan and Official Zoning designations for the consolidated 1.12 acres of TRS 18-03-14, tax lots 1300 and 1400 from Rural Commercial (RC) to a split-zoning of Rural Commercial (RC) and Rural Industrial (RI) have been met.

V. Recommendations

1. Approval of PRZC Control No. 8 of Ordinance No. PA 1226, amending the Official Plan Map No. 413-2 designation for 0.45 of-an-acre of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14, as Rural Commercial (RC); and

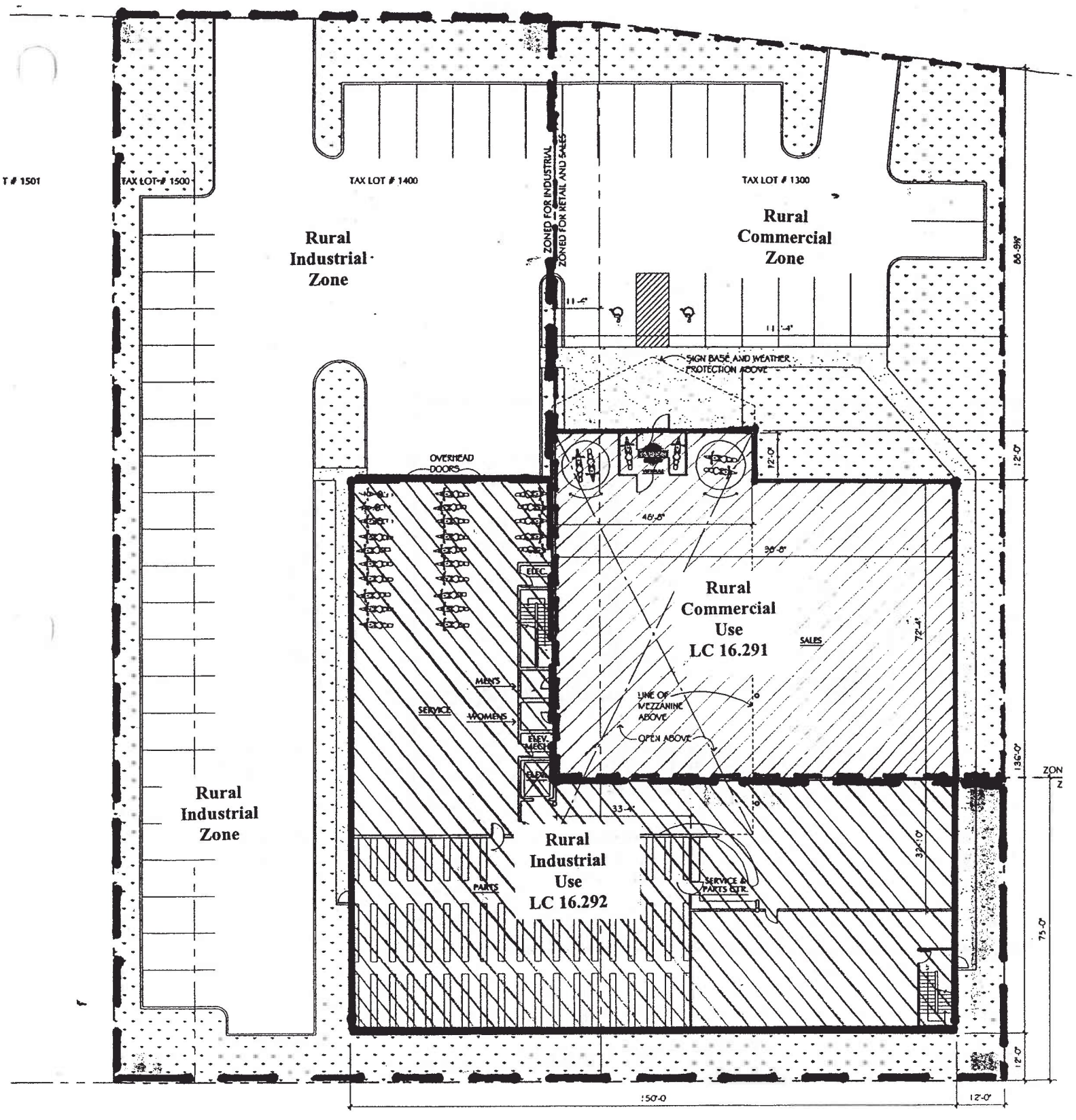
2. Approval of PRZC Control No. 8 of Ordinance No. PA 1226, amending the Official Zoning Map No. 413-2 designation for 0.67 of-an-acre of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14, as Rural Industrial (RI); and

3. Approval of an exception to the floor area regulations of LC 16.291(4)(a) to allow 11,301 square feet of floor area for commercial use within the 0.45 of-an-acre Rural Commercial (RC) Zone of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14.

VI. Exhibits

A. Plan Map No. 413 with proposed plan amendment depicted.
B. Zoning Map No. 413 with proposed zone change depicted.
C. Zoning Boundaries and Schematic First Floor Plan.
D. Lane County Assessor's Map TRS 18-03-14

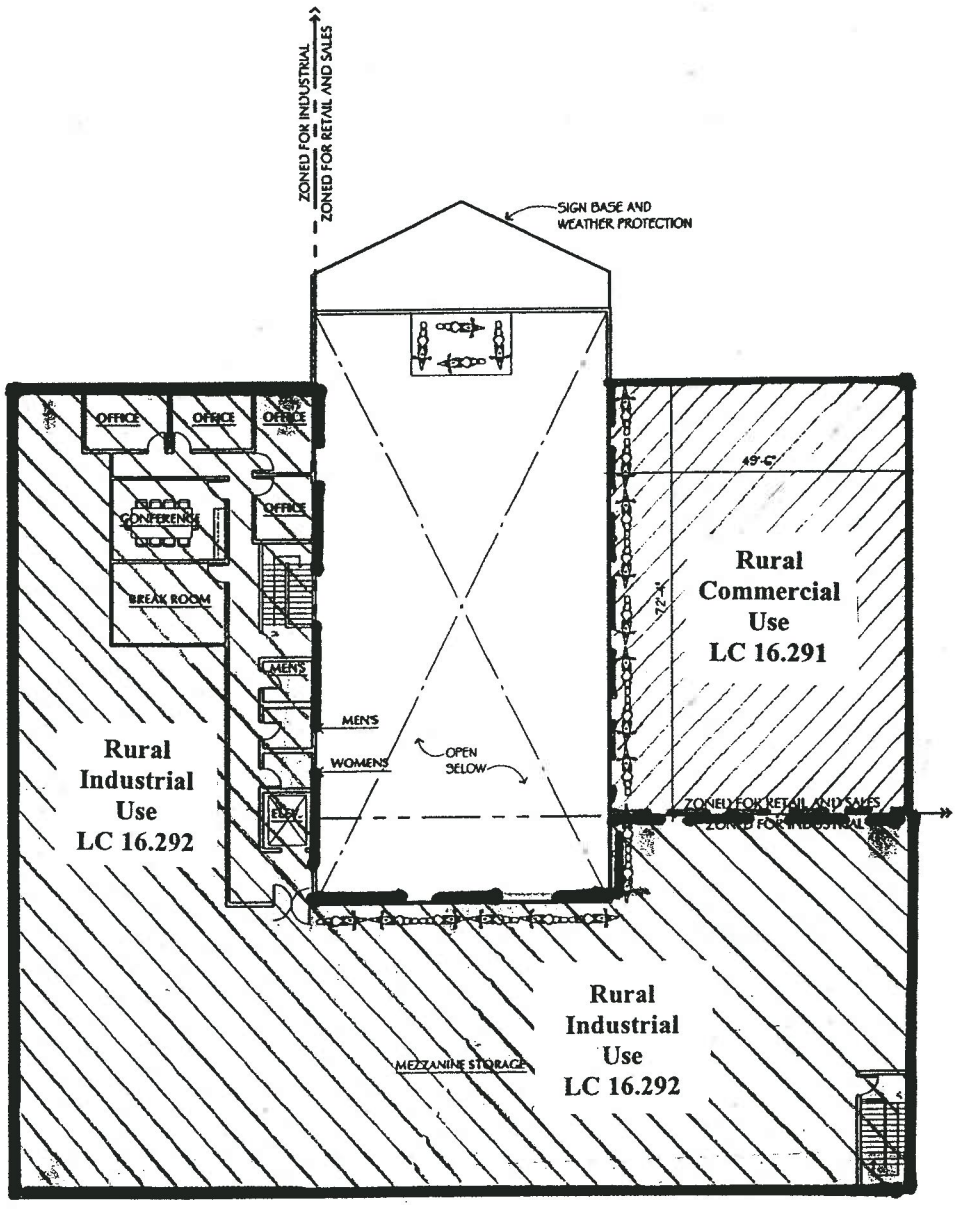
C. Zoning Boundaries and Schematic First Floor Plan.



SCHEMATIC FIRST FLOOR PLAN

1/16" = 1'-0"

FLOOR SLAES AREA CALCULATION:
PREVIOUS EXISTING BUILDING FOOTPRINT: 90'x84'-6" = 7,606 S.F.
50% INCREASE, 7,606 S.F. x .5 = 3,802 S.F.
7,606S.F. + 3,802 S.F. = 11,407 S.F. (TOTAL ALLOWABLE SALES AREA)
TOTAL PROPOSED SALES AREA INCLUDING MEZZANINE = 11,301 S.F.



N SCHEMATIC SECOND FLOOR PLAN

1/16"=1'-0"

page 2 0f 2 (second floor)

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CHECK SET
THIS DRAWING IS PRELIMINARY AND INCOMPLETE
IT IS NOT TO BE USED FOR ESTIMATING OR CONSTRUCTION

NEW HARLEY DAVIDSON BLDG
DOYLE'S HARLEY
PROJECT ADDRESS
CITY & ZIP

SCHEMATIC SITE PLAN & FLOOR PLANS

PROJECT #	200430
DRAWN	Q
CHECKED	JEL
DATE	8-17-05
SHEET	A1

D. Lane County Assessor's Map TRS 18-03-14

Section 14 T. 18 S. R. 3 W.W.M

LANE COUNTY

1" = 400'

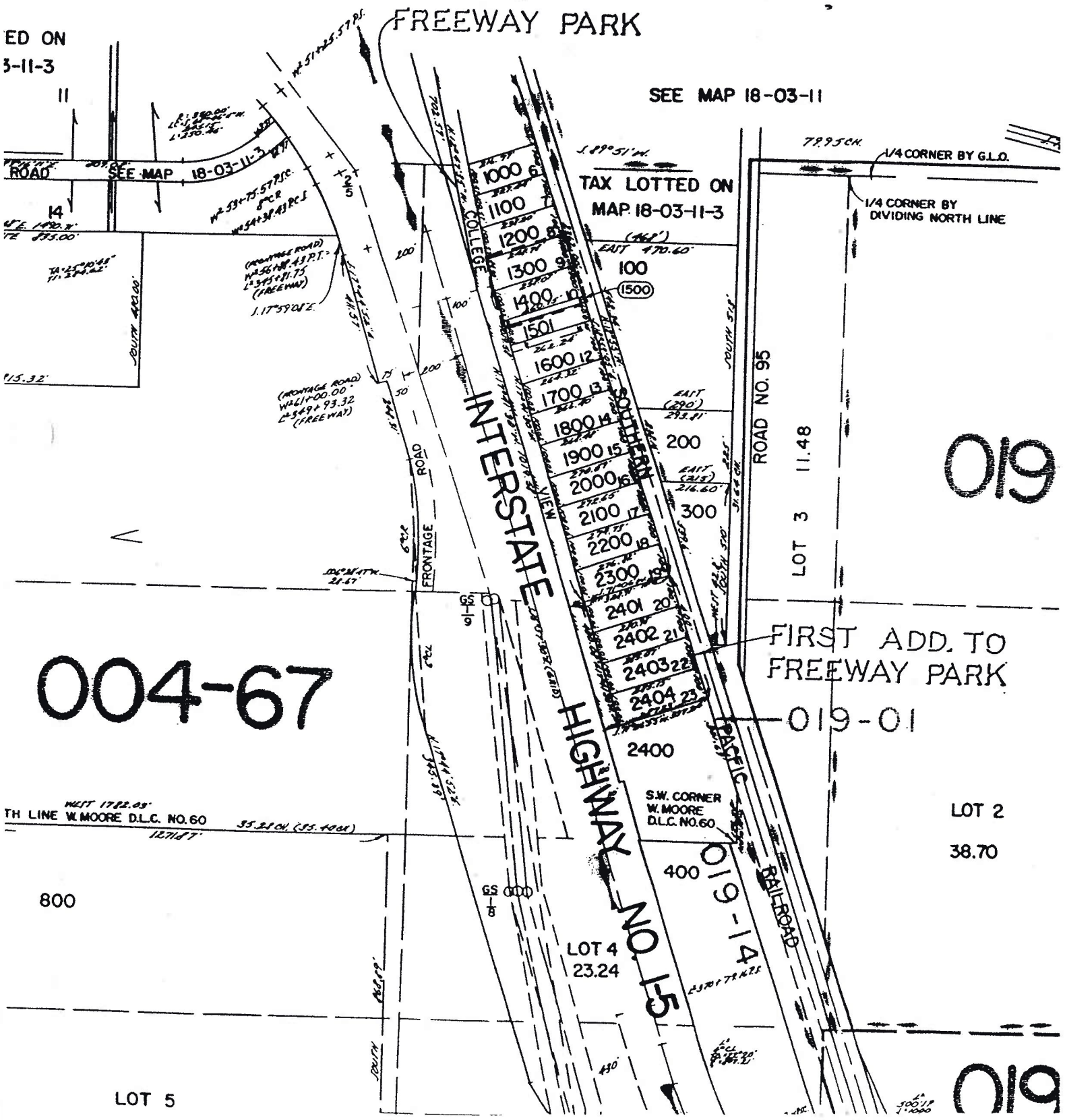


Exhibit No. _C-9 _

PAPA Control No. _9_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Rural Community of Goshen
Developed & Committed Exception Area No. 413-1

Plan Amendment and Zone Change for:

Tax lot 2401 of Assessor's Map TRS 18-03-23.1

TRS - Tax lot	Acres	From/Action	To
18-03-23.1, 2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C)

Table of Contents 2

Statement of Criteria 2

I. Background 3

II. Findings of Fact In Support of Zone Change for Subject Property 3

TRS 18-03-23.1 tax lot 2401 0.28 acre

III. Justification for the Conclusions and Recommendations

A. Statewide Planning Goals
B. OAR 660-022-0030(6), (7), (8) -- Unincorporated Community Rule
C. Plan Conformity
D. Zone Conformity

IV. Conclusions

V. Recommendations

VI. Exhibits

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive General Plan Policy - Goal Two - Policy 27
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.290 - *Rural Industrial Zone*
Lane Code 16.291 – *Rural Commercial Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

Rural Community of Goshen
Exception Area Plots: No. 413, Area 1; No. 414, Area 1; No. 426, Area 3; No. 427, Area 2.

Pursuant to Lane County Rural Comprehensive Plan, General Plan Policies – Goal Two (Policy 10), Goshen was designated as an "unincorporated rural community" by the Board of County Commissioners on June 15, 2005.

This proposed amendment to the Official Plan Map and Zoning Map Plot No. 413 would rezone one property (TRS 18-03-23.1, tax lot 2401) and 0.28 of an acre from Rural Industrial (RI/C) to Rural Commercial (RC/C).

The unincorporated Rural Community of Goshen is situated south and west of the Interstate 5 (I-5) highway and straddles Highway 99 which dissects it on a north to south axis. Goshen extends across sections lines into four developed & committed exception area plots. It is located approximately four miles north of Creswell and three miles southeast of Eugene.

The "community" of Goshen was originally established as the Goshen Plat on October 15, 1889. The plat includes the area currently situated between "A" Street to the north and "C" Street to the south with the western boundary being the "county road" now known as Highway 99, and the eastern boundary being 1st Street. The Plat was expanded in 1890 extending to "D" Street to the south and 2nd Street to the east. In final form the two plats included six square blocks with 48 rectangular parcels with dimensions of 80 feet by 160 feet and 12,800 square feet in size. In the past 115 years the residential core of the unincorporated rural community of Goshen has significantly changed to the point that the western quarter running north to south along Highway 99 is a mixture of rural commercial and rural industrial designations and uses, whereas the center of the eastern half includes the Goshen School with a rural public facility designation.

Goshen evolved into a commercial and industrial center which was acknowledged in 1984 with the adoption of the zoning designations and the Rural Comprehensive Plan. The core lay out by the Goshen Plat and the conveyance of small parcels to the south by deeds and contracts during the period of 1940–1960 resulted in a very densely developed rural setting of mixed uses. The average size of a parcel is skewed by the presence of the three large industrial tracts aligned along the western right-of-way of Highway 99.

Four designated service areas are served by the Willamette Water Company. Area "A" is the largest and includes the rural community of Goshen as well as a developed & committed exception area to the north parallel to College View Road which is not within the community boundary and an Area "B" to the northwest along McVay and Bloomburg Roads within the

Metro Plan boundary. Two smaller areas "C" and "D" to southeast receive service. The Willamette Water Company has 86 connections for residential uses and 56 connections that are either industrial or commercial uses.

All of the subsurface sanitary systems are site specific and no identified community sewer system is operating within the community of Goshen

Services are provided to the rural community of Goshen (Levy code 019-19) by:

Electricity:	Emerald Peoples Utility District
Water:	Willamette Water Company
Fire/Ambulance:	Goshen Rural Fire Protection District
School:	Springfield School District #19
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police

II. Findings of Fact in Support of Zone Change for Subject Property

TRS 18-03-23.1, tax lot 2401, 0.28 of an acre.
Property Owner: Bruce E. and Sally A. Brooks
Proposed change in zoning designation from Rural Industrial (RI-C) to Rural Commercial (RC-C).

Findings of Fact

1. The property subject to this amendment, hereinafter referred to as the "subject property," can be identified as tax lot 2401 of Assessor's Map TRS 18-03-23.1. The subject property is a rectangle shaped parcel, 0.28 of an acre in size with direct access to "B" Street along its southern boundary. The subject property is developed with The Auto Doctor in a structure that served as the Goshen Rural Fire Department fire substation in the 1980s

2. When Goshen was designated as a "community" in the Rural Comprehensive Plan in 1984, the subject property was designated as Light Industrial Land Zone (M2) with Commercial Zone (C3) to the north and south.

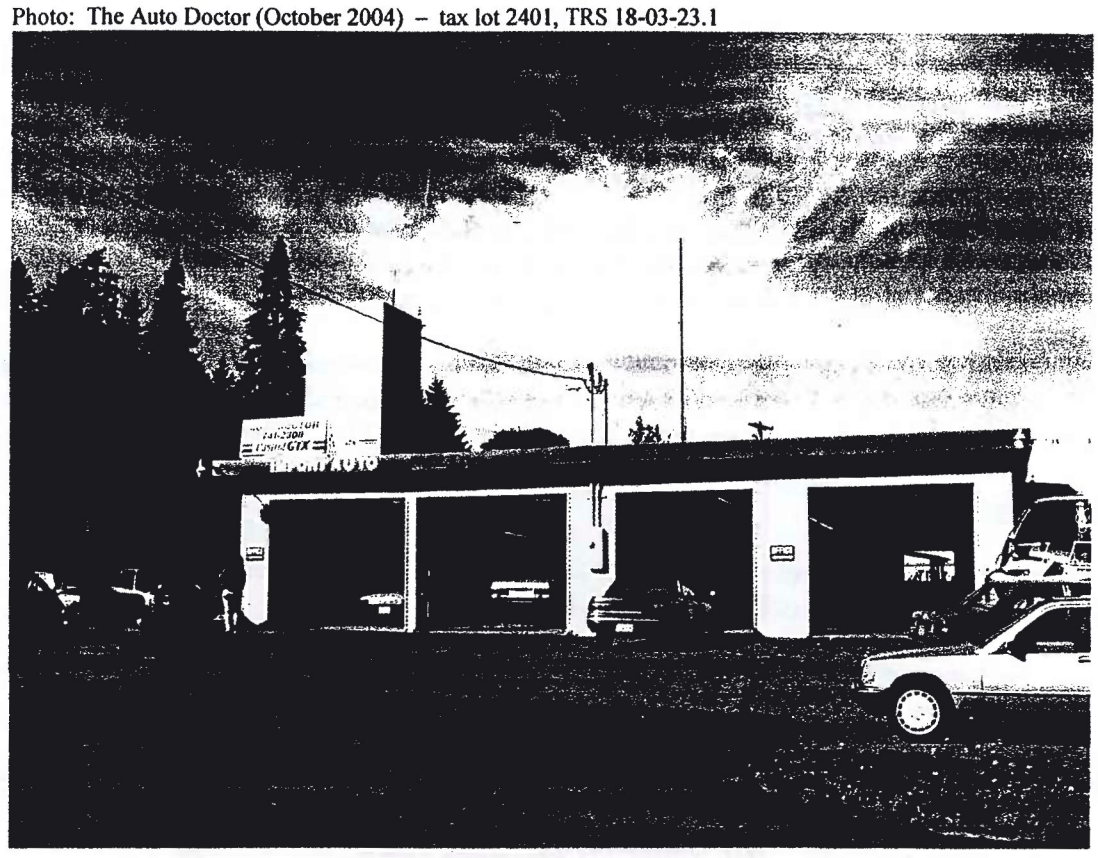
3. The property owners, Bruce and Sally Brooks, are requesting a zone change for the subject property to Rural Commercial (RC-C), that would provide the parties with the option to continue operating the existing facility as a rural commercial use as provided for in Lane Code 16.291(3)(h) or (s):

   (3)(h) Service stations and auto repair garages; or

   (3)(s) Outdoor car or truck sales lots, indoor truck or auto repair, and not including the outdoor storage of inoperable vehicles.

   The existing structure and use are depicted in the photograph below:

Photo: The Auto Doctor (October 2004) – tax lot 2401, TRS 18-03-23.1



4. The subject property is not within an area identified as a "water quantity limited" area in Lane Manual 13.010. The subject property is served by the Willamette Water Company.

5. There are no apparent wetlands on the subject property, per NWI map Cottage Grove NE1.

6. All of the soils present on the subject property are Urban Land-Hazelair-Dixonville Complex (126), with a Douglas fir site productivity rating of 68 cubic feet per acre per year and is listed as agricultural capability class 8, which is considered non-high value in Lane County's inventory.

7. The subject property is in the interior of developed & committed exception area No. 413-1 that is east of the right-of-way of Highway 99 and north of "B" Street. It is separated from the management practices of nearby farm or forest operations on four sides:
   - Rural Industrial (RI) lands and an operating lumber mill are situated between Highway 99 and resource lands 1,400 feet to the west of the subject property;
   - Rural Residential (RR1) and Rural Public Facility (RPF) lands are designated to the east over a distance of 1,700 feet between the subject property and Interstate 5:
   - To the north and south, there are Rural Commercial (RC) and Rural Industrial (RI) properties and uses extending in both directions along Highway 99.

8. Prior to 1983, the subject property had been occupied by the Goshen Rural Fire Protection District fire station. The Goshen RFPD constructed a new facility on lands to the northeast within the rural community of Goshen in 1983 and moved the use to the new site.

9. After adoption of the zoning designation of Public Facility (PF) for the subject property as a component of the Rural Comprehensive Plan in August 1984, the Goshen RFPD received approval from the Lane County Hearings Official (PA 2718-84) on November 7, 1984 for rezoning from PF to Light Industrial (M2).

10. On June 15, 2005, the zoning designations of Light Industrial (M2) were amended to Rural Industrial (RI) in compliance with the Rural Community Rule and of the adopted and acknowledged Periodic Review Work Program for the Coast Fork Willamette Watershed.

11. The subject property and structure has been occupied by commercial uses for the past 20 years including a transmission repair shop and currently an auto repair shop. The current use, The Auto Doctor, is owned and operated by the applicants and is illustrated above.

Conclusion

The designation of Rural Commercial (RC/C) for tax lot 2401 of TRS 18-03-23.1 on the zoning diagram of Plot No. 413 is justified by the above findings of fact.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistent with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The plan amendment and zone change requested by this application are intended to amend the Rural Industrial (RI/C) zoning on tax lot 902 of TRS 20-03-15.2.3, to Rural Commercial

(RC/C), to comply with the long standing use of the property for commercial uses. The current use is an allowable use pursuant to LC 16.291(3)(h) or (s).

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property are located within to the rural community of Goshen and is not located within an urban growth boundary. The properties receive a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

Approximately 95% of the rural community of Goshen is within Developed & Committed Exception Area # 413-1 and the subject property is within the core of the original Plat of Goshen. There is no evidence in the record that the facilities and uses in the past on the subject property or within the community have committed nearby resource lands to nonresource uses. The public record indicates that the prior uses have been compatible with farm and forest industry's use of the Impacted Forest (F2) and Exclusive Farm Use (E40) lands located in excess of 1,200 feet to the west, southwest and southeast.

The adjacent Forest Lands (F2) and Agricultural Lands (E40) have been managed for decades on the periphery of the rural community boundaries of Goshen without conflict from the communities' facilities and uses. No foreseeable impacts to resource lands have been identified resulting from the amendment to the subject property in the interior of the community of Goshen.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The community of Goshen includes relatively dense rural residential, rural commercial, rural industrial, and rural public facility uses. The rural commercial uses are a mixture of retail sales that normally support small communities. All properties within the rural community are served by the Willamette Water District and onsite subsurface sanitation systems. The Goshen Elementary School, Willamette Water District, church and Goshen RFPD fire station provide essential public services. Old Highway 99 through the center and Interstate 5 on the eastern boundary of the community intersect at the northern end community and link the community with the urban areas of Eugene to the north and Creswell four miles to the south.

The residential, commercial, industrial and public facility uses have co-existed compatibly with the surrounding resource base for decades and there is no indication that

the continued or anticipated uses of the properties and structures will adversely affect resource uses in any fashion.

B. OAR 660-022-0030(6),(7),(8) -- Unincorporated Community Rule

OAR 660-022-0030 (6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

Development standards and uses allowed conditionally by LC 16.291 in the Rural Commercial Zone were adopted in April 2002 in compliance with the Unincorporated Community Rule. The operation of the existing businesses within the community have not adversely affected the management practices of forest or farm operators in the area of Goshen and there is no foreseeable way that the continued operation of the existing structure or the existing commercial uses could pose any new adverse impact to management of farm or forest lands in the vicinity. Any new commercial use proposed on tax lot 2401 of TRS 18-03-23.1 shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.291(3) and (4).

OAR 660-022-0030(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall 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. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

Some change in the uses on the subject properties may occur in the future as a direct result of the proposed rezoning of the subject property to Rural Commercial (RC/C). Operation of the existing auto repair garage is one of the common uses to be found in rural settings and has been found to be compatible with draw-down on groundwater resources, disposal of septic waste, and use of public transportation corridors.

The subject property has a developed access point to a public road, "B" Street, and the current uses are compatible with the capacity of the public road.

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division,

ODOT has adopted a TSP, which includes Highway 99 and Interstate 5. Lane County adopted a new TSP in May 2003 for county and public roads. Any proposed expansion of the current uses or request for a new use on the subject properties shall be required to comply

with the permitting process and the siting standards and criteria of LC 16.291(3) and (4) in the Rural Commercial (RC/C) zone. The criteria of LC 16.291(4)(e), (f), (g) and (h) requires that in the event a new commercial use is proposed on the subject property that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, and to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone change has been identified. No need to reduce automobile travel by citizens of Goshen or the general traveling public to or through the rural community is warranted. Use of the county road system and two state highways is essential to the tourism and local trade that supports the commercial development in Goshen, the current employment options in Goshen, and any potential development of the proposed commercial property, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RC/C zone require Planning Director approval and compliance with LC 16.291(4)(i) criteria: *"(i) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of the existing use or implementation of new uses within the RC/C zone require Planning Director approval and compliance with LC 16.291(4)(j) criteria: *"(j) The proposed use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available."*

C. Plan Conformity

The subject property is located in "developed and committed" Exception Areas No. 413-1, which is part of the unincorporated rural community of Goshen. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC/C). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

a. Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

1. **The proposed use will not adversely affect the livability or appropriate development of the surrounding area;**

   The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services either suffered or enjoyed by the community. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

   The livability in the area surrounding the subject property was defined, in part, by the existing operation on the subject property. There have been well-received services for decades to the public by the commercial uses located on the subject property. Those uses will still be available for the foreseeable future and provide services directly in support of the livability of the rural community of Goshen.

   There is no evidence in the public record for one to conclude that the existing use on the subject property has significantly affected surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the site.

   While the impacts from the existing use appears to be consistent with the livability and appropriate development of the surrounding area and the community–at–large, other uses conditionally allowed within the Rural Commercial Zone may not be. The applicants have not done a compatibility analysis of these uses. Therefore, the rezoning requests can only be approved if the change in zone is limited to the existing use. Any future change of use shall be required to comply with the special use permit processes and the site review criteria of LC 16.291(3) and LC 16.291(4) in the Rural Commercial Zone.

2. **Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.**

   The subject property is located adjacent to Old Highway 99. The property being considered for rezoning reflects existing structures or use within clustered commercial and industrial development. The proposed rezoning of the subject property to Rural Commercial will augment the employment and commercial uses in the area and are most favorably located.

b. **<u>Water Resources Policies #3 and #5</u>**:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. All of the current uses on the three subject properties are served by the existing onsite wells and therefore will not alter the use or availability of groundwater that is currently provided to the development. In the event that more intensive uses are proposed for any of the subject properties the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) "*The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be*

provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."

c. **Public Facilities and Services Policy #6.f**:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties. Refer to II. Findings of Fact in Support of Zone Change for Subject Property

d. **Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."**

The existing commercial operation on the subject property and the current commercial services within the rural community of Goshen have co-existed for decades with the agricultural and forest product industries in the surrounding area. The existing development on the subject property has existed for decades as a part of the community of Goshen without any known adverse impacts on forest operations in the area.

e. **Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."**

Significant species or wildlife habitat and other natural areas have not been identified on the subject property.

There are no wetlands identified on the Cottage Grove NE1 quad of the National Wetlands Inventory for the subject property. Therefore, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

Conclusion

The proposed zone change for the subject property is in compliance with these Plan policies.

D. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. **Lane Code 16.003.** Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

(1) **Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The purposes of the zone change request for the subject property, tax lot 2401 of TRS 18-03-23.1, is to conform the zoning designation with the commercial development of the property which has spanned the past twenty years.

Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.291(4), promoting and protecting public health, safety, convenience and welfare.

(2) **Protect and diversify the economy of Lane County.**

The proposed rezoning to Rural Commercial for a portion of one of the subject properties promotes the opportunity to further provide services to citizens. The proposed rezoning of the subject property to Rural Commercial seeks to support current and anticipated uses and services on the subject parcel in the community of Saginaw.

(4) **Conserve farm and forest lands for the production of crops, livestock and timber products.**

The subject is small, 0.28 of an acre in size, and in the center of a developed & committed exception area. It has not been managed for the production of crops, livestock or timber products for the past 100 years. Due to the location of the subject property and its development with structures, it could not effectively be managed for either commercial farm use or forest activities.

On October 25, 1989 the Lane County Board of commissioners voted unanimously to approve Board Order 89-10-25-4, which adopted the 1989 Addendum to the Lane County RCP Developed and Committed Lands Working Paper. The 1989 Addendum includes the findings of a panel of agricultural and forestry experts who formulated the following guidelines for determining whether land that is otherwise suitable for resource production may be so used:

"(a) Parcels of 20 acres or less with dwellings on three or more sides are committed to non-resource uses that make it impractical to conduct farm or forest management.

(b) Parcels with dwellings on two adjoining sides are impracticable for farm management if 15 acres or less, and impracticable for forest management if 20 acres or less.

(c) Parcels with a dwelling on one adjoining side are impracticable for farm management if 5 acres of less, and impracticable for forest management if 15 acres or less."

The zoning designations of Rural Commercial (RC/C) for the subject property complies with category "(c)" above.

(7) **Provide for the orderly and efficient transition from rural to urban land use.**

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential, commercial, industrial and public facility uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

No natural hazards have been identified.

b. Not Contrary to the Public Interest

Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it is similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services. The "public interest" has not been defined, as such, but for the purposes of this decision it will be assumed that if the existing use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use strongly suggests that there is a need for acknowledging existing commercial uses, and promoting employment and commercial services in this area. While the potential impacts of the existing commercial use conditionally allowed pursuant to LC 16.291(3) and (4) appear to be culturally consistent with the livability and appropriate development of the surrounding area, the future uses to which the property could be put could change in time. This application does not include a compatibility analysis of all conditional uses in the Rural Commercial (RC) zone. To provide a level of comfort for the residential properties to the east, the special use permit processes of LC 16.291(3) and the site review criteria of Lane Code 16.291(4) would be used to achieve this end.

c. Lane Code 16.290, Lane Code 16.291 and Lane Code 16.294

Lane Code 16.291(1) states that the purposes of the Rural Commercial Zone is *to provide commercial goods and services needed by rural residents and to provide services and facilities for tourists and travelers, and to provide employment that rely on a rural location and work force.*

The proposed zone change and current use are consistent with these purposes.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited. The property is serviced by the Willamette Water District. Any future partitioning or change of use would by necessity have to comply with the District's capacities and soils for subsurface waste disposal system requirements.

V. CONCLUSION

This application has shown by a preponderance of evidence that the standards and criteria applicable for amendment of Plot No. 413 Official Plan and Official Zoning designations for the subject property have been met:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C).

VI. RECOMMENDATION

1. Approval of PRZC Control No. 9 of Ordinance No. PA 1226, amending the Official Plan Map No. 413 designation for the following subject property:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Industrial (I)	Commercial (C).

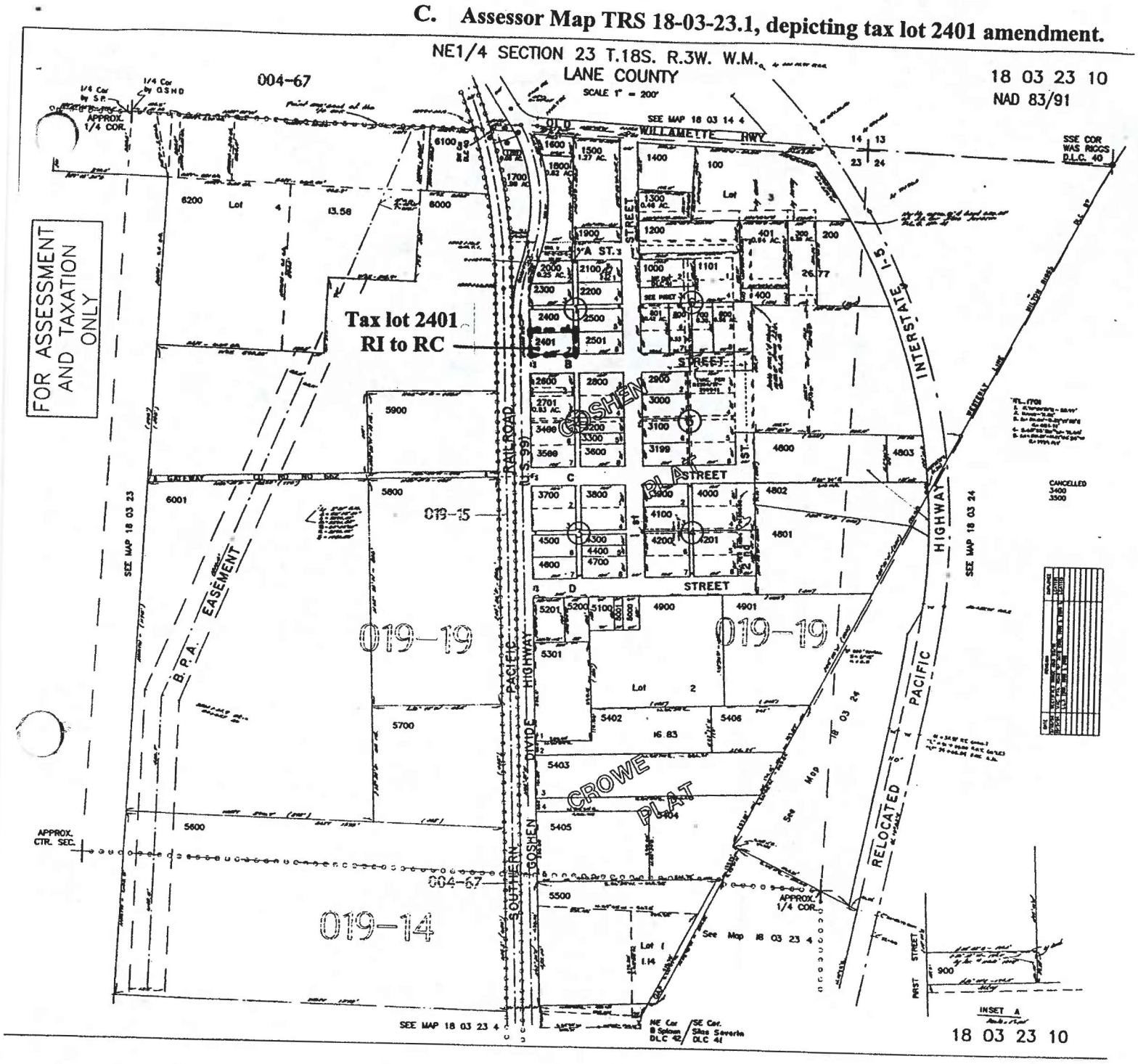
2. Approval of PRZC Control No. 9 of Ordinance No. PA 1226, amending the Official Zoning Map No. 413 designations for the following subject property:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C).

VII. EXHIBITS

A. Amendments to Official Plan Map #413
B. Amendments to Official Zoning Map #413
C. Assessor Map TRS 18-03-23.1, depicting tax lot 2401 amendment.
D. Aerial photograph of subject property.

C. Assessor Map TRS 18-03-23.1, depicting tax lot 2401 amendment.



D.. Aerial Photograph

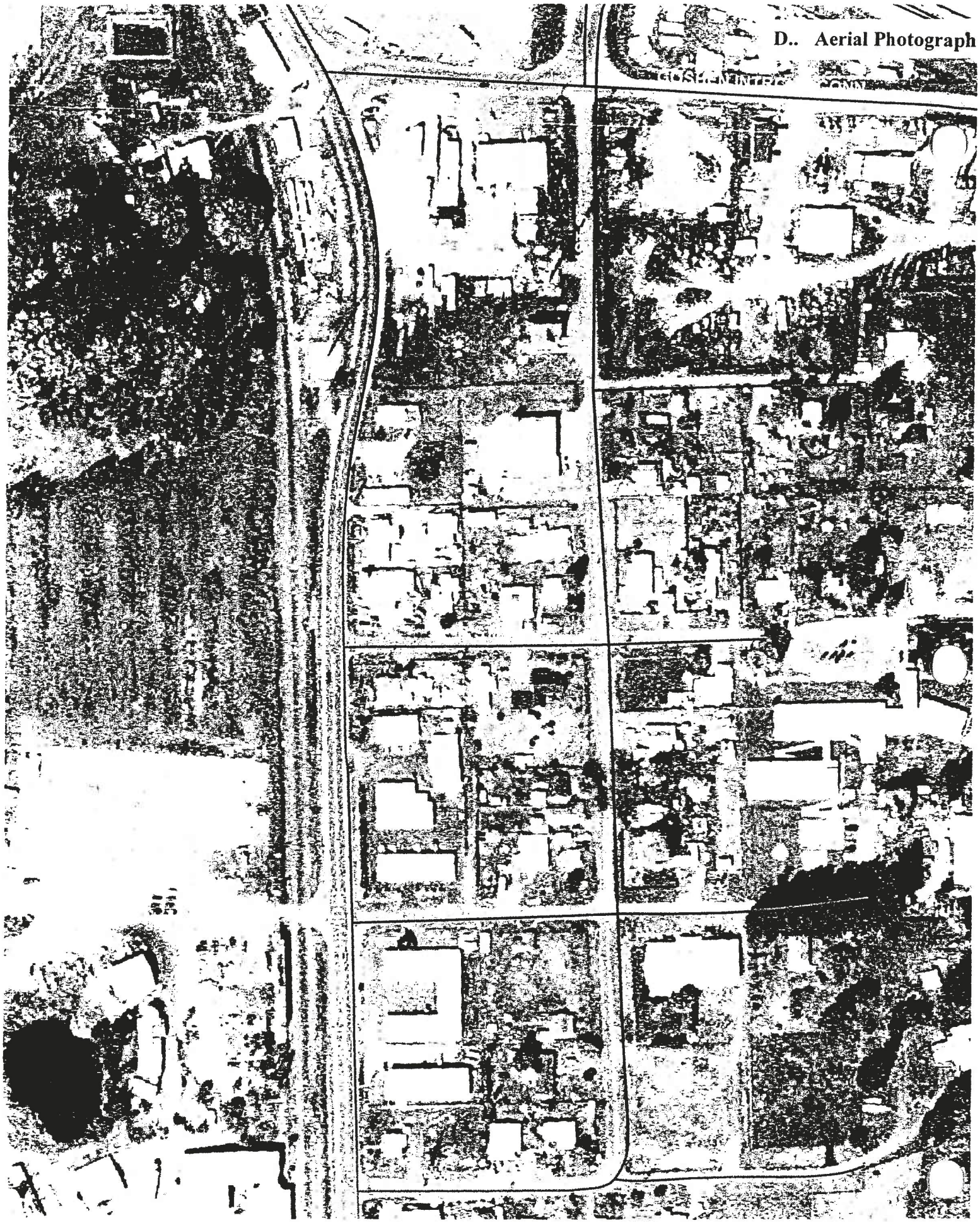


Exhibit No. _C-_10_

PRZC Control No. _10_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 415-1

Plan Amendment and Zone Change for Tax Lot 1400 of Assessor's Map 19-03-11

Tax lot	Acreage	From	To
1400	3.12	Rural Residential (RR5)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

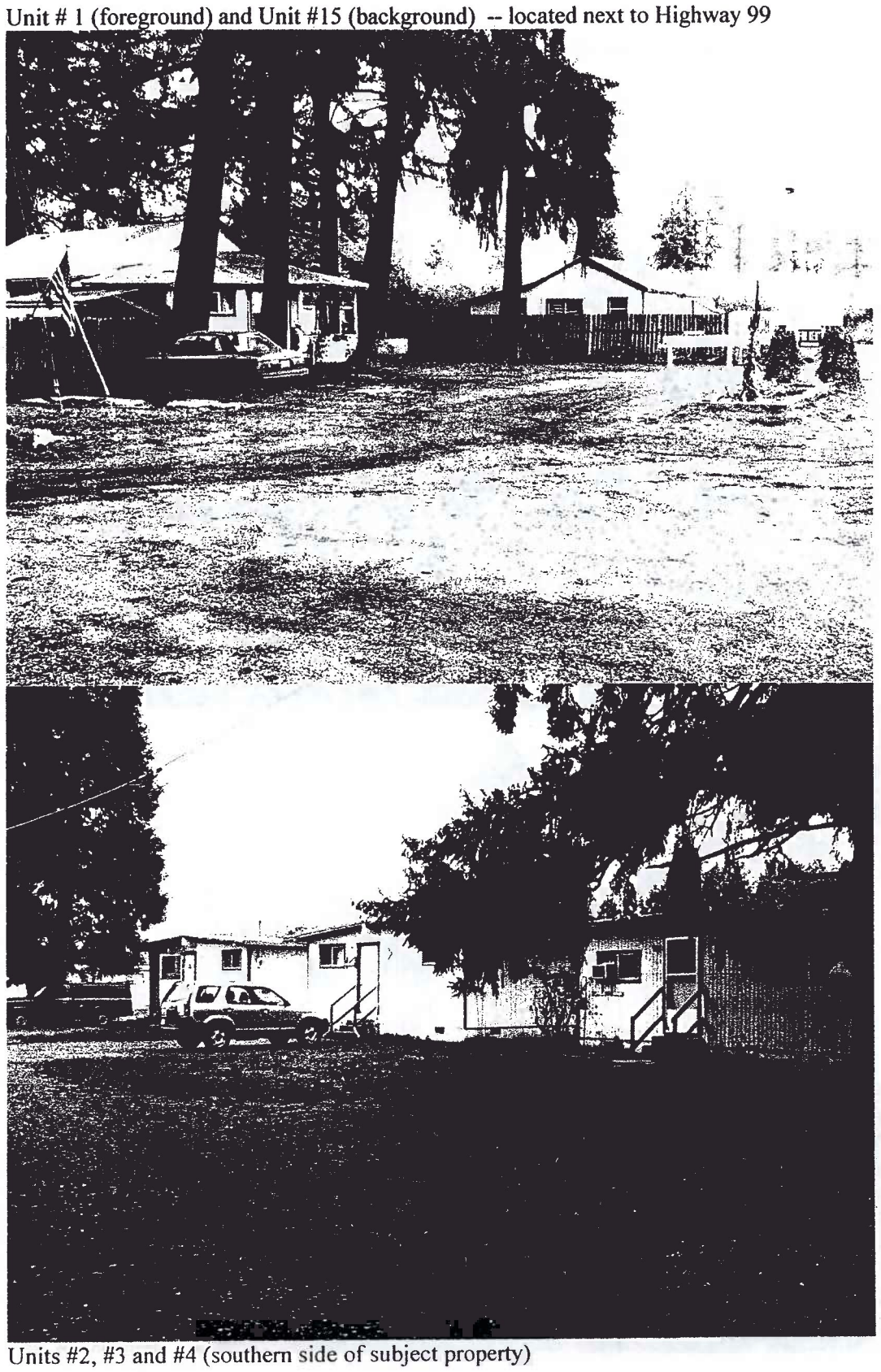
1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99, approximately 530 feet south of Harvey Lane, approximately 1,250 feet north of the urban growth boundary of the City of Creswell, and within the Developed & Committed Exception Area No. 415-1. It can be identified as tax lot 1400 of Assessor's map 19-03-11, with a rural address of 83658 Highway 99, Creswell, OR 97426, 3.12 acres in size, and designated as Rural Residential (RR5, RCP).

2. The subject property is developed with eighteen, extended-stay, residential units and marketed under the name – Sisters View Apartments. Previously the units had been marketed under the name Tall Firs Apartments. The residential and accessory units have access from Highway 99 and include the following structures:

   Refer to Exhibit "E" – Assessment & Taxation Building Diagram-Area Computation, and Exhibit "F" - Plot Plan (BP 05-0780).

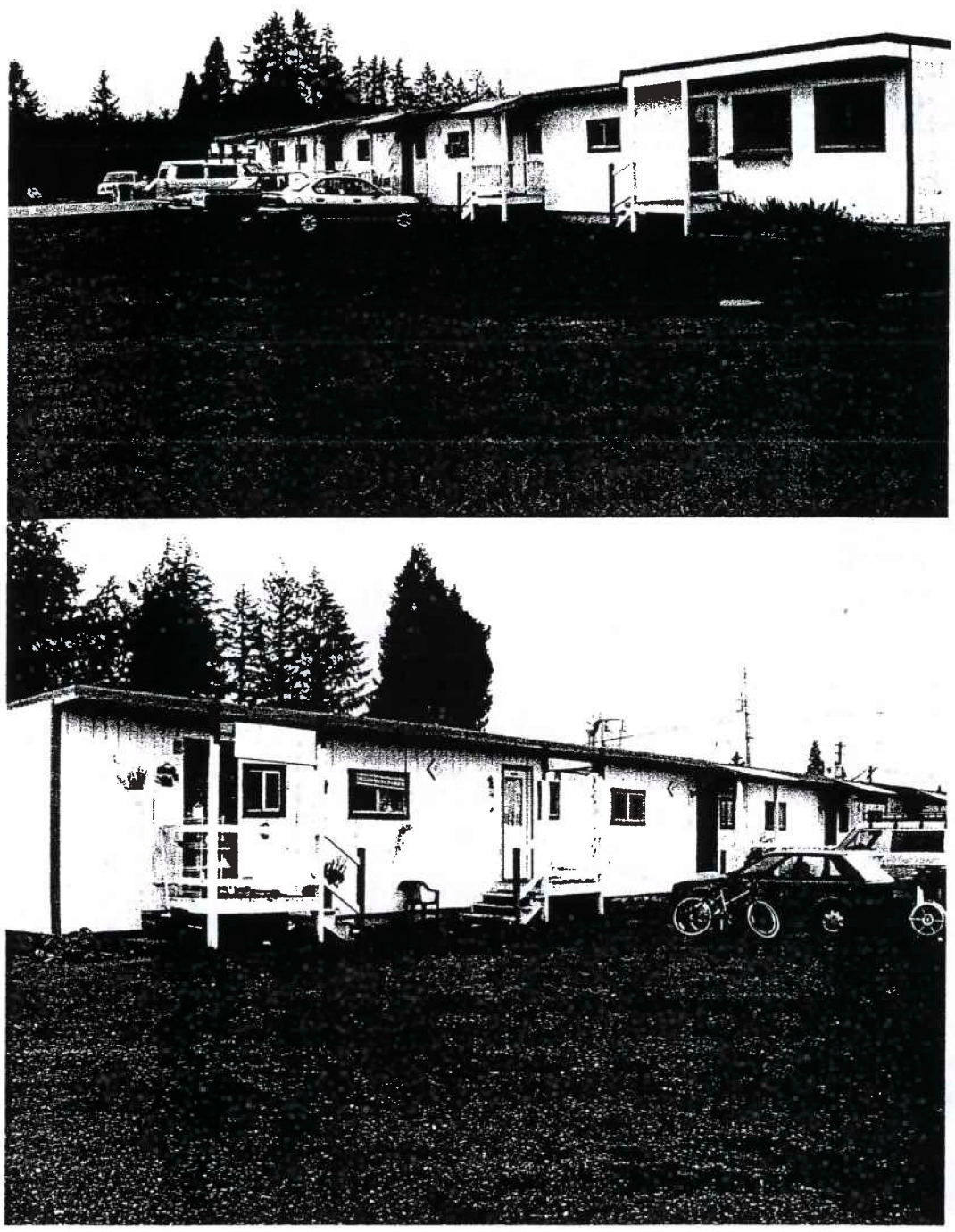
Type of structure	Unit No.	No. of bedrooms	Year Built	Square Footage
SFD	1	4	1935	932
SFD	2	1	1963	576
SFD	3	1	1963	576
SFD	4	1	1963	576
6-plex	5	1	1964	576
-	6	1	1964	576
-	7	1	1964	576
-	8	1	1964	576
-	9	1	1964	576
-	10	1	1964	576
3-plex	11	2	1966	600
-	12	2	1966	600
-	13	2	1966	600
Shop	14	-	------	320
SFD	15	2	1964	675
Shed	--	-	------	288
SFD	16	2	1935	668
MH	17	1	------	320
MH	18	1	------	320
				9,832 sq. ft.

Unit # 1 (foreground) and Unit #15 (background) -- located next to Highway 99



Units #2, #3 and #4 (southern side of subject property)

Six-plex -- Top photo: Unit #5 in foreground. Bottom photo: Unit #10 in foreground.



3. The Sisters View complex is a lawful, nonconforming use in the Rural Residential Zone however replacements or repairs are hampered by a repetitive process of verifications per action. The burden on the property owner and residents would be relieved and the public better served if the property were rezoned to Rural Commercial wherein the existing use is recognized as commercial use.

4. Domestic water for the commercial uses is provided by Creswell Water District.

   Nine subsurface disposal systems (SDS) were developed on the subject property in the 1960s.. Repairs to two have been documented in LC records since that time:
   S.I. 428-75 (1975) repair of Unit #1 system
   S.I. 734-78 (1978) repair of six-plex system (Units #5 - #10)

   Maintenance and repairs have been documented in LC records:
   BP 2664-86 (1986) re-roof of tri-plex (units #12, #13, #14)
   BP 1495-89 (1989) repair to fire damage to six-plex (Unit #5)
   BP 05-0780 (2005) repair to fire damage to tri-plex (Unit #13)

   One more recent manufactured (mobile) home replacement is documented in LC records:
   BP 1299-87 (1989) Tamerak 12' x 50 mobile home (1969)

   A "shop" (10' x 32') is situated in the prior MH space (Unit #17) and is utilized for maintenance activities and storage of supplies.

5. The subject property is a legal lot by virtue of being created as Lot 35 of the Harmon Farm Plat in 1911 with a reduction from 6.119 acres by 3 acres per RT -41181 in 1940 and transfer of the remaining 3.119 acres in 1941 per RT-43166 and conveyance by warranty deed as recorded in Lane County Deeds and Records in 1965, Reel 241-R, Instrument No. 52576.

6. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the property in connection with the commercial activities is inconsistent with the Rural Residential Zone (RR). Both residential and commercial uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(g) and Lane Code 16.291(2)(a), respectively.

   The existing "managerial" residential use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code 16.291(2):*
   (g) A single family dwelling or manufactured dwelling in conjunction with an existing commercial use provided there is no other dwelling or single family living quarters on the same lot of parcel.

   The continuation of the existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(2):*
   (a) Maintenance, repair or replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere by LC 16.291.

   The use complies with the *Purpose* statement of *LC 16.291(1)(b) Purpose:*
   The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .

The change of zone would allow the applicants to continue with the existing Sisters View Apartment uses and development of the subject property.

7. There is no record of any historical compatibility issues occurring between the existing commercial use on the subject property and its neighbors since the business was established circa 1963-66. Nor is there any record of complaints from any surrounding property owners concerning the commercial activities or the current use of Sisters View Apartments regarding compatibility issues or conflicts.

8. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The property receives community water from the Creswell Water District.

9. The subject properties receive the following public services: Creswell School District #40J (schools); Emerald People's Utility District (electrical power); South Lane Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

10. Lands to the south are designated Rural Industrial (RI) and developed with a woods products manufacturing business. The Southern Pacific Railroad right-of-way and tracks abut the western property line separating the subject property from Rural Residential (RR5) lands. RR5 land lies to the north and across Highway 99 to the east. The urban growth boundary of the City of Creswell is located approximately 1300 feet to the south.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize existing commercial uses on the subject property in conjunction with the seventeen extended-stay residential units and accessory uses that are integrated into the surrounding rural area.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located approximately 1,300 feet north of the urban growth boundary of the City of Creswell. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject property which are multi-dwelling commercial and have existed on the property for 30+ years (1973-2005).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

- There are agricultural lands (EFU) located across the Southern Pacific RR right-of-way to the southwest of the subject property and adjacent to the Creswell UGB. The next closest EFU lands are located to the northeast and southeast on the east side of Highway 99. The EFU lands are buffered from the commercial use on the subject property by the intervening Rural Industrial property to the south and the Rural Residential property directly to the east across Highway 99.
- There are no forest lands (F1 or F1) adjacent to the subject property or within 2,600 feet.

During the past 40 years, the Sisters View Apartments has operated as part of the fabric of the rural business and agrarian culture in the Creswell area. No activities associated with the multiple residential uses have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses. Its role of providing less-expensive housing in the area can be viewed as being complimentarily and beneficial to the agricultural resource base.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use is commercial in nature due to the scale and an important and essential housing service to the surrounding rural area. The commercial use of the subject property has been compatible with the adjacent properties and nearby agricultural uses.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 415-1 of Lane County. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure..*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property (tax lot 1400 of TRS Map 19-03-11) is relatively flat with no identified hazards due to slope or terrain features. Development has been orderly and through application of land use regulations providing for the current uses. The resulting commercial uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zones: Lane Code 16.291 (RC).

(2) Protect and diversify the economy of the County.

Re-designation of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject property is small, slightly over three acres, and developed in its current state in the same manner as for the past 40 years. It is buffered by railroad and highway corridors and nonresource-zoned properties from nearby agricultural (E25) land. Continued and anticipated use of the subject property will not affect the conservation of those E25 lands.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The current commercial uses on the subject property are served by the Creswell Water District and nine existing subsurface disposal systems dating back to the 1963-1967 period. Therefore, the uses will not alter the volume or availability of local groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for of the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing commercial use on the subject property has co-existed since 1963-67 with the agricultural industry in the surrounding area. The nearest EFU (E25) resource lands are buffered by either the Southern Pacific Railroad or Highway 99 right-of-ways and transportation corridors. Any expansion or intensification of the use would require compliance with Lane Code 16.291(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

RCP inventoried significant species have not been identified on the subject property. There are no delineated wetlands identified within the subject property on the Cottage Grove SE1 quad of the National Wetlands Inventory. No known impacts have occurred from the existing

uses on the wetland area. The continuation of the commercial use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential, commercial and industrial uses. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the Sisters View Apartments for what it has been for 40 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

The subject property (tax lot 1400) is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1642F of 2975 (6-2-99). There are no other natural hazards identified on the property.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the residential units in this area.

c. *Lane Code 16.294 and 16.292*

Lane Code 16.291(1) states that one of the purposes of the Rural Commercial Zone is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by the rural residents or by persons traveling through the rural area. . .*

The proposed rezoning and uses on tax lot 1400 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited.

The subject property receives water service from the Creswell Water District.

The subject property is small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.291(4)(j).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 19-03-11, tax lot 1400 (3.12 acres) from Rural (R) to Commercial (C), and Rural Residential (RR5) to Rural Commercial (RC), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 10 of Ordinance No. PA 1226, amending the Official Plan Map No. 415 for tax lot 1400 of Assessors Map TRS 19-03-11, from Rural (R) to Commercial (C); and

2. Approval of PRZC Control No. 10 of Ordinance No. PA 1226, amending the Official Zoning Map No. 415 designations for tax lot 1400 of Assessors Map TRS 19-03-11, from Rural Residential (RR5) to Rural Commercial (RC).

V. EXHIBITS

A. Plan Map No. 415 with proposed plan change depicted.
B. Zoning Map Plot No. 415 with proposed zone change depicted.
C. Lane County Assessor's Maps TRS 19-03-11
D. Aerial Photograph BLM Eugene 3-66-1-18 (5-18-2000).
   D-1. Aerial Photograph BLM Eugene 3-66-1-18 enlargement x 400 percent.
E Assessment & Taxation Building Diagram-Area Computation
F Plot Plan (BP 05-0780).

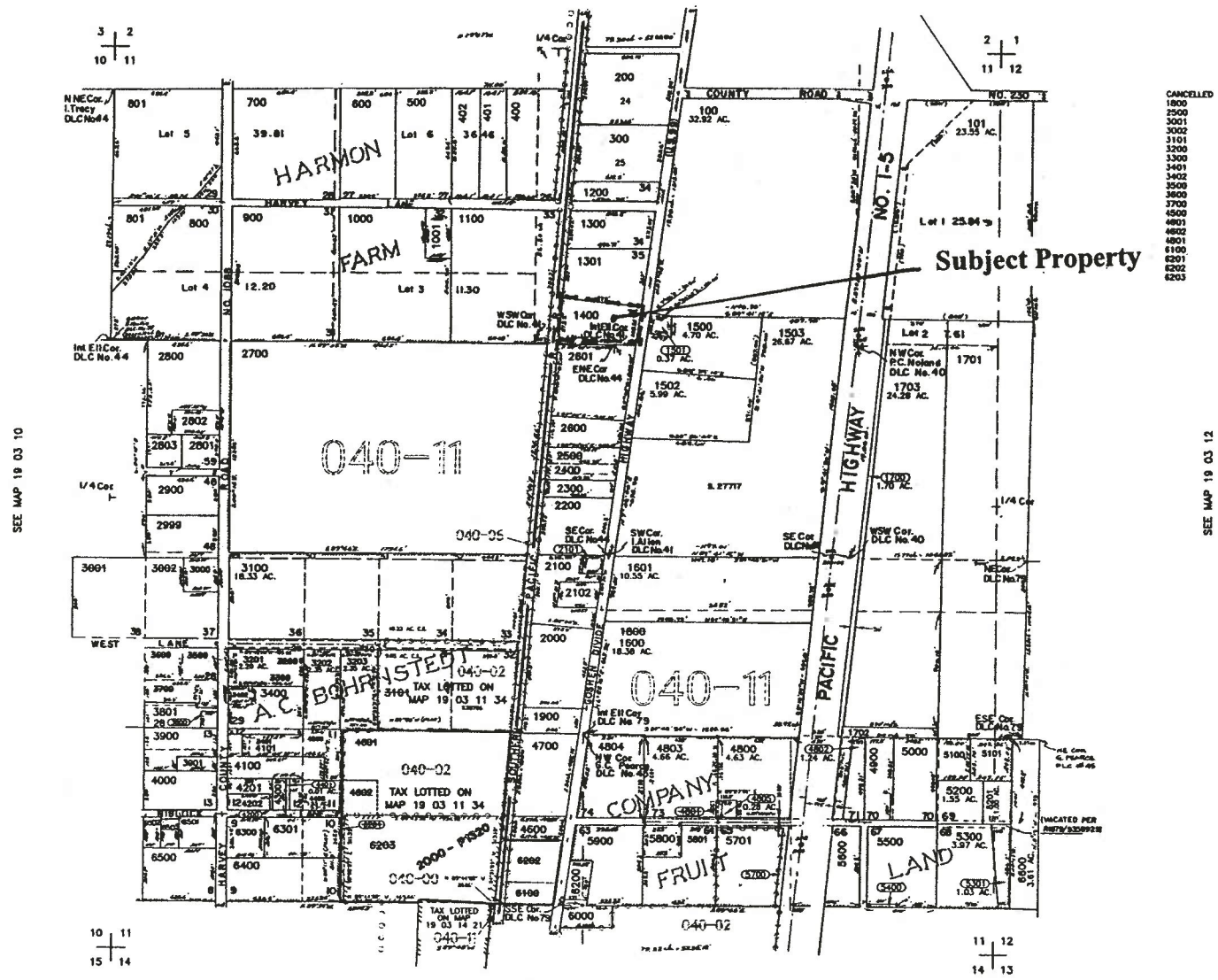
C. Lane County Assessor's Maps TRS 19-03-11

FOR ASSESSMENT AND TAXATION ONLY

SEC. 11 T.19S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'

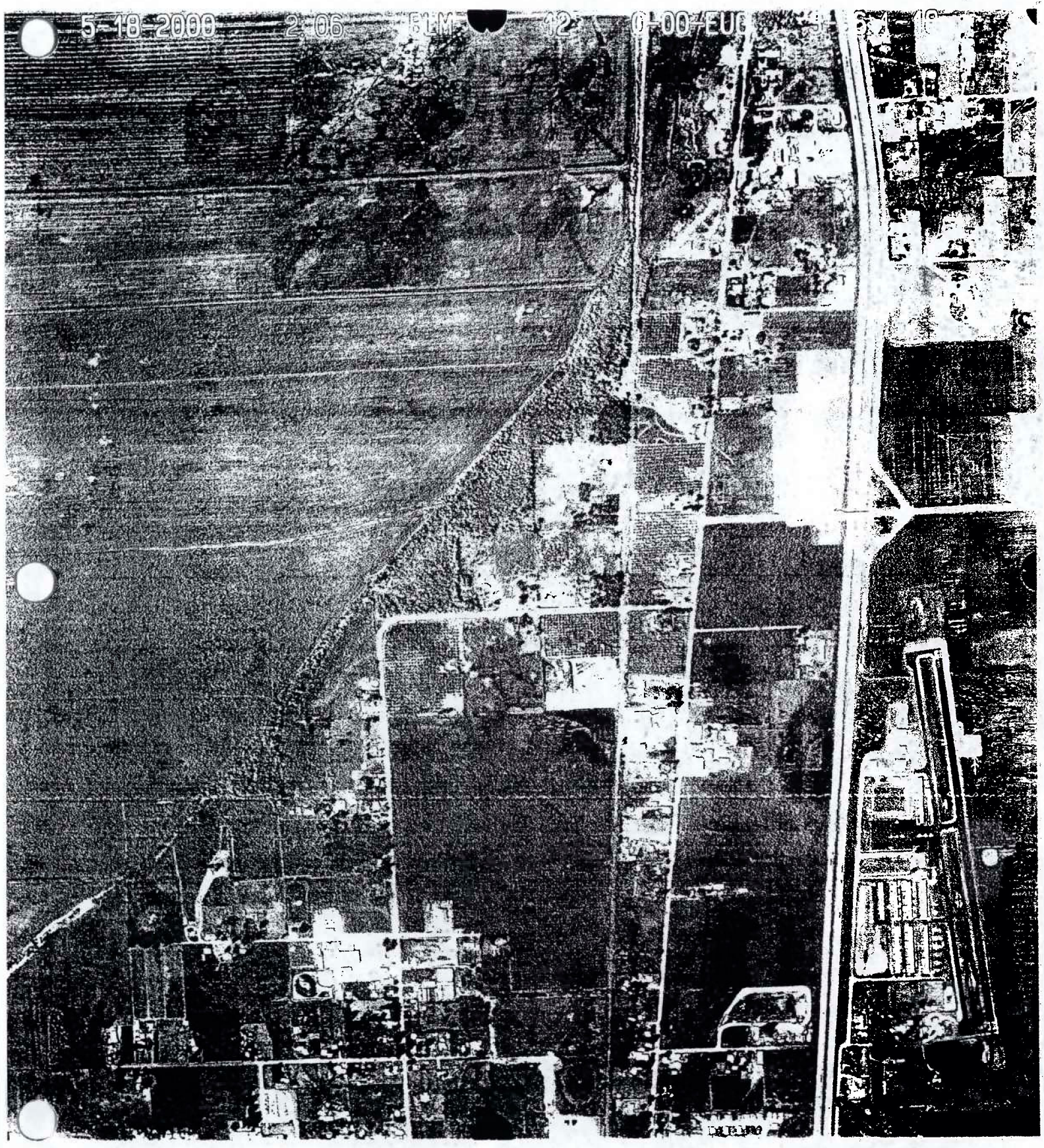
19 03 11

NAD 83/91

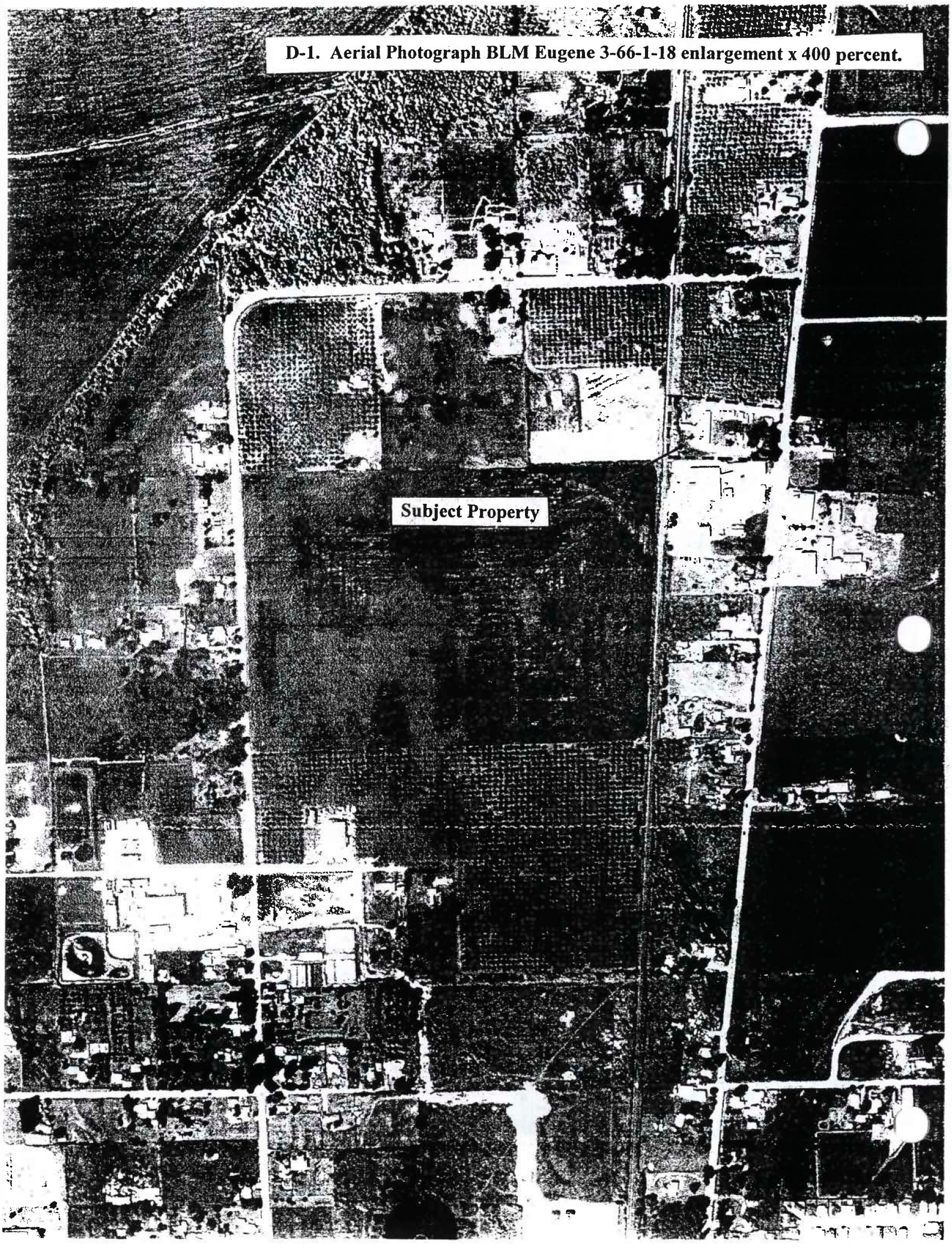


19 03 11

D. Aerial Photograph BLM Eugene 3-66-1-18 (5-18-2000).

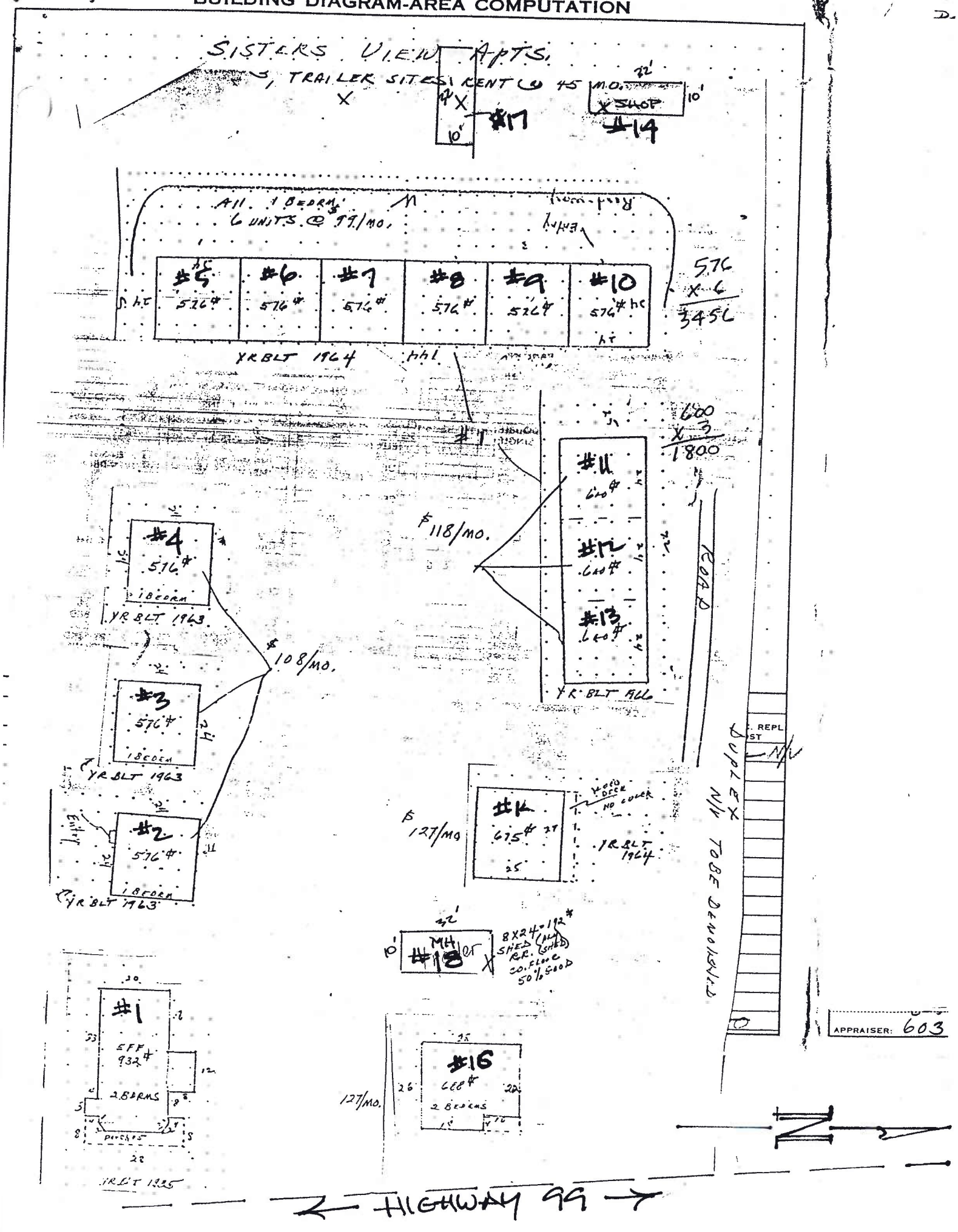


D-1. Aerial Photograph BLM Eugene 3-66-1-18 enlargement x 400 percent.



E **Assessment & Taxation Building Diagram-Area Computation**

BUILDING DIAGRAM-AREA COMPUTATION



#14 FIRE RESTORATION - PLOT PLAN

SCALE 1" = 40'

MARCH 1st, 2005

OWNER & APPLICANT:
RUSSELL T CRAWFORD
83650 N PACIFIC HWY #9
CRESWELL OR 97426
(541) 895-4130

MAP 19-03-11-00
TL 1400

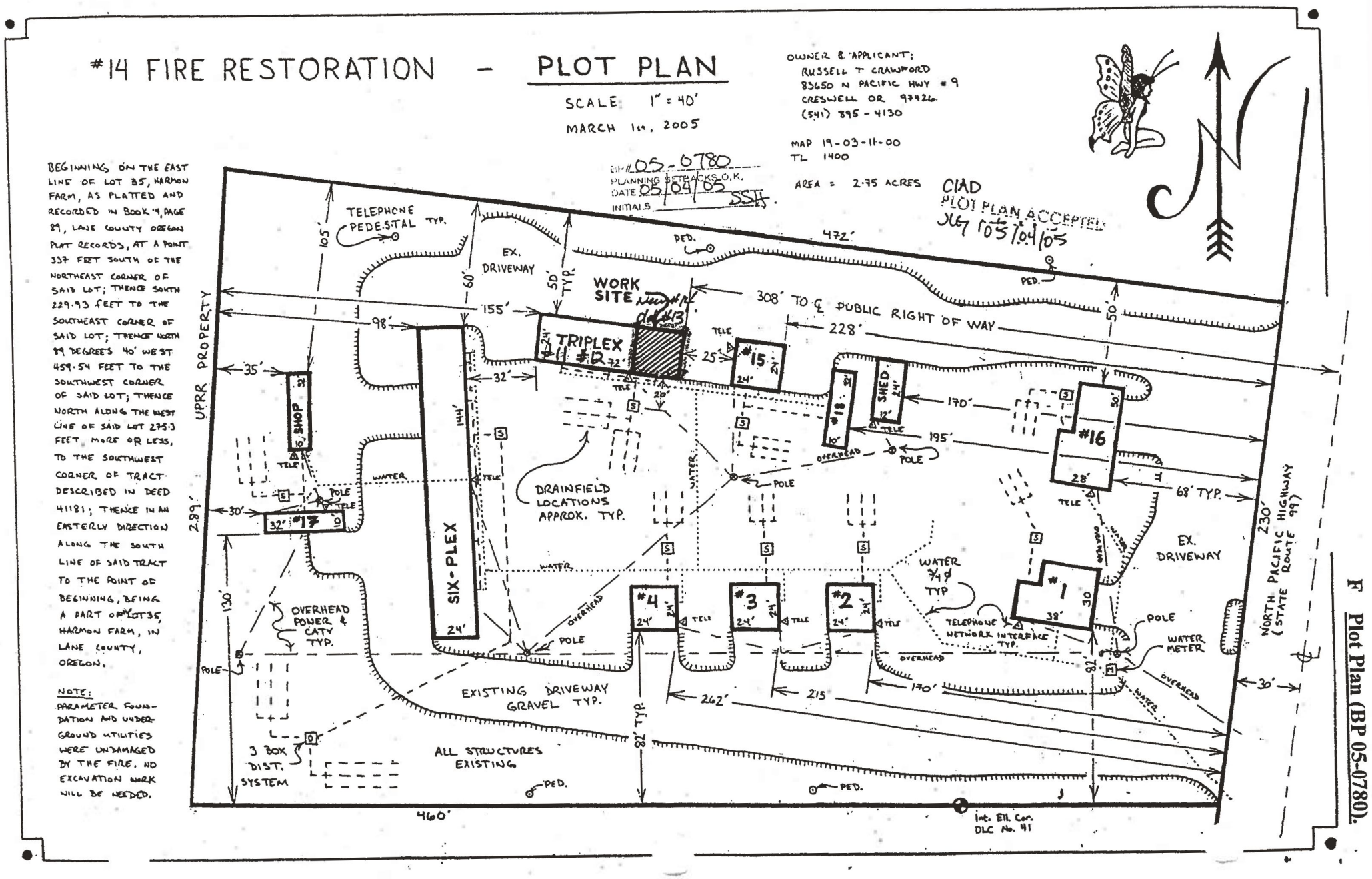
AREA = 2.75 ACRES

BP# 05-0780
PLANNING SETBACKS O.K.
DATE 05/04/05
INITIALS SSH

CIAD
PLOT PLAN ACCEPTED
JGT 05/04/05

BEGINNING ON THE EAST LINE OF LOT 35, HARMON FARM, AS PLATTED AND RECORDED IN BOOK 4, PAGE 89, LANE COUNTY OREGON PLAT RECORDS, AT A POINT 337 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH 229.93 FEET TO THE SOUTHEAST CORNER OF SAID LOT; THENCE NORTH 89 DEGREE'S 40' WEST 459.54 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 275.3 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF TRACT DESCRIBED IN DEED 41181; THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTH LINE OF SAID TRACT TO THE POINT OF BEGINNING, BEING A PART OF LOT 35, HARMON FARM, IN LANE COUNTY, OREGON.

NOTE:
PARAMETER FOUNDATION AND UNDER GROUND UTILITIES WERE UNDAMAGED BY THE FIRE, NO EXCAVATION WORK WILL BE NEEDED.



F Plot Plan (BP 05-0780).

Exhibit No. _C-11_

PRZC Control No. _11_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 417-3 (new)

Plan Amendment and Zone Change for
Tax Lot 1301 of Assessor's Map 19-03-35, and
3.03 acres of tax lot 1202 of Assessor's Map 19-03-35.

Tax lot	Acreage	From	To
1301	4.10	Impacted Forest Land (F2)	Rural Industrial (RI)
1202 (portion)	3.03	Impacted Forest Land (F2)	Rural Industrial (RI)
Total	7.13 acres		

Table of Contents 2

Statement of Criteria 3

I. Background 3

II. Findings of Fact 3

Tax lot 1301 of Assessor's Map 19-03-35 (4.10 acres)
Tax lot 1202 of Assessor's Map 19-03-35 (3.03 acres of 19.15 acres)

A. General Findings Relating to the Subject Properties. 3
B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria. 7
C. Findings and Conclusions Related to Lane Code 16.252 Rezoning Criteria. 10
D. Exception Requirements Applicable to TRS 19-03-35, tax lots 1301and 1202: 12
   a. OAR 660-004-0018 Planning and Zoning for Exception Areas. 12
   b. OAR 660-004-0025 Exception Requirements for Land Physically Developed to Other Uses. 13
   c. OAR 660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses. 14
   d. OAR 660-004-0030 Notice and Adoption of an Exception. 19
   e. Lane Code 16.292 – Rural Industrial (RI) 19

III. Conclusions 19

IV. Recommendations 20

V. Exhibits 20

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-04-018, 020, 025, and 028 – *Exception Requirements*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 – *Rural Industrial Zone*
Lane Code 16.210 – *Impacted Forest Land (F2)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

This amendment to the Official Plan Map and Zoning Maps Plot No. 417 would revise the Plan and Zoning designations of one property and a portion of a second and provide for the continued use of the existing industrial use on the properties. The amendment would take an exception to Goals Three and Four, amend the plan diagram from Forest to Industrial, re-designate tax lot 1301 and a portion of tax lot 1202 of TRS 19-03-35 from Impacted Forest Land (F2) to Rural Industrial (RI) and create Developed & Committed Exception Area No. 417-I.

II. FINDINGS OF FACT

The properties subject to plan amendment and zone change in this application are:

TRS 19-03-35, tax lot 1301, 4.10 acres.
TRS 19-03-35, tax lot 1202, 3.03 acres, a portion of 19.15 acres
Property Owner: Gary W. and Valerie A. Nash
Proposed change in zoning designation from Impacted Forest Land (F2) to Rural Industrial (RI).

The following findings of fact and conclusions act to support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change. These findings are divided into the following three sections:

A. General Findings Relating to the Subject Property.
B. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.
C. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.

A. General Findings Relating to the Subject Properties.

1. The properties subject to this application, hereinafter referred to as the "subject properties," can be identified as tax lot 1301, 4.1 acres in size, and 3.03 acres of tax lot 1202 of Lane County Assessor's map TRS 19-03-35 situated west of Sears Road. The subject properties' two access

points are from Sears Road through tax lot 1301 in the northeast and tax lot 1202 in the southeast and tax lot 1301 has an assigned rural address of 81510 Sears Road, Creswell, OR 97426.

2. The subject properties are part of a contiguous, three-property tract that includes tax lot 1300 (5.43 acres) to the north, tax lot 1301(4.1 acres) in the middle, and tax lot 1202 (19.15 acres) to the west and south.

   The subject 3.03 acres of tax lot 1202 abut tax lot 1301 on the western and southern boundaries. All of the three contiguous properties are bordered on the east by the right-of-way of Sears Road and are bordered by Interstate 5 right-of-way along the western boundary of tax lot 1202. The tract is about two miles north of the Saginaw/I-5 interchange and 1.5 miles south of the City of Creswell.

   The subject properties are level to gradually sloping. Coast Fork of the Willamette River is located north of the north-northwest boundary of the tract (tax lot 1202 and 1300), but its location has no effect on the subject plan amendment and zone change since it is over 500 feet from tax lot 1301 and the acreage within tax lot 1202 proposed for amendment to Rural Industrial.

3. The applicant is proposing a Minor Plan amendment to the Lane County Rural Comprehensive Plan (RCP) from Forest Land to Industrial Land, with an exception to Statewide Goal 3 - Agricultural Lands and Goal 4 - Forest Lands, concurrent with a zone change from F-2 Impacted Forest Land to RI Rural Industrial.

4. This request is required to recognize an existing rural industrial land use of the subject properties for the last six years and to remove the nonconforming use status created by the current F-2 zone.

5. The subject property is developed with a 28' x 64' manufactured residence (1978 Brookwood), 20' x 32' storage building, a five-acre graveled vehicle storage area, a manufactured office, graveled roads, a sanitation drainfield, and a well. These improvements impact or occupy approximately five acres of the 7.13-acre site. The nonimpacted area of the subject properties is located along the northeastern portion of the site, adjacent to Sears Road, and has moderate slopes covered with deciduous vegetation. This portion of the subject property is not suitable for development due to the terrain and road right-of way setback.

6. The subject property is located within an area composed of a mixture of resource land uses. To the north is a vacant 5.43-acre property (tax lot 1300) zoned F-2. Further to the north and to the east across Sears Road and extending into Plot No. 430, the land is zoned Nonimpacted Forest Land (F1). To the southeast there is an existing quarry operation zoned Quarry and Mine Operations (QM). To the west is Interstate 5.

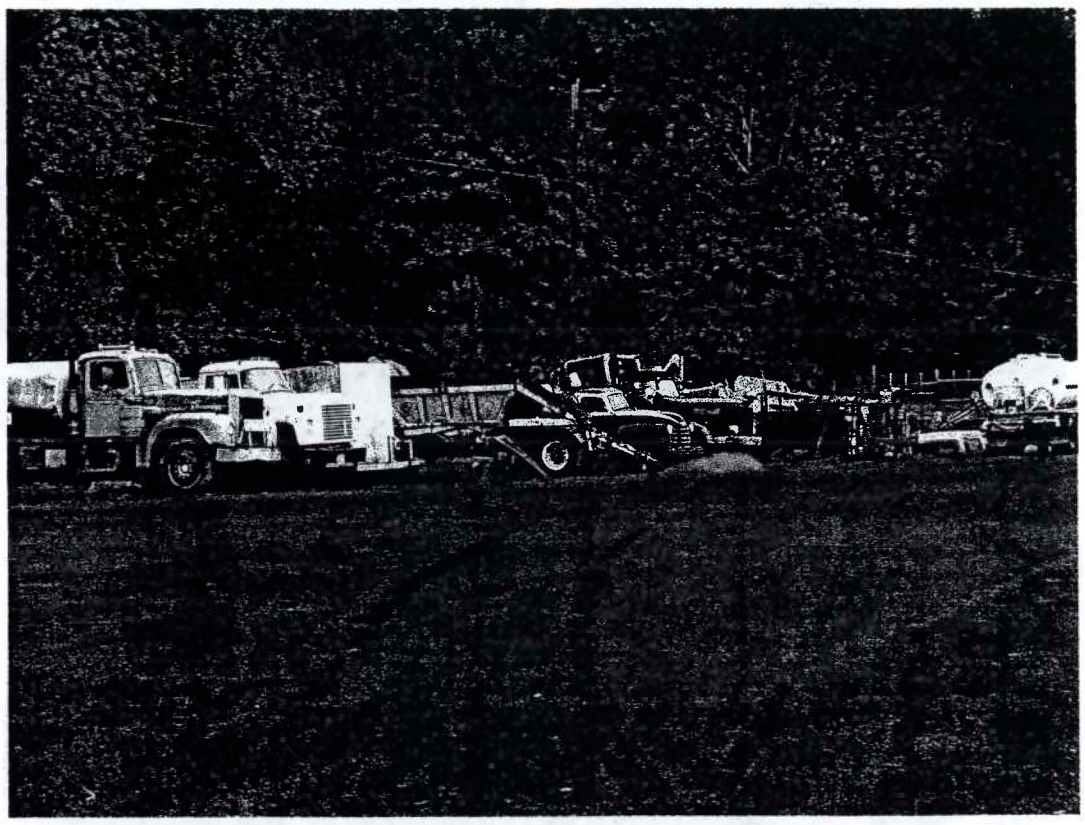
7. The subject property, tax lot 1301 is developed with a residence closest residence to the subject property is located on Tax Lot 901, over 700 feet to the east across Sears Road.

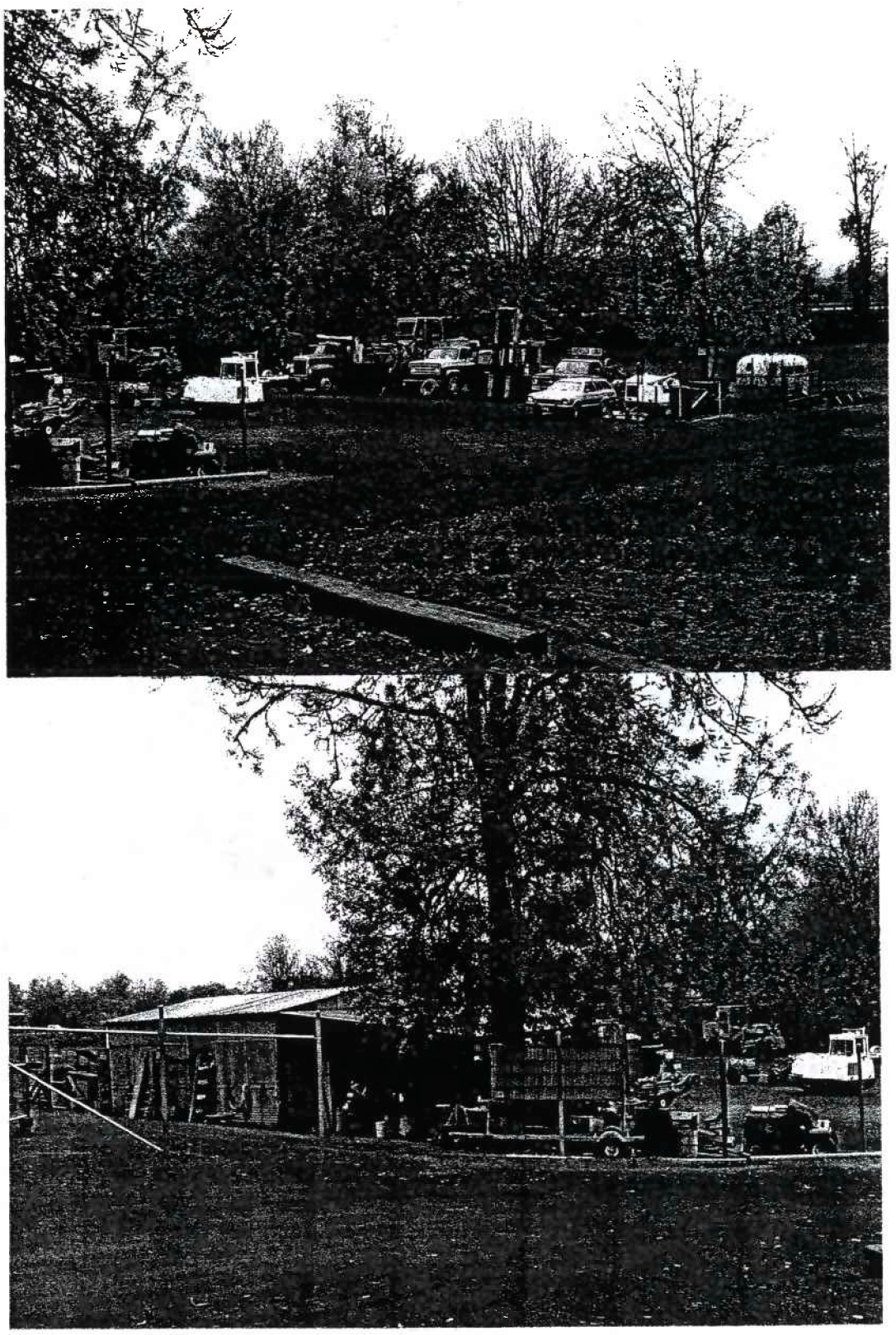
8. The subject property receives all public services required by RCP Goal 11, Policy 6.h, including South Lane Rural f ire protection, police protection by the Lane County Sheriff, individual water and sanitation service, and local utility services.

9. The subject properties have been used as a heavy equipment storage and sales yard since 1998 for logging, construction and farm equipment. Refer to Exhibit "D" - Nash Enterprises – periodical advertisement of equipment. The enterprise initially was established as a storage yard for idle forest related equipment including logging road construction (dozers, dump trucks, etc.) and

harvesting equipment (yarders, trucks, fire trucks, water tankers, etc.). Farm equipment was added along the way. Currently, the enterprise has evolved to encompass a wider range of heavy construction equipment including quarrying and rock processing equipment.

11. The subject property is occupied with logging contractor's equipment and vehicles, including log skidders, yarders, shovel loaders, front—end loaders, bulldozers, road graders, dump trucks, fuel trucks, fire trucks, tractor-trailers, tractor backhoes, low-boys and crew cab trucks. The property also is occupied with farming equipment including tractors, disks, plows, combines, etc.







12. The Soil Survey of Lane County identifies all 4.10 acres of tax lot 1301 as 43C Dixonville-Philomath-Hazelair Complex (DPH). The DPH unit is listed as being agriculture capability class 3 with a Douglas Fir forest capability of 54 cubic foot per acre per year. The subject 3.03 acres of tax lot 1202 consists of approximately 1.5 acres of 43C Dixonville-Philomath-Hazelair Complex (DPH) and 1.8 acres of 79 McBee Silty Clay Loam with agriculture capability of 3 and no potential forest productivity index for Douglas fir.

13. The Cottage Grove NE4 and Cottage Grove SE 1 National Wetlands Inventory maps do not identify any delineated wetlands on tax lot 1301 or the subject acreage of tax lot 1202.

14. The applicant is requesting a developed lands exception to Statewide Goals 3 and 4, as provided by OAR 660-04-025. An exception is warranted when land subject to an exception is physically developed to the extent it is no longer available for uses allowed by the goal. The applicant's holdings include 7.13 acres developed with a residence and the above described heavy equipment sales operation of the subject tract of 28.68 acres is developed or impacted by physical improvements that make either a farm or forest use impracticable. The undeveloped 21.55 acres will remain in the Impacted Forest Land Zone (F2).

B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria.

Lane Code 16.400(6)(h)(iii)(aa)-(dd) provides for the Board to amend or supplement the RCP upon making the following findings:

Lane Code 16.400(6)(h)(iii)(aa)

(aa) For Major and Minor Amendments as defined in LC 16.400(8 (a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

1. The Board finds this plan amendment meets all legal processing requirements of the Lane Code and the acknowledged comprehensive plan, and incorporates by reference the supporting exhibits. This amendment recognizes the existing rural industrial use on the subject properties. Findings provided in this report address applicable County standards and Statewide planning goals.

2. The Board finds that the subject 7.13 acres has a significant comparative advantage over other potential sites because of its existing industrial use which benefits the county economy, and the lack of resource value on the portion (7.13 acres) of the site available and developed for the rural industrial use. Additional detail is provided in the following findings. Approval of the requested RCP amendment and zone change will recognize the existing rural industrial use of the subject properties and remove its nonconforming use status.

3. The applicant seeks a physically developed exception to Statewide Goals 3 and 4, as provided by OAR 660-04-018(2). An exception is warranted when the requested plan designation and zoning designation limits permitted uses on the site to those which are rural in nature, are consistent with other applicable Statewide Goal requirements, and are compatible with nearby uses and do not commit them to nonresource use.

   The Board finds the existing industrial uses of the subject properties, are allowable uses under the proposed Rural Industrial (RI) zone per LC 16.292(3)(c) and (e):

   (c) Forest and farm equipment storage yards, sales, rental and repair.

   (e) Associated sales and administrative offices for the uses permitted by LC 16.292(3)(a) through(d) above. Offices that are for uses permitted by LC 16.292(3)(b) above shall comply with the floor area requirements of LC 16.292(3)(b)(i) through (iii) above.

   The Board finds the existing industrial uses are rural industrial uses that are commonly located on rural land and they are sited in Lane County outside of urban growth boundaries. Heavy equipment sales yards are also located in urban areas, but this does not mean they are exclusively urban by this fact. Rural uses are developed at a low density and separated from adjacent uses, require few public facilities and services, and are intended to serve rural populations. These uses are properly sited on rural lands.

   The Board also finds the existing rural industrial use of the subject property appears to be compatible with neighboring resource uses, as it has been in continuous operation since 1998 with no apparent conflicts. The six-year history of rural industrial use on the site has not committed nearby properties to nonresource use. The operating characteristics, including noise and traffic, generated by the existing rural industrial use on the site are among the least obtrusive relative to other permitted uses in the RI zone.

   Imposition of site review standards as specified in LC 16.292(4) for new development on the subject property also acts to ensure its future uses will continue to have impacts that are rural in scale and nature, thereby ensuring future compatibility with adjacent or nearby resource uses, and ensuring that future uses will not commit adjacent or nearby resource properties to nonresource use. Site review standards in LC 16.292(4)(a)-(i) require applicable development on the site "to

minimize any adverse effect on existing or contemplated abutting land use" and "compatible with the surrounding vicinity."

(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:

(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

1. The Board finds that this amendment meets criteria (v-v) above.

   The existing, rural industrial use involves activities associated with logging and logging road construction and maintenance as well as farm use practices. They are rural in nature, since resource—related activities such as logging and associated uses are primarily located in rural areas and are encouraged by comprehensive plan policies and zoning regulations in rural areas. Goal 9, Policy 7a of the RCP specifies the rural orientation of one of the industrial uses (logging equipment storage and sales) on the subject property. Evidence in the record shows the proposed Industrial Land designation more appropriately identifies the subject property.

   Based upon reasons discussed in this application, the Board finds that it is desirable, appropriate and proper to designate the subject 7.13-acre site as Rural Industrial Land. It is the desire of the Board to permit existing rural industrial uses such as those located on the subject properties to continue in operation, in conformance with appropriate industrial plan and zoning designations.

(cc) For Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.

1. The Board finds the proposed amendment conforms to the following applicable RCP Policies:

   Goal 2, Policy 11.c. permits existing industrial uses to receive an Industrial designation, upon consideration of:

   i. the existing development pattern;
   ii. on-site sewage disposal suitability;
   iii. domestic water supply availability;
   iv. access;
   v. public services;
   vi. lack of natural hazards; and
   vii. effect on resource lands.

   Appropriate consideration of the above factors has been made, based on the information provided within the previous findings.

   Goal 2, Policy 16 states " . . . *New rural public facility, commercial, and industrial development within the Cost Fork of the Willamette Watershed and the Middle Fork of the Willamette Watershed shall be located inside unincorporated communities or outside unincorporated communities in developed and committed exception areas that were planned and zoned for public facility, commercial or industrial purposes on June 15, 2005. An exception to this policy shall be for plan amendments ors zone changes adopted pursuant to Policy 27 Conformity Determinations, and legislative actions adopted by the Board of County Commissioners during a Periodic Review Work Program (PRWP) or concurrently as post-acknowledgement plan amendments resulting from the PRWP Work Tasks . . .*".

This plan amendment and zone change is the result of the data and inventory compiled during Work Task 5 of the Lane County Periodic Review Work Program and is a concurrent post-acknowledgement plan amendment resulting from the PRWP Work Task.

Goal 9, Policy 7 addresses new industrial development, which is not reflected in this application as it involves existing industrial development. However, it does provide general policy guidance applicable to this request.

Policy 7. New industrial development shall normally take place within adopted Urban Growth Boundaries, unless such development:

a. Is clearly rural oriented;
b. Is necessary for the continuation of existing industrial operations, including plan or site expansion;
c. Will be located in an area either built upon or committed to nonresource use where necessary services can be provided;
d. The industrial activity is dependent on a unique site-specific resource;
e. The use is too hazardous or is incompatible in densely populated areas;
f. The industrial activity creates by-products which are used to a significant level in resource activities in the immediate area; or
g. Where a significant comparative advantage could be gained in locating in a rural area. Any development approved under this policy that requires a plan amendment shall be justified by an exception t applicable Statewide Planning Goals.

Policy 7.b. supports rural industrial designations when they are needed for the continuation of existing operations. This request is needed for the continuation .of the existing rural industrial use of the subject property by removing its nonconforming status. Policy 7.c. supports rural industrial designations when they are located in an area either built upon or committed to nonresource use where necessary services can be provided. As shown in previous findings, 7.13 acres of the subject properties are built-up and committed to nonresource use, and is and will continue to be provided with necessary services which are appropriate for rural areas and rural uses.

Goal 9, Policy 8 specifies that: *Existing industrial and commercial uses shall be designated on the plan diagram. Uses so identified shall be zoned to allow for continued operation and routine expansion commensurate with their character, provided significant conflicts with other land uses (existing or planned) do not result.*

As discussed in previous findings, significant existing and future conflicts with adjacent and nearby uses can be avoided, given existing site characteristics and the application of the site review standards and criteria of LC 16.292(4) to the subject properties.

(dd) For Minor Amendments as defined in Lane Code 16.400(8) (a), the Plan amendment or component is compatible with the existing- structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The Board finds this Plan amendment is consistent with the RCP intent to choose between competing uses. As stated in the record, the majority (21 acres) of the subject tract is undeveloped and will remain in the Impacted Forest Lane designation (F2). 7.13 acres are developed with and irrevocably committed to rural industrial uses, and been for over six years. These rural industrial uses require a RI zone. This RCP amendment is consistent with unamended portions or elements of the Plan.

Lane Code 16.400(8)

(a): Amendments to the Rural Comprehensive Plan shall be classified according- to the following criteria:

(i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.

The Board finds that the proposed plan amendment is limited to a change of the RCP diagram from Forest Land to Industrial Land. A portion of the soils on the subject acreage are classified by the SCS as having either farm or forest capability. For this reason, a physically developed lands exception to Statewide Planning Goals 3 and 4 is required. This application qualifies as a Minor Amendment.

C. Findings and Conclusions Relating to Lane Code 16.252 Rezoning Criteria.

Lane Code 16.252

(1) Purpose. As the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be required. Such amendments shall be made in accordance with the procedures of this section.

(2) Criteria. Zonings, rezonings, and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning' Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.

1. The Board finds the proposed RI zoning designation implements the proposed Industrial Land plan designation. The Board further finds the proposed RI zone is consistent with the general purpose of Chapter 16, specifically LC 16.003(1), (2), and (3).

   LC 16.003(1) states development should conform to site characteristics and be in the public interest. This RCP amendment and rezoning request recognizes existing development and existing site characteristics completed for these uses. The subject property has adequate buffering for its existing uses and available public services to serve the public interest, while recognizing the existing rural industrial nature of the site.

   LC 16.003(2) Protect and diversify the economy of the County supports economic development activities. Approval of this request will facilitate the continued operation of rural industrial uses on the property that presently assists the interests of the resource management base in Lane County and diversifies the economy of the County.

   LC 16.003(3) supports the effort to *Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.* Approval of this request will remove the nonconforming RCP designation and zoning on the subject property, and provide for the continued use of the site for rural industrial purposes. Use of the standards included in LC 16.292(4) for all new development on the subject property acts to

ensure its future use will continue to have impacts that are rural in scale and minimal for neighboring properties.

2. The Board finds the proposed RI zoning appropriately implements applicable RCP policies which have been addressed in previous findings. The *Purpose* of the RI Rural Industrial Zone is *The purposes of the Rural Industrial Zone (RI, RCP) are: to implement the policies of the Lane County Rural Comprehensive Plan (RCP); to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries; and to provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP.*

3. The Board finds the proposed RI zone accurately reflects the existing rural industrial use of the 7.13 acres of the subject properties and is the most appropriate zone for the site. The Board further finds the compatibility of the rural industrial use on the site with surrounding resource lands will be maintained by buffers created by existing improvements, such as 1-5 and Sears Road, a County road classified as a Minor Collector; natural features such as a creek and dense vegetation; and by applicable site review procedures as specified in LC 16.292(4).

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. The properties subject to the proposed zone change are currently designated as resource land and require an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for it to be rezoned to a nonresource designation.

The following findings of facts support the general findings of fact in **II. Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The *Purpose* statement in 660-004-018(1) " *. . .explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.*

(a) Uses which are the same as the existing types of land use on the exception site, or"

The exception and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject properties, tax lot 1301 (4.10 acres) and a 3.03-acre portion of tax lot 1202 of Assessor's map TRS 19-03-35. In addition, the actions are an acknowledgment that the currently existing uses on the subject properties is similar to the development in other D&C Exception Areas and that are commonly located elsewhere in other rural settings within the Coast Fork of the Willamette River Watershed of Lane County.

Tax lots 1202 and 1301 were designated as Impacted Forest Land (F2), a resource zone, in as part of the adoption of the Rural Comprehensive Plan in August 1984. Prior to that time, the

properties were designated Farm-Forest 20 (FF20). Tax lot 1202 was developed with a residence in 1984 as authorized by mobile home placement permit BP 93-84 and sanitation permit SI 79-384. In 1992, the residence was removed and a replacement was established on tax lot 1301 as authorized by BP 210-92. In 1996 the current owners of the subject tract established the looging equipment storage and sales enterprise on the tract. This proposed zone change would bring the existing industrial uses into conformance with uses allowed in the Rural Industrial Zone as provided for in LC 16.292(3)(c), (e) and (l).

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located south of D&C Exception Area No. 417-1, east of D&C Exception Area No. 417-2, and north of D&C Exception Area No. 418-1. AS the subject properties are not contiguous with an existing D&C boundary, this action will create a separate D&C exception are, No. 417-I ("I" – Industrial). The properties receive a rural level of police and fire protection and rely on water and sewerage facilities on the property that is essential to the protection of resource and nonresource uses and development in a rural setting. The proposed rezoning designation will more closely fit the actual current use on the properties

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject properties are a small triangular-shaped tract blended into the landscape defined by transportation corridors (Interstate 5 to the west and Sears Road to the east), the Willamette River to the north, and a quarry mining operation and forest resource management to the east and southeast.

Lands to the east and north are zoned Nonimpacted Forest Land (F-1) and Parks and Recreation (PR). The subject use was established in 1998. Any conceivable impacts from the development on the subject property to the surrounding resource lands has been present since that time. The subject property has operated without conflict with the nearby resource uses for six years and no new impacts are foreseeable.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing uses and structures have been on location since 1998. Any additional development on the subject property would require compliance with setbacks and site review standards of LC 16.292(4), possible modifications to the subsurface disposal systems under DEQ standards, and utilization of the existing domestic water source. Adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

The heavy industrial equipment sales and storage operation on the subject properties support the surrounding quarry and logging industries

Public services such as fire protection have been available to the subject property since the initial residential development in 1984 and the industrial development in 1998.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

The applicant's property is developed with a graveled storage area approximately 5.5 acres in size and provides storage and sales display for a variety of logging and construction heavy equipment as depicted in the site photographs in this report.

The subject property is irrevocably committed to and physically developed with a use in support of resource management of forest, farm and quarry operations.

c. OAR 660-004-0028 – Exception Requirements for Land Irrevocably Committed to Other Uses.

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

The subject properties being considered for a "committed and developed" exception is identified as a 3.03-acre portion of tax lot 1202 of TRS 19-03-35 and the 4.10-acre tax lot 1301 of TRS 19-03-35.

Services are provided to the proposed Exception Area No. 417-3 by:

Electricity:	Emerald Peoples Utility District
Fire:	South Lane Fire and Ambulance District
Ambulance:	South Lane Fire and Ambulance District
School:	Creswell School District No. 40
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

Exception Area No. 417-2 to the west across the Interstate 5 freeway includes 11 parcels developed with residences.

Exception Area No. 417-1 to the north includes 61 parcels developed with 63 residences.

Exception Area No. 418-1 to the southwest includes six parcels with nine residences and one parcel with industrial uses.

Exception Area No. 418-2 to the southeast includes 20 parcels with 12 residences.

The four exception areas sit across the valley floor that is traversed by Sears Road, Interstate 5, Highway 99, and the Willamette River, all on north-to-south axis.

The proposed new Exception Area No. 417-3 for the subject properties is situated approximately in the center of the four existing exception areas referenced above. The 7.13 acres is separated from resource lands to the south, west and east by public right-of-ways and partially to the north by the Willamette River.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

The industrial use of the 7.13 acres of the subject properties was established in 1998. The residential use on the same acreage dates from 1984.

Residential development cited in the four exception areas above, were predominantly established prior to the 1970's.

Some grass seed production was evident in the river bottom lands to the west in decades past with some of the land now used for hay production and seasonal grazing. Forest lands to the east of Sears Road are managed by timber operations and small wood lot owners. State-owned lands in the Parks and Recreation designation to the north (tax lots 100 and 600, TRS 19-03-35) are managed primarily as open space. Further to the north of the state-owned lands within D&C Exception Area 417-1 is the Riverwood Mobile Home Park with 124 spaces in a Rural Residential RR5 designation.

(b) Existing public facilities and services (water and sewer lines, etc.);

The residence within the subject acreage boundaries proposed for D&C No. 417-3 is served by on-site well and subsurface sewage disposal system. Electrical power is provided by Emerald Peoples Utility District. Fire protection is provided by South Lane Fire and Ambulance District. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Creswell by the School District #40 facilities.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The total acreage of the subject tract of tax lots 1202, 1300 and 1301 is 28.67 acres. The contiguous properties are a approximately 70 percent grass lands and 30 percent mixed conifers and deciduous trees species. Refer to Exhibit "G", which is an enlarged aerial photograph of the site. The closest EFU properties are located across Interstate 5 and the Willamette River to the west of the subject property. Only the 7.13 acres of the tract that have been impacted with the existing gravel-based storage yard and associated residential uses are being considered for amendment and zone change.

The soils present on the 7.13 acres are 80 percent Dixionville-Philomath-Hazelair DPH (43C) 3-12 % slopes and 20 percent McBee Silty Clay Loam (79). With the existing storage area with the established industrial uses and the residential area, there are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the properties under Goal 3. The remaining 21+ acres are being retained in the Impacted Forest Zone (F2) for continuation of the current owners pasture and woodlot operations.

Al though the soils have agricultural capability ratings of 3 and 4, the development of an agricultural use on the subject tract's undeveloped 21+ acres with other EFU properties in the region is impracticable due to the intervening transportation corridors and river. Development of the impacted 7.13 acres as an agricultural use is impracticable due to the past excavation of the site, depth of compacted gravels, and existing industrial development.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

DPH (43C) soils have a 63 cu. ft./year /acre productivity rating and McBee do not have a productivity rating. The extensively developed 7.13-acre site could produce approximately 315 cubic feet of fiber annually if the land were reclaimed and replanted. Values for continued development of the 7.13 acres as a sales and storage yard for logging and farm equipment far exceed the potential for management in consolidation with adjacent lands across Sears Road to the east as a forest unit. The 7.13 acres is small, primarily sloped-grassland separated by public roads from nearby forest units, developed with nonresource uses, and the soils have limited productivity potential.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

> *"660-06-025(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction ad maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;"*

Commercial forest practices on the 7.13 acres for the reasons stated above in *(b)* are not practicable.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Refer to Findings of Fact above in response to OAR 660-004-0028(2)(b), above.

(b) Existing public facilities and services (water and sewer lines, etc.),

The subject property is served by a water system and a subsurface sewage disposal system onsite.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm

use zone cannot be used to justify a committed exception for land adjoining those parcels;

The subject acreage has been committed to residential use since 1984 (21 years) and industrial use since 1998 (6 years). Refer to Exhibit "G" (aerial photo) and the site photographs earlier in this report. The new exception area will be single property, 7.13 acres in size.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

State-owned land and the Willamette River to the north, Willamette River and Interstate 5 to the west, Sears Road to the east and south, isolate the tract of 28+ acres from management with other resource lands under separate ownership in the area. Small woodlot management and grazing operations are still an option within the subject tract's 21+ acres. The applicants are only requesting a rezone of the impacted industrial site of 7+ acres, one-quarter of their 28-acre ownership.

(d) Neighborhood and regional characteristics;

Exception Areas 417-1, 417-2, 418-1 are residential clusters along the transportation corridors between the City of Creswell and the unincorporated rural community of Saginaw. The subject properties are located within the clustered, north-south, development pattern along the eastern edge of the valley floor and western toe of the forested foothills.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Interstate 5 and the Willamette River separate the triangular-shaped tract from the EFU lands to the west and Sears Road separates the tract from the F2 and F1 lands to the east. The quarry mining operation to the southeast and the State of Oregon park land to the north also impede consolidation of the subject tract from nearby resource lands.

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Refer to above Findings of Fact and site photographs above, and Exhibit G - Aerial photographs.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos.

The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Refer to Exhibit "G" – Aerial Photograph

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

d. 660-004-0030 – Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the city or county governing body adopts the comprehensive plans or plan amendment. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

The proposed "developed" exception and the proposed amendment to the zoning designation are a portion of the Lane County adopted and acknowledged Periodic Review Work Program Work Task 5 for the Coast Fork of the Willamette Watershed.

e. Lane Code 16.292 – Rural Industrial (RI)

Lane Code 16.292(1) notes that one of the purposes of the Rural Industrial Zone is *" . . . to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries; . . "*

While the potential impacts of the existing logging and farm equipment storage and sales use and a conditionally allowed use pursuant to LC 16.292(3) and (4) appear to be the consistent with the livability and appropriate development of the surrounding area, future uses to which the properties could be put is unknown at this point. This application does not include a compatibility analysis of all conditional uses in the Rural Industrial Zone (RPF). To provide a level of comfort for the surrounding resource properties, the special use permit process of LC 16.294(3) and the site review criteria of Lane Code 16.294(4) will be used to achieve this end. The RI zone provides for the requirements of LC 16.292(4) site review criteria to be completed prior to development of any of the uses allowed in LC 16.292(3).

The "public interest" must be considered, as such, but for the purposes of this decision it will be assumed that any of the proposed uses allowed in LC 16.292 will not have an adverse impact on surrounding uses and it will not be contrary to the public interest.

III. CONCLUSIONS

The Board finds that the subject 7.13 acres qualify for a Rural Comprehensive Plan (RCP) designation as Industrial Land with a RI Rural Industrial zoning designation.

The Board finds the facts presented accurately conclude the subject acreage is not forest or farm land as defined by Statewide Planning Goals 3 and 4, nor is required for protection by those Goals; and that the proposed redesignation is consistent with RCP policies and the approval standards, addressed in these findings.

The Board finds the subject 7.13 acres is developed with rural industrial uses and will not adversely affect surrounding lands, either with its existing rural industrial uses or with future uses, through imposition of applicable site review provisions in LC 16.292(4).

The Board concludes that based upon the findings provided, the Plan amendment and zone change conform with all applicable standards to allow redesignation from Forest Land to Industrial Land and rezoning from F-2 Impacted Forest Land to RI Rural Industrial.

IV. RECOMMENDATIONS

That the Nash Enterprises application PRZC Control No. 11 of Ordinance No. 1226 for the plan amendment of tax lot 1301 (4.10 acres) of Assessors Map 19-03-35, and 3.03 acres of tax lot 1202 of Assessors Map 19-03-35 from Forest Land (F) Industrial (I), be conditionally approved.

That the Nash Enterprises application PRZC Control No. 11 of Ordinance No. 1226 for the rezoning of tax lot 1301 (4.10 acres) of Assessors Map 19-03-35, and 3.03 acres of tax lot 1202 of Assessors Map 19-03-35 from Impacted Forest Land (F2) to Rural Industrial (RI), be approved subject to compliance with the Condition of Approval 1, below:

1. Prior to any new development or expansion of existing industrial uses on the 7.13 acres of land re-designated as Rural Industrial (RI), the legal owners of the two subject properties, tax lot 1301 and 1202 of TRS 19-03-35, shall record a property line adjustment survey and applicable property line adjustment deeds in the Lane County Deeds and Records Office consolidating the entire 7.13 acres into a revised tax lot 1301 metes and bounds description.

V. EXHIBITS

A. Plan Map, Plot No. 417
B. Zoning Map, Plot No. 417
C. Assessor's Map 19-03-35
D. Nash Enterprises – advertisement of equipment.
E. Enlargement of Assessor's Map 19-03-35 depicting subject properties and lands within tax lots 1301 and 1202 proposed for designation ass Rural Industrial (RI).
F. Aerial Photograph BLM 3.66 1-12 (5-18-2000).
G. Enlargement of Aerial Photograph BLM 3.66 1-12 (5-18-2000) depicting subject properties and development.

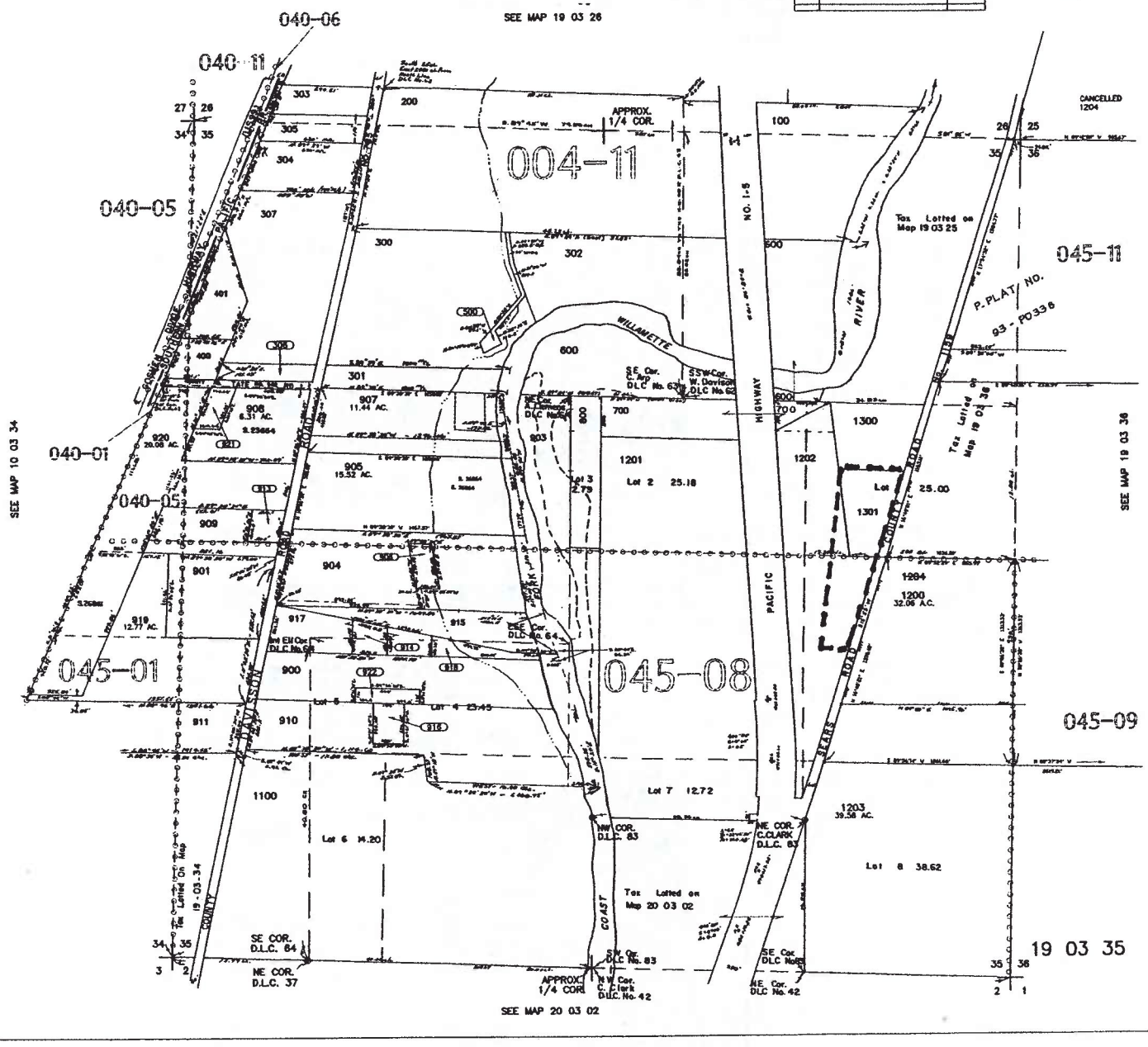
C. Assessor's Map 19-03-35

19 03 35

NAD 83/91

FOR ASSESSMENT AND TAXATION ONLY

SECTION 35 T.19S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'



19 03 35

D. Nash Enterprises – advertisement of equipment.

Nash Enterprises

Gary W. Nash
81510 Sears Rd
Creswell Or 97426

Logging - Construction - Farming Equipment
New & Used Parts

Sud-N-Shine Car Wash
235 Davidson Ave.
Cottage Grove OR

Business: 541-895-5244
Mobile:541-729-8320
Fax: 541-895-5350
WWW.nashenterprises.com

Gary W. Nash for Used Equipment

Visit Our Website: www.nashenterprises.com

BROKERAGE & SALES EQUIPMENT LOCATORS
CAT - JOHN DEERE Parts Now Offered

Nash Enterprises
EQUIPMENT SALES

• LOGGING • CONSTRUCTION • FARM EQUIPMENT

81510 Sears Rd. • Creswell, OR 97422

Interstate 5 - Exit 176 (Saginaw) or Exit 182 (Creswell) to Sears Rd.

PETERSON MODEL CS 1000 MOBILE CHIP SCREEN PLANT

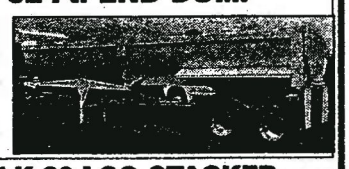


New Cummins Diesel 3-axle carrier, exc. cond., Video avail., mid '90's year . . $139,000

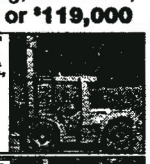
PETERSON 5000 MODEL G WOOD CHIPPER
Totally self contained, good working, fair rubber, another Mdle avail. . . . $115,000 or $119,000

'03 32-Ft. END DUMP

Brand New, New Tires and New Chrome wheels
$29,500



H150H HYSTER FORKLIFT
17 1/2 ft. height, 6-cyl. Perkins, side shift, 15,000 lb., 1/2 cab with good glass.
$18,500



HYSTER H150H FROKLIFT
Has 6 cyl. Perkins Diesel eng., SNCOO7P 1993, Attachment shift, ss650-76, Load Height 212.5", 6355 Hrs. **$18,500**



DART K 80 LOG STACKER



Newer style, good working machine, fair rubber
$39,500
(Another earlier model avail. $35,000)



2 CAT 988B LOADERS
• 1-50W3966 • 1-50W8698
$75,000 Each
Cat 980B Gen. purpose bucket, 3rd valve hydraulic and lob forks . . $32,500



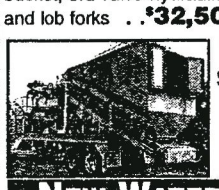
40-TON LB TRAILER, 2-axle Hyster. All plumbed and ready for a booster, deck ext., hyd. gooseneck powered by a Techumsa Eng $15,000

'65 NAEBOR 40' DROP DECK TRAILER
Single Axle, 33' Load Deck, 7' Gooseneck $3,500

PIERCE 3-AXLE DETACHABLE GOOSE NECK LOWBOY Hydraulic Detach. with 14-In. Ext., 18'10" Load Deck, 10.00 x 22 rubber, fair cond. Overall Length 51'6" $17,500

BEVERAGE TRAILER, Single Axle, Exc. Condition $2,500

'77 TRAILMOBILE 42-FT. FLATBED
Outside Frame $4,500



CEC PORTABLE SCREENING PLANT
Double screen, feed hopper, 2 axle carrier, good paint, early 90's year . . . $89,900

NEW WATER TRUCK TANKS, NEW DUMP BOXES AND ALL TYPES OF SHAMROCK ATTACHMENTS NOW AVAILABLE... CALLFOR DETAILS!!!

- CAT 46AD8 . . . . . $27,500
- FMC Link-Belt LS580TL $20,000
- Allis-Chalmers HD9 Dozer . . . $5,500
- Komatsu FG15-11 . . . . . $4,500
- Clark Y50 . . . . . $4,000
- Piloted Wheels, 11 24.5 . . . . $50ea.
- John Deere Hyd. Winch $2,500
- Log Splitters From . $600 TO $ 1,000
- Gearamatic Hyd. Winch . . . . . P.O.R.

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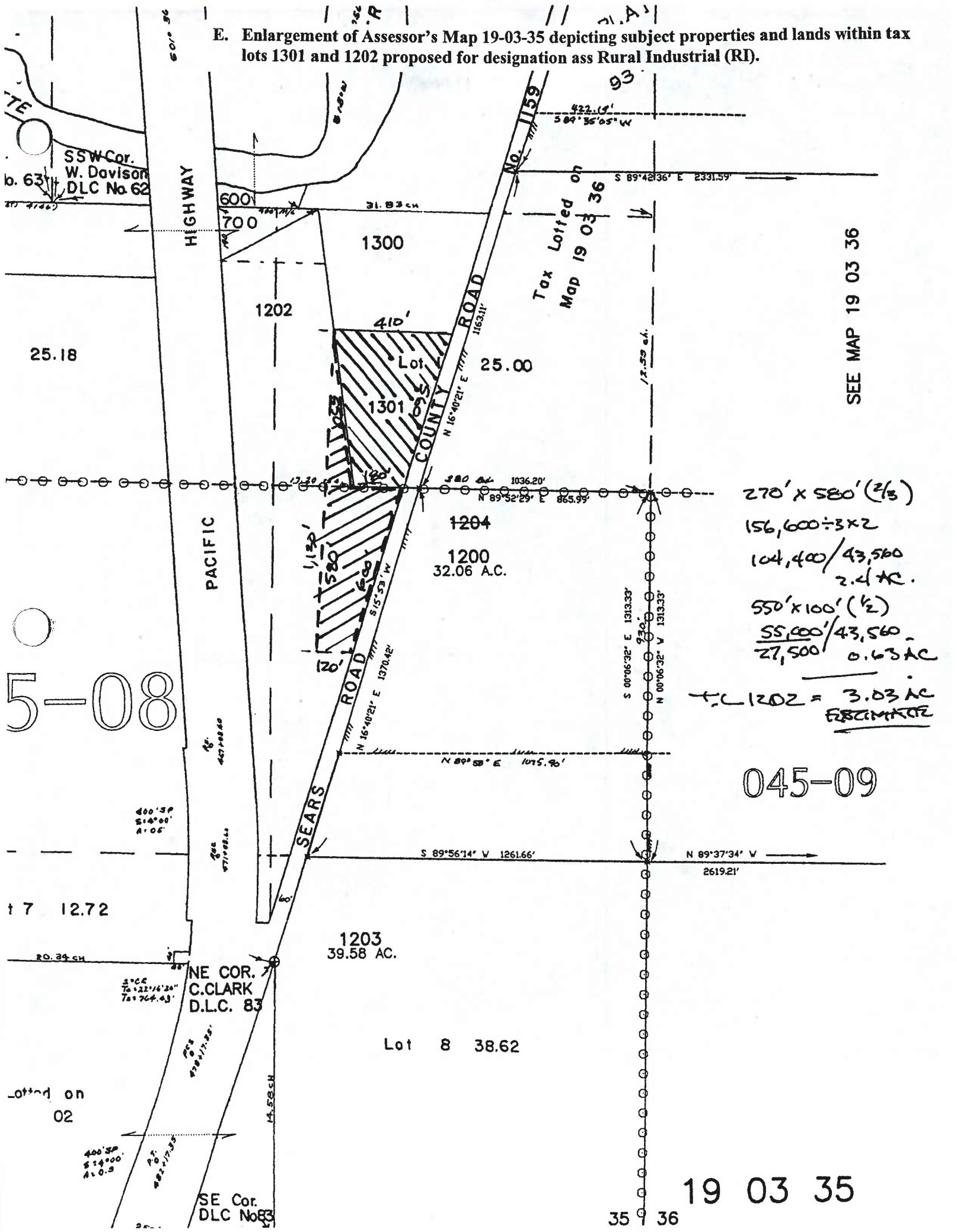
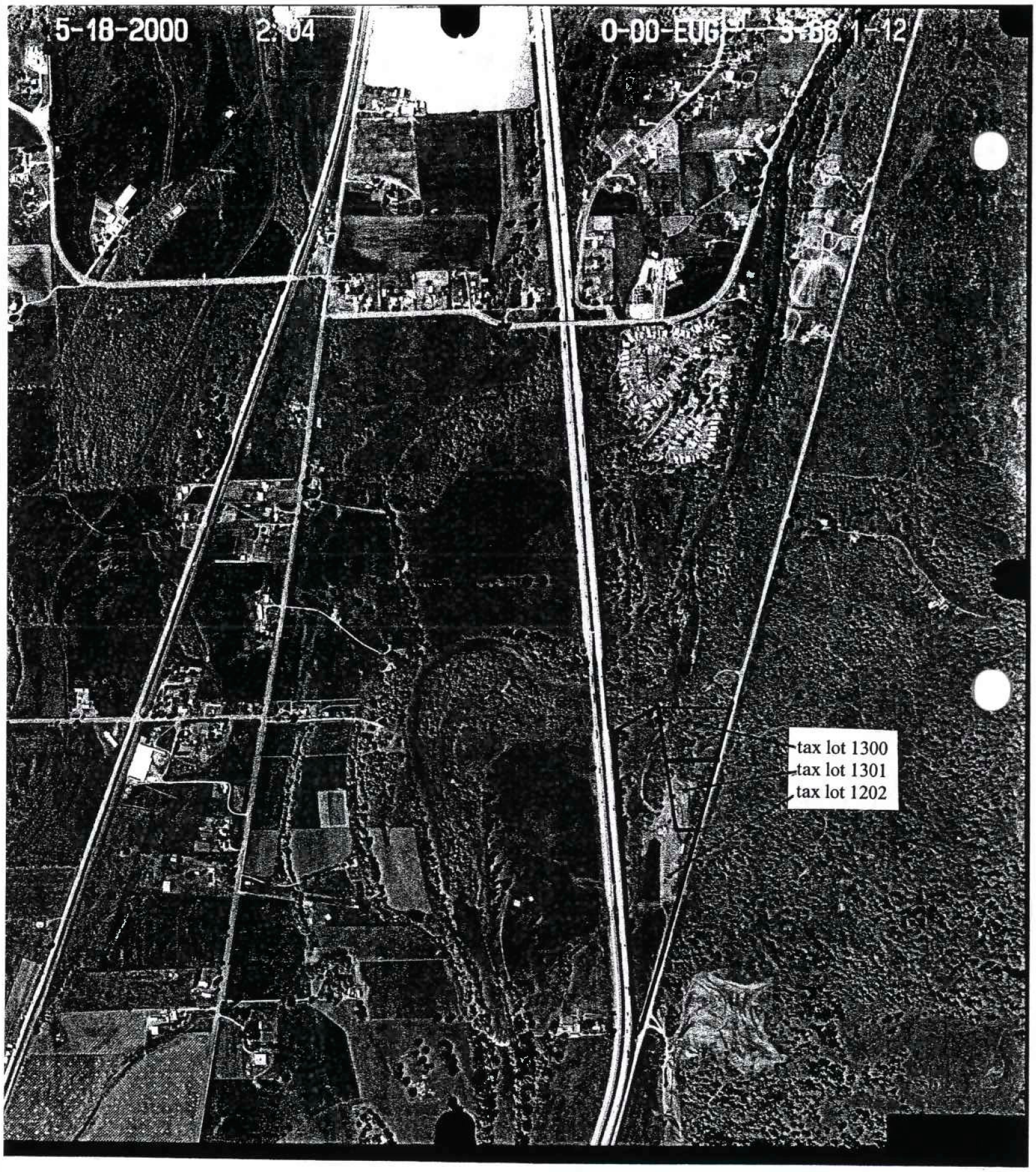
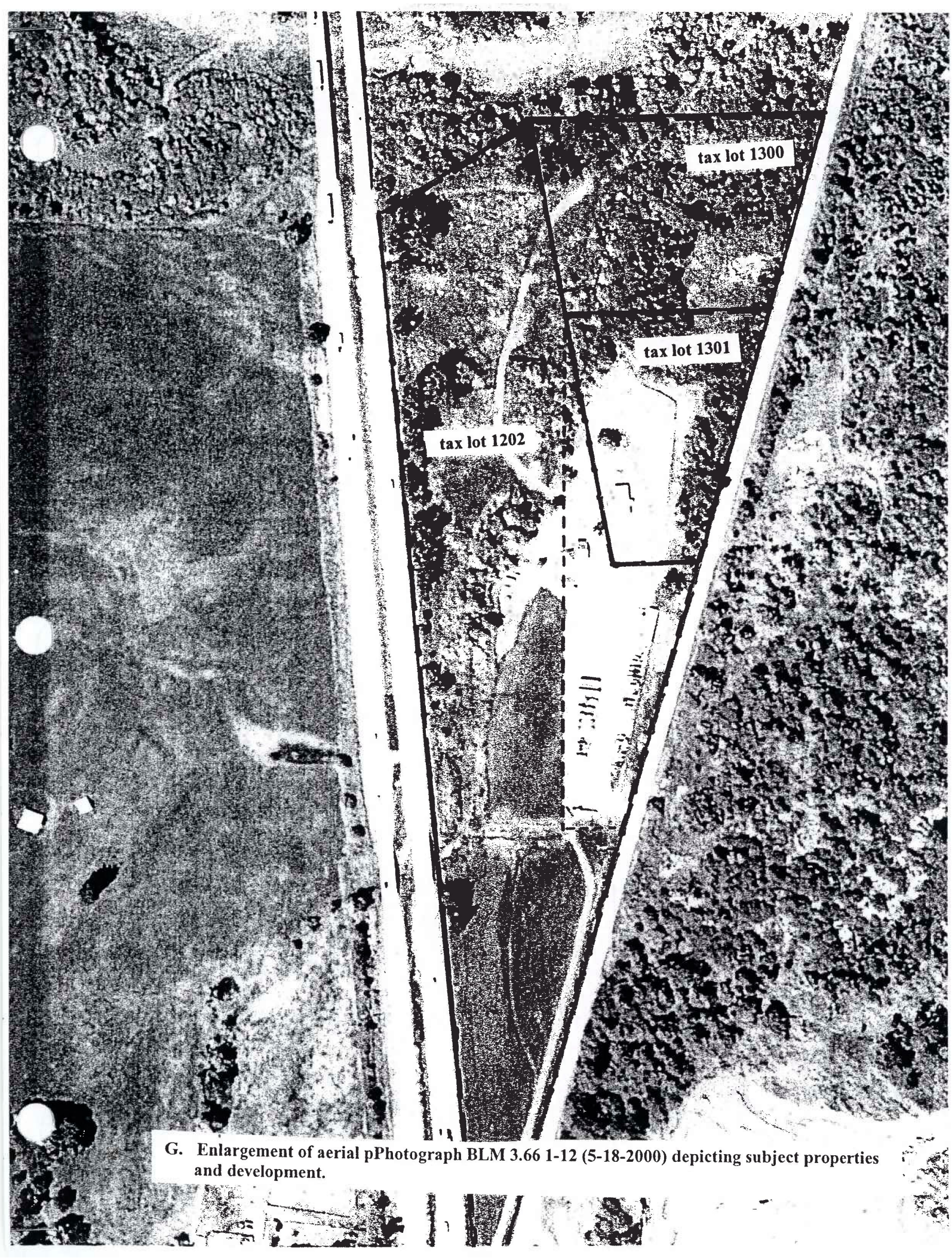
• Out of State: **1-877-856-0601** • Business: **541-895-5244**
• Fax: **541-895-5350** • Mobile: **541-729-8320**

E. Enlargement of Assessor's Map 19-03-35 depicting subject properties and lands within tax lots 1301 and 1202 proposed for designation ass Rural Industrial (RI).





F. Aerial Photograph BLM 3.66 1-12 (5-18-200)



G. Enlargement of aerial pPhotograph BLM 3.66 1-12 (5-18-2000) depicting subject properties and development.

Exhibit No. _C-_12_

PRZC Control No. _12_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 420-R3
and
Developed and Committed Exception Area No. 421-R1

Plan Amendment and Zone Change for:
Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);

TRS	Tax lot	Acreage	From	To
21-03-02.2.1	501	0.55	Rural Residential (RR5)	Rural Industrial (RI)
21-03-02.2.1	200	0.065	Rural Residential (RR5)	Rural Industrial (RI)
21-03-35	9300	0.138	Rural Residential (RR5)	Rural Industrial (RI)
		0.753		

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The properties subject to this application, hereinafter referred to as the "subject properties," are located south of Mosby Creek Road, approximately 4700 feet west of Quaglia Road, approximately 3/4ths of a mile southeast of the urban growth boundary of the City of Cottage Grove, and within the Developed & Committed Exception Areas No. 420-1 and 421-1.

   The subject properties can be identified as:
   - Tax lot 501 (0.55 of-an-acre) of Map 21-03-02.2.1 (Plot No. 421).
     Lawfully created parcel per PA04-5837, utilized as a log storage yard in conjunction with existing saw mill operation on contiguous property tax lot 200, Map 21-03-02.2.1.

   - 0.065 of-an-acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421).
     Lawfully created parcel per PA05-5010, developed with a driveway providing legal access to the separate legal lot status for the larger portion of tax lot 200 and the saw mill to the south.

   - 0.138 of-an-acre (40'x 150' strip) of tax lot 9300, Map 20-03-35 (Plot No. 420).
     A 40-foot wide strip of land along the eastern boundary of tax lot 9300 planned for the creation of a 40-foot wide access driveway from Mosby Creek Road to the saw mill on tax lot 200 to the south. Parent parcel, tax lot 9300, is a lawfully created parcel per PA05-5007.

2. All of the subject properties have a Plan designation of Rural and zoning designation of Rural Residential (RR5). The larger portion of tax lot 200 south of the triangle portion of tax lot 200 is designated Industrial and Rural Industrial, respectively.

3. The subject properties are part of the contiguous ownership by the Wilson Revocable Living Trust, a family trust, which has operated a saw mill on the adjacent property to the south, tax lot 200 of TRS map 21-03-02.2.1, for several decades. The saw mill operation dates back to the 1940's when it was operated as the Emery Harris Lumber Company. Refer to Attachment "E" Aerial Photograph (Oblique angle) circa 1940's. The saw mill is presently operated as the John W. Wilson & Son mill specializing in contract wood products.

   The industrial uses have legal access from Mosby Creek Road and include the following structures associated with the existing saw mill:

Mill	20' x 40'	800 sq. ft.
Shed	20' x 20'	400 sq. ft.
Trim shed	12' x 30	360 sq. ft.
Lumber building	40' x 60'	2,400 sq. ft.

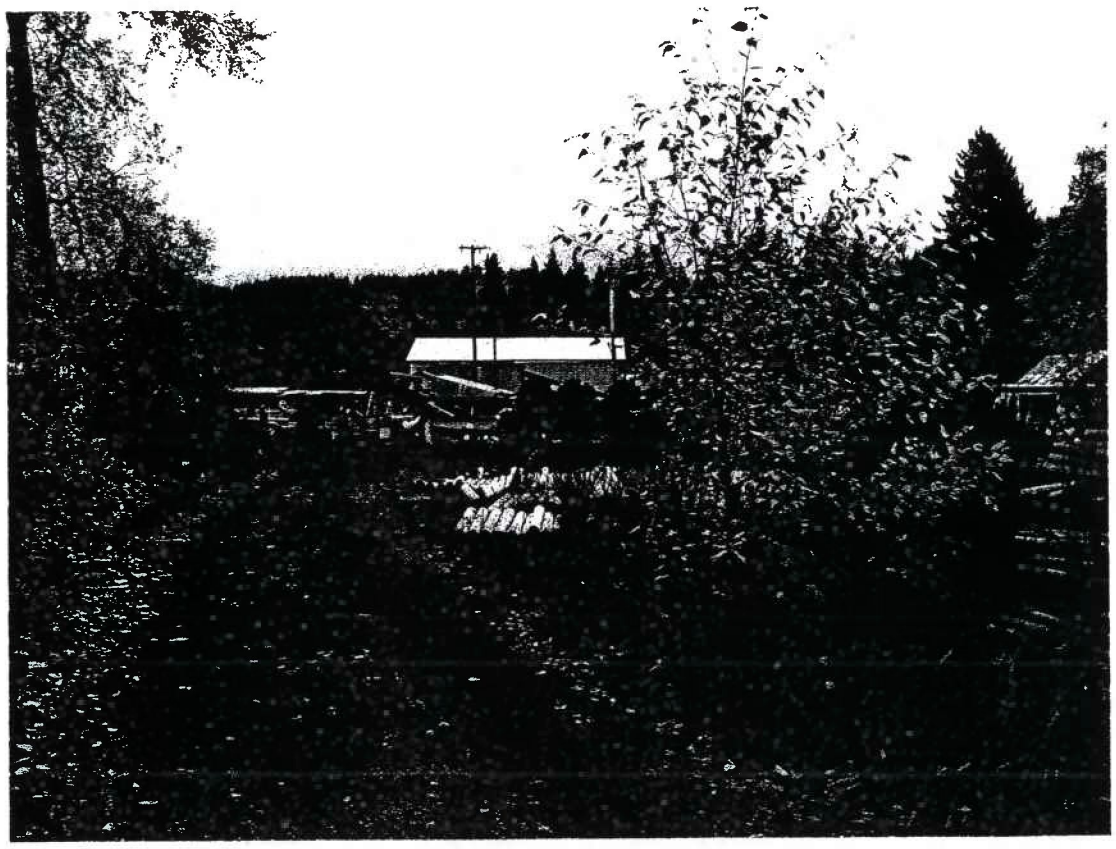
Shop	40' x 60'	2,400 sq. ft.
		6,360 sq. ft.

4. The property owners, John and Shirley Wilson, seek to redevelop the access point in the right-of-way of Mosby Creek Road (tax lot 9401), widen the access road to 40 feet, and acknowledge the past and continuing industrial use of tax lot 501 and the triangle-shaped portion of tax lot 200, in conjunction with the saw mill operation on majority of the acreage of tax lot 200 that is designated Rural Industrial (RI). The goal of this rezoning is to have all industrial uses on the contiguously owned land in one compatible and appropriate Rural Industrial (RI) zoning designation.

Photograph below: Existing access driveway, looking north towards Mosby Creek Road along the eastern boundary of tax lot 9300.



Access driveway – looking south towards saw mill operation. Bottom: tax lot 501 to the west.

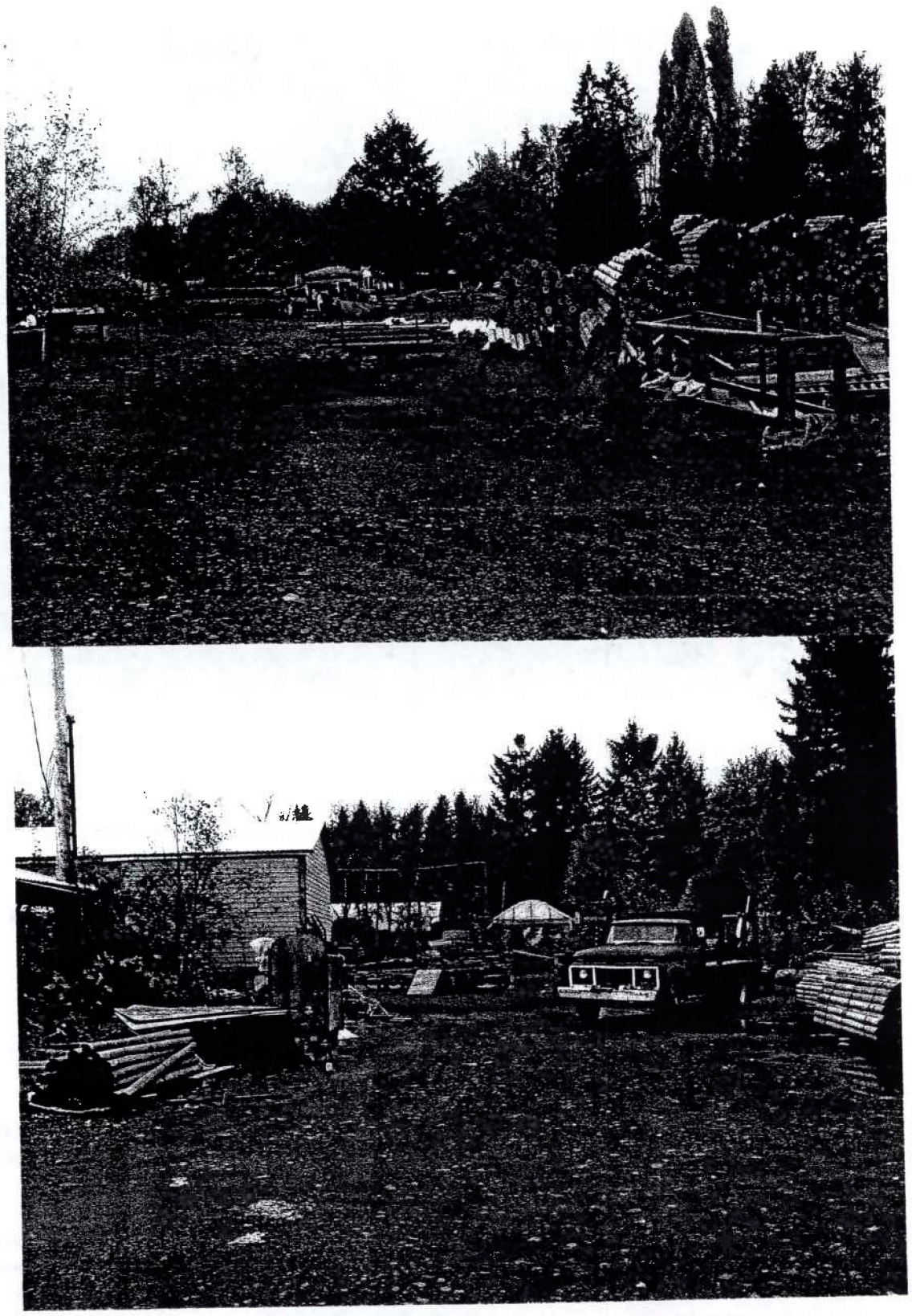




Existing saw mill on the majority of tax lot 200 that is currently zoned Rural Industrial (RI).







7

D&C 420-1, 421-1
Wilson Revocable Living Trust

- Looking north through the small triangle of tax lot 200 and along the eastern side of the existing driveway parallel to the common boundary between tax lots 9300 and 9400.



5. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the subject properties in connection with the industrial activities is inconsistent with the Rural Residential Zone (RR). The existing industrial uses are consistent with the Rural Industrial (RI) zone and Lane Code 16.292(3)(a) and (b):

   (a) The primary processing of forest or farm products or natural resources that require a location in proximity to the rural resource in order to operate. This activity may occur outside a building or in one or more buildings of any size . . .

   (b) Small-scale, low impact manufacturing, assembling, processing, packaging, storage, wholesale distribution, testing, or repairing that does not include radioactive materials or hazardous waste byproducts in the manufacturing process and that may occur outside a building or in one or more buildings containing not more than:

   (iii) 35,000 square feet of floor area in any one or combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

   The change of zone for the subject properties from Rural Residential (RR) to Rural Industrial (RI) would facilitate the applicant's desire to continue with the processing of specialty forest products and recognize the combined 0.753 of-an-acre of the subject properties as a long-standing component of the 5.02 acres currently designated as RI..



Aerial photograph of the subject properties at the north end of the Wilson mill site that is located in the center of the photograph.

5. The existing industrial uses on tax lot 200 and 501 use complies with the *Purpose* statement of *LC 16.292(1) Purpose:*

   The purposes of the Rural Industrial Zone (RI-RCP) are . . . to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries; . . ..

6. There is no record of any historical compatibility issues occurring between the existing industrial use on the subject properties and its neighbors since the saw mill was established circa 1940s. Nor is there any record of complaints from any surrounding property owners regarding compatibility issues or conflicts with the industrial activities or the current use of John W. Wilson and Son saw mill.

7. The operating saw mill on tax lot 200 lies within a section (20-03-35) identified as a "water quantity limited" area in Lane Manual 13.010. The mill site and the other uses on the contiguously owned properties are developed with wells that provide adequate domestic water for the existing uses.

8. The subject properties receive the following public services: South Lane School District #45J (schools); Emerald People's Utility District (electrical power); South Lane Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriff's

Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

9. Lands to the south and east are designated Rural Residential (RR5), part of D&C Exception Area No. 421-1, and developed with residences. The subject property to the north, tax lot 9300, located south of the Mosby Creek Road right-of-way are owned by the applicants and tax lot 9300 is developed with the applicant's residence. The applicants also own tax lots 9400 and 9401 to the east which are not part of this application. Lands north of Mosby Creek Road include the Oregon Pacific & Eastern railroad right-of-way are also zoned Rural Residential (RR5). RR5 lands lie to the west of the subject properties. Lands to the west of the five acres of tax lot 200 that are currently zoned RI, are designated Impacted Forest Land (F2).

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this application are intended to recognize existing industrial uses on the subject properties in conjunction with the operation of the existing saw mill that have been integrated into the surrounding rural area for over 60 years.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject properties are located approximately 5,000 feet southwest along Mosby Creek Road from the urban growth boundary of the City of Cottage Grove. The properties receive a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject properties which have existed on the subject properties and other contiguous lands for 60+ years.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

There are forest lands (F2) adjacent to the western boundary of the five acres of tax lot 200 that was designated as Rural Industrial (RI) in 1984. The F2 lands include a mixed stand of deciduous and conifer trees and wetlands along a creek. The industrial use on the applicant's and prior ownerships' saw mill are related to the timber industry and have co-existed with the forest lands to the west for six decades without committing them to nonresource uses.

There are no Exclusive Farm Use lands adjacent to the subject property and the nearest (E40) are located approximately 2,500 feet to the southeast.

No activities associated with the industrial uses have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses. Its past and current role can be viewed as being complimentarily and beneficial to the forest products resource base.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use of the subject properties has been compatible with the adjacent properties and nearby farm or forest uses without known conflicts since the 1940s.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject properties are located in "developed and committed" exception area numbers 420-1 and 421-1 of Lane County. They are proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural industrial (RI). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy #12.</u> Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject properties are relatively flat with no identified hazards due to slope or terrain features. Development was been orderly and preceded land use regulations. The resulting industrial uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zones: Lane Code 16.292 (RI).

(2) Protect and diversify the economy of the County.

Re-designation of the subject properties will acknowledge historical industrial uses, allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject properties subject to this rezoning request are collectively small, slightly less than one acre (0.753), and developed in its current state in the same manner as for the past 60 years. It is buffered by road corridors and nonresource-zoned properties from nearby forest and agricultural (E25) land. Continued use of the subject properties will not affect the conservation of those F2 or E40 lands within the region surrounding the properties.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The current industrial uses on the subject properties are served by the on-site wells and existing subsurface disposal systems. Therefore, the uses will not alter the volume or availability of local groundwater that is currently provided to the existing structures.

In the event that a more intensive or different use is proposed for of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.292(4)(i) *"The proposed use and development shall not exceed*

the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing industrial use on the subject properties has co-existed since the 1940s with the agricultural industry in the surrounding area. The nearest EFU (E25) resource lands are buffered by Rural Residential (RR5) and an intervening distance of 2,500 feet. Any expansion or intensification of the use would require compliance with Lane Code 16.292(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

RCP inventoried significant species have not been identified on the subject property. However, there are delineated wetlands identified on the Cottage Grove SE4 quad of the National Wetlands Inventory within tax lot 200 and south of the existing mill site. The 0.832 of-an-acre proposed for re-designation to RI is located approximately 500 feet north of the wetlands boundary. No known impacts have occurred from the existing uses on the wetland area. The continuation of the industrial use on the subject properties to the north will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential and industrial uses. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the log and finish products storage and access elements of the industrial development for the past 60 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject properties are not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2095F of 2975 (6-2-99). There are no other natural hazards identified on the property.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the industrial use in this area.

c. *Lane Code 16.292*

Lane Code 16.291(1) states that *The purposes of the Rural Industrial Zone (RI-RCP) are . . . to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries; . . ..*

The proposed rezoning and uses on the subject properties are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the water supply resource as well as the carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.292(4)(i).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for:

Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421); and
0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);

from Rural (R) to Industrial (I), and Rural Residential (RR5) to Rural Industrial (RI), respectively, have been met.

IV. RECOMMENDATIONS

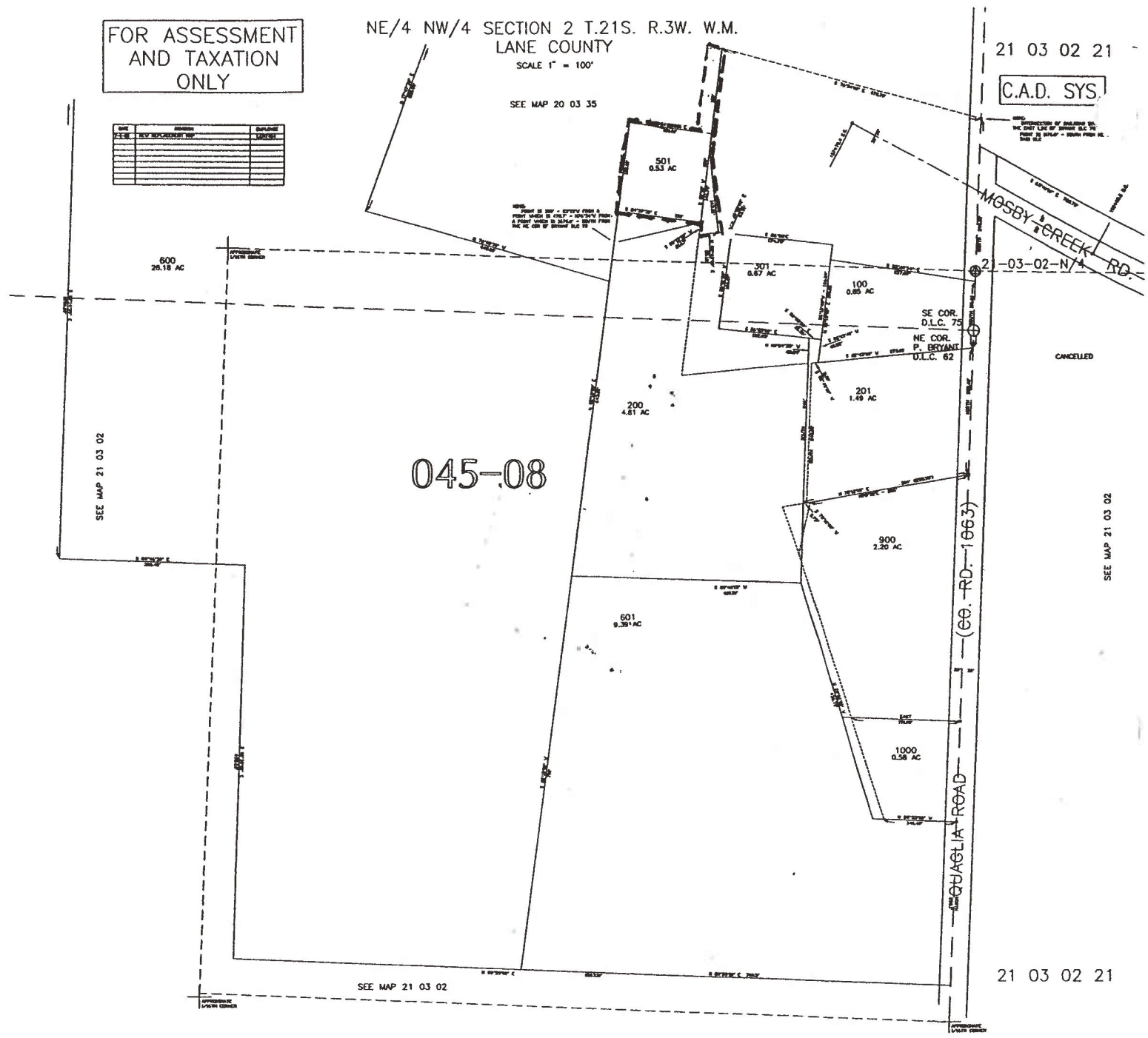
1. Approval of PRZC Control No. 12 of Ordinance No. PA 1226, amending the Official Plan Maps No. 420-1 and 421-1 for:
   Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
   0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
   0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);
   from Rural (R) to Industrial (I); and

2. Approval of PRZC Control No. 12 of Ordinance No. PA 1226, amending the Official Zoning Maps No. 420-1 and 421-1 designations for:
   Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
   0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
   0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);
   from Rural Residential (RR5) to Rural Industrial (RI).

V. EXHIBITS

A - 1. Plan Map No. 420 with proposed plan change depicted.
A - 2. Plan Map No. 421 with proposed plan change depicted.
B - 1. Zoning Map Plot No. 420 with proposed zone change depicted.
B - 2. Zoning Map Plot No. 421 with proposed zone change depicted.
C - 1. Lane County Assessor's Map TRS 21-03-02.2.1
C - 2. Lane County Assessor's Map TRS 20-03-35
D. Description of area for RI rezoning.
E. Aerial photograph (oblique angle) circa 1940's.
F Site diagram with structures.

C - 1. Lane County Assessor's Map TRS 21-03-02.2.1



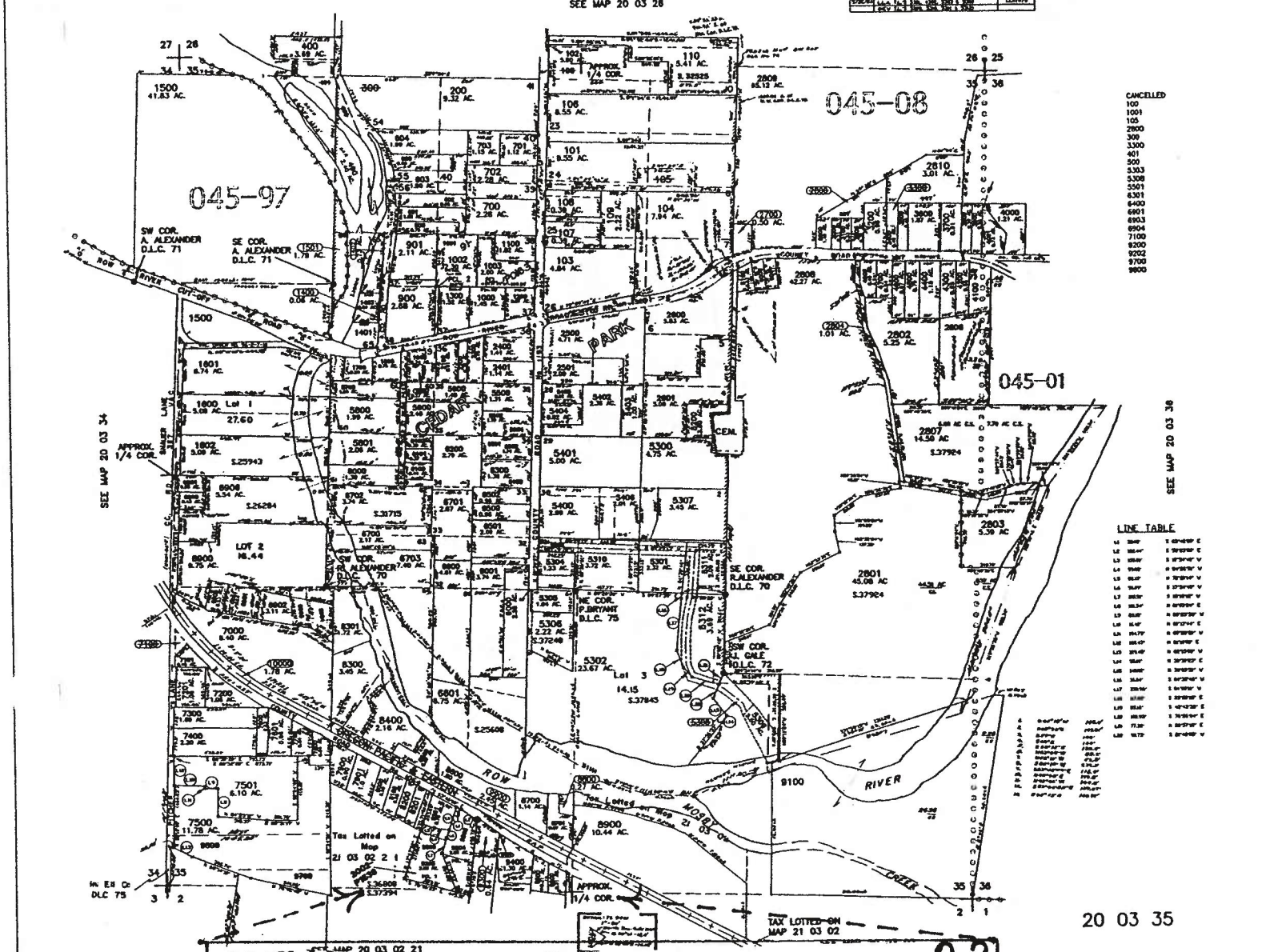
C - 2. Lane County Assessor's Map TRS 20-03-35

FOR ASSESSMENT AND TAXATION ONLY

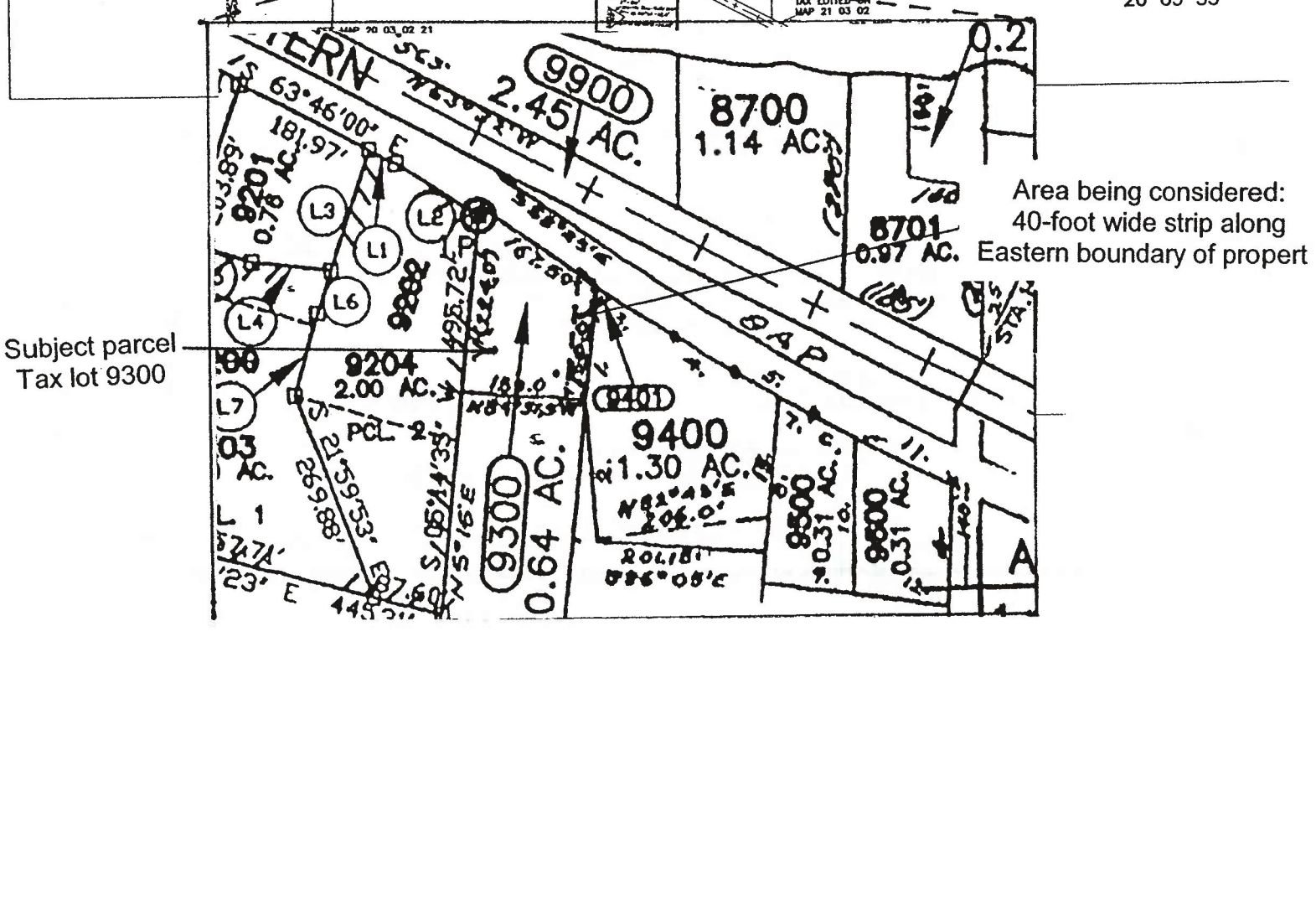
SEC. 35 T.20S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'

20 03 35

NAD 83/91



20 03 35



Subject parcel
Tax lot 9300

Area being considered:
40-foot wide strip along
Eastern boundary of propert

Exhibit D. Description of area for RI rezoning.

North
Scale: 1" = 100'

0 100' 200'

December 28, 2004

Description of areas for RI Zoning

1. Map 21-03-02-21: TLs 501 & 200
2. Map 20-03-35:

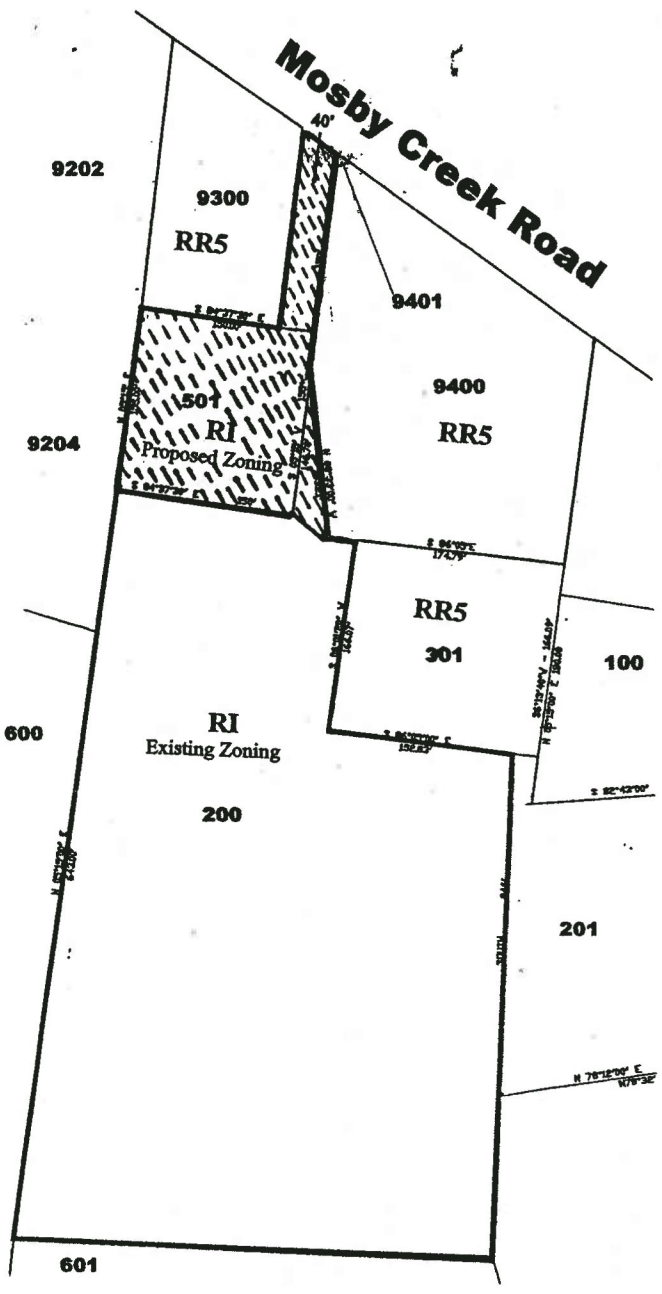
   - easterly 20' of TL 9300

The areas for the RI zone, described above, are shown within the red outlines on this map.

The RI zoned areas will encompass TLs 501 and 200 that have been continuously used for lumber milling from a time that predates the rural zoning.

The RI zoned areas of TL 9300, will be partiallyused as access for the lumber mill to Mosby Creek Road.

This application of the R1 zoning corresponds to the existing industrial use of the property & will allow the continuation of industrial uses of the property as permitted uses.



Plan Amendment & Zone Change Map for John & Shirley Wilson
Tax Lots 9300, of Map 20-03-35
Tax Lots 501 & 200 of Map 21-03-02.21

Prepared By James A. Mann LLC
P.O. Box 51081 Eugene, OR 97405 541-514-3051 *jamannllc@comcast.net*

Owners: John & Shirley Wilson
78084 Mosby Creek Road, Cottage Grove, OR 97424 541-942-4684



Aerial photograph (oblique angle) circa 1940's.

EMERY HARRIS LUMBER CO.
COTTAGE GROVE, OREGON

John W. Wilson & Son
78084 Mosby Rd
R. 2 Box 6[illegible]

F Site diagram with structures.•

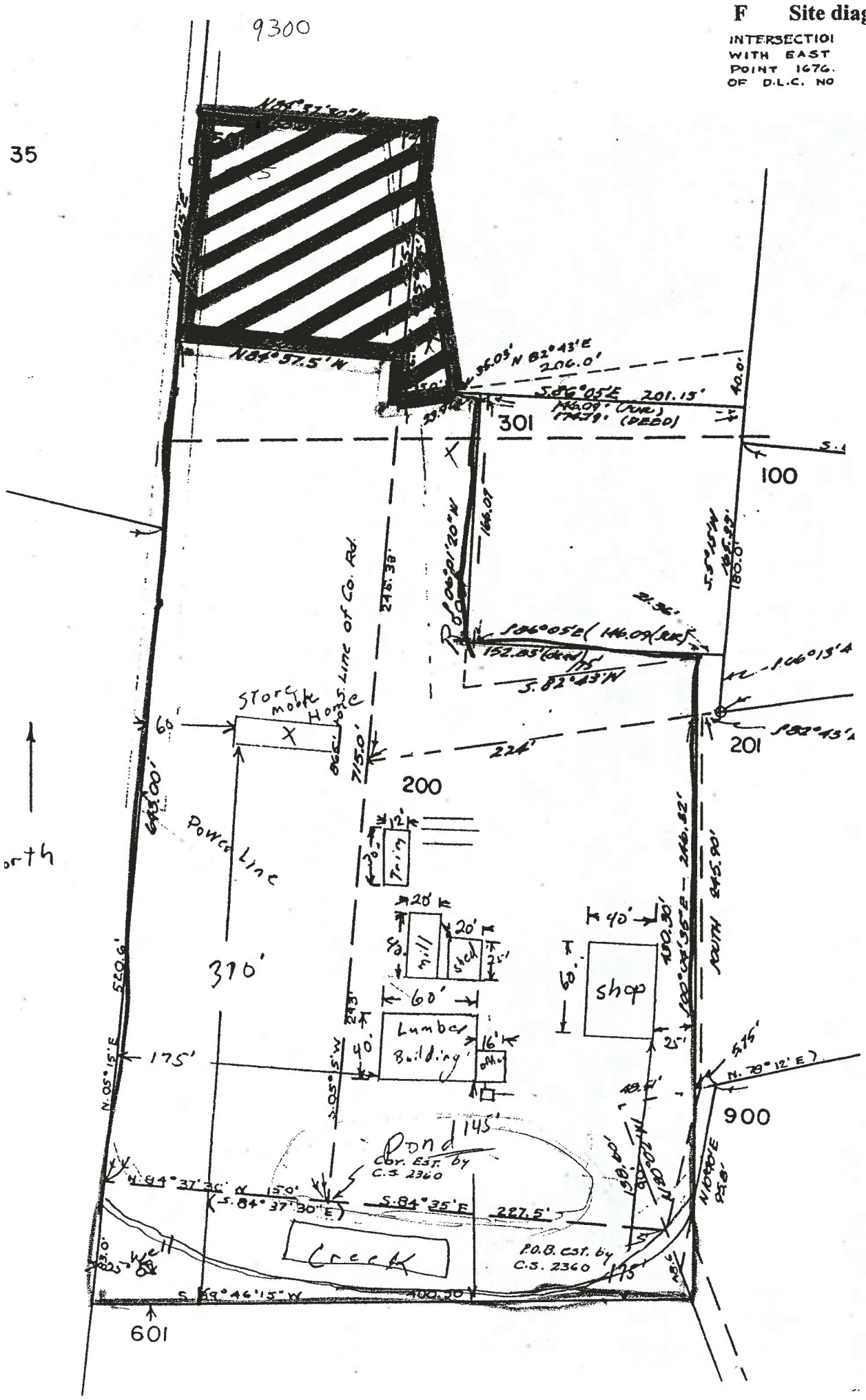


Exhibit No. _C-_13_

PRZC Control No. _13_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 429-2

Plan Amendment and Zone Change for Tax Lot 2901 of Assessor's Map 19-03-13

Tax lot	Acreage	From	To
2901	1.98	Exclusive Farm Use (E30)	Rural Public Facility (RPF)

Table of Contents 2

Statement of Criteria 3

I. Background 3

II. Findings of Fact 3
Tax lot 2901 of Assessor's Map 19-03-13 (1.98 acres)

A. General Findings Relating to the Subject Properties. 3
B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria. 6
C. Findings and Conclusions Related to Lane Code 16.252 Rezoning Criteria. 9
D. Exception Requirements Applicable to TRS 19-03-13, tax lot 2901: 10
   a. OAR 660-004-0018 Planning and Zoning for Exception Areas. 11
   b. OAR 660-004-0025 Exception Requirements for Land Physically Developed to Other Uses. 11
   c. OAR 660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses. 12
   d. OAR 660-004-0030 Notice and Adoption of an Exception. 16
   e. Lane Code 16.294 – Rural Public Facility (RPF) 16

III. Conclusions 17

IV. Recommendations 17

V. Exhibits 17

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-04-018, 020, 025, and 028 – *Exception Requirements*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.294 – *Rural Public Facility Zone (RPF)*
Lane Code 16.212 – *Exclusive Farm Use (E30)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

This amendment to the Official Plan Map and Zoning Maps Plot No. 429 would revise the Plan and Zoning designations of one property to provide for the continued use of the existing public service on the property. The amendment would take an exception to Goals Three and Four, amend the plan diagram from Agricultural to Public Facility and re-designate tax lot 2901 from Exclusive Farm Use (E30) to Rural Public Facility (RPF).

II. FINDINGS OF FACT

The property subject to plan amendment and zone change in this application is:

TRS 19-03-13, tax lot 2901, 1.98 acres.
Property Owner: City of Creswell
Proposed change in zoning designation from Exclusive Farm Use (E30) to Rural Public Facility (RPF).

The following findings of fact and conclusions act to support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change. These findings are divided into the following three sections:

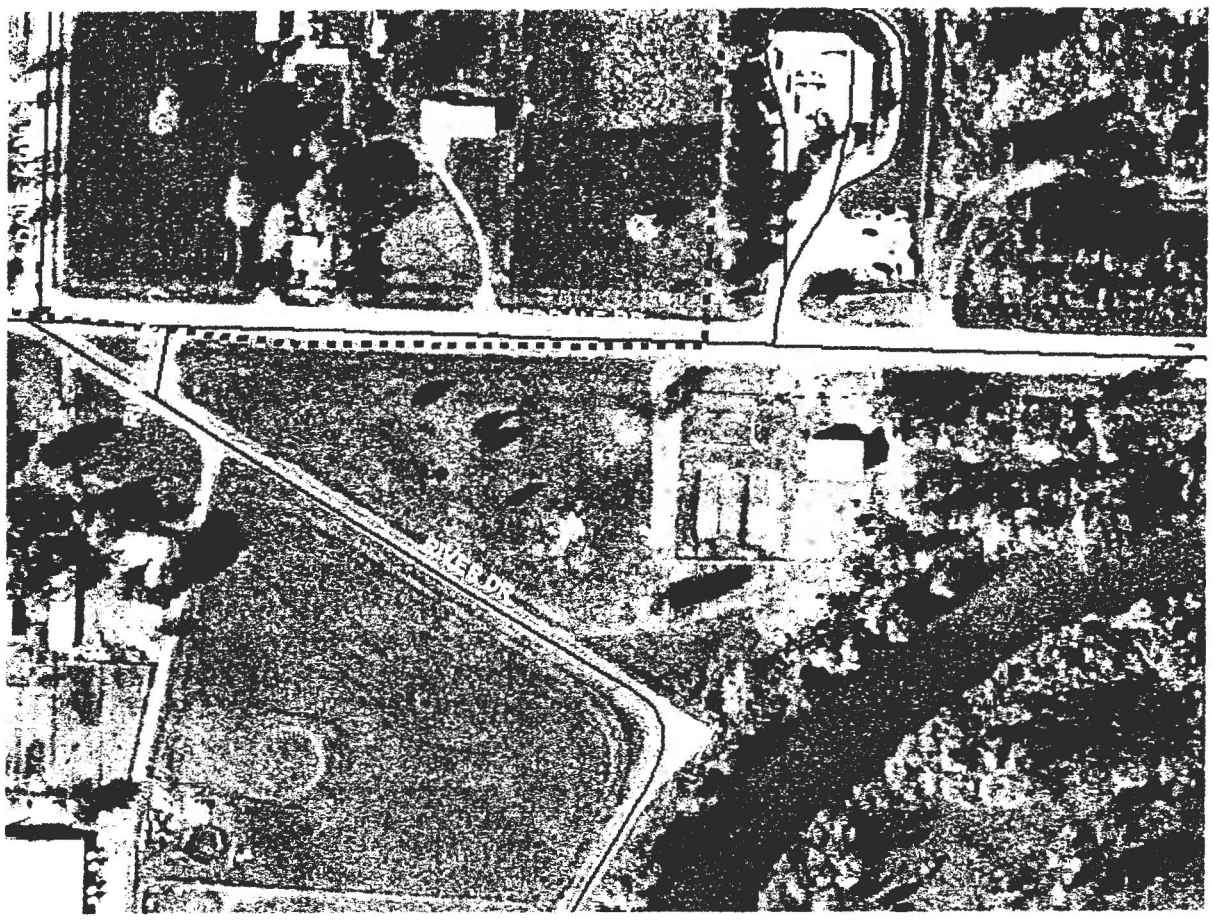
A. General Findings Relating to the Subject Property.
B. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.
C. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.

A. General Findings Relating to the Subject Property.

1. The property subject to this application, hereinafter referred to as the "subject property," can be identified as tax lot 2901, 1.98 acres in size, of Lane County Assessor's map TRS 19-03-13. The triangular shaped property is situated south of Cloverdale Road, east of the intersection of Cloverdale and Dale Kuni Road, and north River Drive and northwest of the Coast Fork of the Willamette River. The subject property's access point is from Cloverdale Road and has an assigned rural address of 34226 Cloverdale Road, Creswell, OR 97426.
2. The subject property is part of a contiguous, two-property tract that includes tax lot 2402 (2.98 acres) to the west. The subject tract is level to gradually sloping towards the Coast Fork along the south to southeast boundary.

3. The applicant is proposing a Minor Plan amendment to the Lane County Rural Comprehensive Plan (RCP) from Agricultural (A) to Public Facility (PF), with an exception to Statewide Goal 3 - Agricultural Lands and Goal 4 - Forest Lands, concurrent with a zone change from E30 Exclusive Farm Use to RPF Rural Public Facility.

4. This request is required to recognize an existing land use on the subject property since 1989 (16 years) and to remove the nonconforming use status created by the current E30 zone.



5. The subject property (right half of the triangle formed by Cloverdale Road, River Drive and the Coast Fork) is developed with a 40' x 60' water treatment building within a graveled parking area and approximately one-quarter of the area of two backwash holding (settling) ponds surrounded by a security fence. These improvements impact or occupy approximately 0.6 of-an-acre of the tract. The nonimpacted area, approximately 1.38 of-an-acre, of the subject property is located along the southeastern portion parallel to the river. This portion of the subject property is not suitable for development due to the riparian corridor habitat setback, Willamette Greenway area setback and the flood hazard areas parallel to the Coast Fork – Willamette River. The contiguous property to the west is developed with three-quarters of the surface area of the holding ponds and the subsurface sewage disposal system for the water treatment facility.

6. In 1989, the Lane County Hearings Official approved a Willamette Greenway development permit (PA 0953-89) to allow construction of the water treatment plant on the two contiguous properties. Construction was accomplished per building permit BP 3416-89 and the water plant has a capacity of about one million gallons per day.



7. The subject property is located within an area composed of a mixture of urban and rural uses. The urban growth boundary of the City of Creswell is located across Cloverdale Road to the northwest and the Lane County solid waste transfer site is directly north and northeast. While the subject property is zoned E30, the contiguous property, tax lot 2402, is zoned Rural Public Facility (RPF) and vacant of structures. To the west across River Road the properties are zoned Rural Residential (RR5). A thin strip of land to the east and north of the Coast Fork and lands to the southeast of the Coast Fork are zoned Exclusive Farm Use (E30).

8. The subject property receives all public services required by RCP Goal 11, Policy 6.h, including South Lane Rural fire protection, police protection by the Lane County Sheriff, individual sanitation service, water by its own production, and local utility services.

9. The Soil Survey of Lane County identifies 78% of the subject property's 1.98 acres as Fluvents (48), 14% as Newberg fine sand loam (95), and 8% as Camas gravelly sandy loam.(22). None of soils on the subject property has a forestry site index rating. Fourteen percent have an agricultural capability class of 2 and eight percent is in agricultural capability class of 4.

10. The Jasper 3 National Wetlands Inventory identifies two small wetland nodes on the contiguous tax lot 2402, and streamside delineated wetlands on the subject property.

11. The applicant is requesting a developed lands exception to Statewide Goals 3 and 4, as provided by OAR 660-04-025. An exception is warranted when land subject to an exception is physically developed to the extent it is no longer available for uses allowed by the goal. The applicant's

contiguous holdings include 1.98 acres (tax lot 2901) and 2.98 acres (tax lot 2402) for a total of 4.96 acres, surrounded by two road right-of-ways and a river channel, and impacted by physical improvements that make either a farm or forest use impracticable.

B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria.

Lane Code 16.400(6)(h)(iii)(aa)-(dd) provides for the Board to amend or supplement the RCP upon making the following findings:

Lane Code 16.400(6)(h)(iii)(aa)

(aa) For Major and Minor Amendments as defined in LC 16.400(8 (a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

1. The Board finds this plan amendment meets all legal processing requirements of the Lane Code and the acknowledged comprehensive plan, and incorporates by reference the supporting exhibits. This amendment recognizes the existing rural industrial use on the subject properties. Findings provided in this report address applicable County standards and Statewide planning goals.

2. The Board finds that the subject 1.98 acres has a significant comparative advantage over other potential sites because of its existing public facility use providing community water for the City of Creswell thus benefiting the city and county economy. Additional detail is provided in the following findings. Approval of the requested RCP amendment and zone change will recognize the existing rural public facility use of the subject property and remove its nonconforming use status.

3. The applicant seeks a physically developed exception to Statewide Goals 3 and 4, as provided by OAR 660-04-018(2). An exception is warranted when the requested plan designation and zoning designation limits permitted uses on the site to those which are rural in nature, are consistent with other applicable Statewide Goal requirements, and are compatible with nearby uses and do not commit them to nonresource use.

   The Board finds the existing water treatment plant on the subject property, is an allowable use under the proposed Rural Public Facility (RPF) zone per LC 16.294(3)(c):

   (c) Water facilities such as: water treatment plants, water storage, intake and outtake facilities, pipeline right –of-way, and other facilities related to water treatment and storage.

   The Board finds the existing public facility use is a rural use that is commonly located on rural land and they are sited in Lane County outside of urban growth boundary of Creswell. Water treatment plants are also located in urban areas, but this does not mean they are exclusively urban by this fact. Rural uses are developed at a low density and separated from adjacent uses, require few public facilities and services, and are intended to serve rural populations. This use is properly sited on rural lands due to the proximity to the water source on which it is dependent.

   The Board also finds the existing rural use of the subject property appears to be compatible with neighboring resource uses, as it has been in continuous operation since 1989 with no apparent conflicts. The sixteen-year history of the water treatment plant on the site has not committed nearby properties to nonresource use.

Imposition of site review standards as specified in LC 16.294(4) for new development on the subject property also acts to ensure its future uses will continue to have impacts that are rural in scale and nature, thereby ensuring future compatibility with adjacent or nearby resource uses, and ensuring that future uses will not commit adjacent or nearby resource properties to nonresource use. Site review standards in LC 16.294(4)(a)-(i) require applicable development on the site "to minimize any adverse effect on existing or contemplated abutting land use" and "compatible with the surrounding vicinity."

(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:
(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; or

1. The Board finds that this amendment meets criterion (ii-ii) above.

   The existing water treatment plant constructed in 1989 is the sole source for all water needs, residential, industry, and emergency, of the City of Creswell. Evidence in the record shows the proposed Rural Public Facility (RPF) designation more appropriately identifies the subject property.

   Based upon reasons discussed in this application, the Board finds that this amendment is necessary to fulfill an identified public or community need for the intended result of removing the nonconforming status of the facility and making the maintenance and expansion of the facility an allowable use in the RPF zone. It is the desire of the Board to permit the existing water treatment plant to continue operations in conformance with the appropriate public facility plan and zoning designations.

(cc) For Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.

1. The Board finds the proposed amendment conforms to the following applicable RCP Policies:

   Goal 2, Policy 11.e. states "*A Public Facility designation shall be applied to publicly owned grounds and facilities (i.e., schools, etc.).*

   Appropriate consideration of the above factor has been made, based on the information provided within the previous findings.

   Goal 2, Policy 16 states " . . . *New rural public facility, commercial, and industrial development within the Coast Fork of the Willamette Watershed and the Middle Fork of the Willamette Watershed shall be located inside unincorporated communities or outside unincorporated communities in developed and committed exception areas that were planned and zoned for public facility, commercial or industrial purposes on June 15, 2005. An exception to this policy shall be for plan amendments ors zone changes adopted pursuant to Policy 27 Conformity Determinations, and legislative actions adopted by the Board of County Commissioners during a Periodic Review Work Program (PRWP) or concurrently as post-acknowledgement plan amendments resulting from the PRWP Work Tasks . . .*".

This plan amendment and zone change is the result of the data and inventory compiled during Work Task 5 of the Lane County Periodic Review Work Program and is a concurrent post-acknowledgement plan amendment resulting from the PRWP Work Task.

Goal 11, Policy 1 requires that *Lane County shall provide an orderly and efficient arrangement for the provision of public facilities, services and utilities. Designation of land into any given use category either initially or by subsequent plan amendment, shall be consistent with the minimum level of services established for that category.*

This request is needed for the continuation of the existing rural public facility use of the subject property by removing its nonconforming status. This amendment is in support of the City of Creswell's public role of providing an adequate and safe source of water to its citizens. The water treatment plant is located in an area built upon and committed to a nonresource use where all of the necessary services are being provided. As shown in previous findings, all of the developable land in the sensitive location of the subject property in relation to the Coast Fork of the Willamette River is built-up and committed to this nonresource use, and is and will continue to be provided with necessary services which are appropriate for rural areas and rural uses.

Goal 9, Policy 6 specifies that: *The County shall work closely with incorporated city governments to improve local economic conditions, including land and service provision.*

The County action in this matter will amend a land use designation to acknowledge an existing vital public service of the City of Creswell to the citizens of Creswell and the surrounding area.

(dd) For Minor Amendments as defined in Lane Code 16.400(8) (a), the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The Board finds this Plan amendment is consistent with the RCP intent to choose between competing uses. As stated in the record, the subject property is developed with and irrevocably committed to a rural public facility use for the past sixteen years and is publicly owned and operated. This rural public facility use requires a RPF zone designation on the subject property, tax lot 2901, in conjunction with the RPF designation and development of the same use on the contiguously-owned property, tax lot 2402, to the west. This RCP amendment is consistent with unamended portions or elements of the Plan.

Lane Code 16.400(8)

(a): Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:

(i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.

The Board finds that the proposed plan amendment is limited to a change of the RCP diagram from Agricultural Land (A) to Public Facility Land (PF). Seventy-eight percent of the soils on the subject acreage are identified as "fluvents" and classified by the SCS as having neither farm or forest capability. For this reason, a physically developed lands exception to Statewide Planning Goals 3 and 4 is required. This application qualifies as a Minor Amendment.

C. Findings and Conclusions Relating to Lane Code 16.252 Rezoning Criteria.

Lane Code 16.252

(1) Purpose. As the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be required. Such amendments shall be made in accordance with the procedures of this section.

(2) Criteria. Zonings, rezonings, and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning' Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.

1. The Board finds the proposed RPF zoning designation implements the proposed Public Facility Land plan designation. The Board further finds the proposed RPF zone is consistent with the general purpose of Chapter 16, specifically LC 16.003(1), (2), and (8).

   LC 16.003(1) states development should conform to site characteristics and be in the public interest. This RCP amendment and rezoning request recognizes existing development and existing site characteristics completed for these uses. The subject property has adequate buffering for its existing uses and available public services to serve the public interest, while recognizing the existing rural public facility on the site.

   LC 16.003(2) Protect and diversify the economy of the County supports economic development activities. Approval of this request will facilitate the continued operation of the water treatment plant on the property that provides an adequate and safe source of water to the City of Creswell and diversifies the economy of the County.

   LC 16.003(8) supports the effort to *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.* Approval of this request will remove the nonconforming RCP designation and zoning on the subject property, and provide for the future development of the facility as the needs of the City of Creswell dictate. Use of the standards included in LC 16.294(4) for all new development on the subject property acts to ensure its future use will continue to have impacts that are rural in scale and minimal for neighboring properties.

2. The Board finds the proposed RPF zoning appropriately implements applicable RCP policies which have been addressed in previous findings. *The purposes of the Rural Public Facility Zone (RPF, RCP)* includes *(a) to implement the policies of the Lane County Rural Comprehensive Plan (RCP); (b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associate with other zones; and (c) to provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP.*

3. The Board finds the proposed RPF zone accurately reflects the existing rural public facility use of one-quarter of the 1.98 acres of the subject property and is the most appropriate zone for the site. The Board further finds the compatibility of the rural public facility use on the site with surrounding resource lands will be maintained by buffers created by existing Cloverdale Road and River Drive right-of-ways and the natural features including dense vegetation of the Coast

Fork of the Willamette River corridor; and by applicable site review procedures as specified in LC 16.294(4).

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. The property subject to the proposed zone change is currently designated as resource land and requires an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for it to be rezoned to a nonresource designation.

The following findings of facts support the general findings of fact in **II. Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The *Purpose* statement in 660-004-018(1) " . . .*explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.*

(a) Uses which are the same as the existing types of land use on the exception site; or"

The exception and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject property, tax lot 2901 (1.98 acres) of Assessor's map TRS 19-03-13. In addition, the actions are an acknowledgment that the currently existing water treatment plant on the subject property is similar to other community water systems in other D&C Exception Areas and that are commonly located elsewhere in other rural settings within the Coast Fork of the Willamette River Watershed of Lane County.

Tax lot 2901 was designated as Exclusive Farm Use Land (E30), a resource zone, as part of the adoption of the Rural Comprehensive Plan in August 1984. Tax lot 2901 and contiguous tax lot 2402 to the west were developed with the existing water treatment plant in 1989 as authorized per land use decisions by the Lane County Hearings Official, Planning Director, Building Official and Sanitarian. This proposed zone change would bring the existing public facility use into conformance with the use allowed in the Rural Public Facility Zone as provided for in LC 16.294(3)(c).

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located east and south of D&C Exception Area No. 429-2. The property receives a rural level of police and fire protection and relies on water and sewerage facilities on

the property that is essential to the protection of resource and nonresource uses and development in a rural setting. The proposed rezoning designation will more closely fit the actual current use on the property.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject properties are a small triangular-shaped tract blended into the landscape defined by transportation corridors to the north and west and south and the Coast Fork of the Willamette River to the southeast, and agricultural resource management along a thin strip of land to the east parallel to the river.

Lands across Cloverdale Road to the north are zoned Rural Public Facility (RPF), owned by Lane County and developed with the Lane County Solid Waste Transfer Site.

The subject use was established in 1989. Any conceivable impacts from the development on the subject property to the surrounding resource lands has been present since that time. The subject property has operated without conflict with the nearby resource uses for sixteen years and no new impacts are foreseeable.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing uses and structures have been on location since 1989. Any additional development on the subject property would require compliance with setbacks and site review standards of LC 16.294(4) and compliance with subsurface disposal systems design under DEQ standards. Obviously, adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

Public services such as fire protection have been available to the subject property since the initial construction in 1989.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

The analysis required is actually two-fold: (1) what land is physically developed, and (2) what capability the remaining land has for management as agricultural or forest land.

Approximately one-quarter (0.6 of-an-acre) of the subject property is developed with the 40-foot x 60-foot treatment plant, graveled parking and maintenance area, settling ponds and intake-outtake pipe lines as depicted in the site and aerial photographs in this report and the attached site development plan. Refer to Attachment "D".

The remaining three-quarters (1.38 acres) of the subject property are predominantly (78%) fluvents without either a forest or agricultural capability.

The subject property is irrevocably committed to and physically developed with the water treatment plant, pipeline routes to and from the river and along Cloverdale Road, and the remaining acreage is being conserved as riparian corridor and for the protection of the Coast Fork tributary.

c. OAR 660-004-0028 -- Exception Requirements for Land Irrevocably Committed to Other Uses.

The subject property being considered for a "committed and developed" exception is identified as the 1.98-acre, tax lot 2901 of TRS 19-03-13.

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

D&C Area 429-2 lies between the subject property to the east and the urban growth boundary of the City of Creswell to the west. 429-2 includes six parcels, five of which are zoned Rural Residential (RR5) and one, tax lot 2402, that is contiguously owned and developed with the subject property, zoned Rural Public Facility (RPF). The D&C area is 42.25 acres in size with an average parcel size of 7.04 acres. There are seven residences in the RR portion of the D&C area. The RR lands separate the current RPF property and the subject property from the E30 agricultural lands to the southwest. Lands to the northwest across Cloverdale Road are within the UGB of Creswell and the Lane County solid waster transfer site is located north of the subject property.

Services are provided to Exception Area No. 429-2 by:

Electricity:	Emerald Peoples Utility District
Fire:	South Lane Fire and Rescue District
Ambulance:	South Lane Fire and Rescue District
School:	Creswell School District No. 40
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police

(b) The characteristics of the adjacent lands;

A small, narrow strip of land, 3.08 acres in size, identified as tax lot 2800 of Map 19-03-13 abuts the subject property on the eastern boundary. Tax lot 2800 is owned by the City of Creswell and zoned Exclusive Farm Use (E30). Cloverdale Road abuts the northern boundary and the Coast Fork abuts the southern and eastern boundaries. The property is 68% fluvents, 29% water, and vacant.

E30 lands exist across the Coast Fork of the Willamette to the south. E30 lands are also located south of D&C Area 429-2 and approximately 500 feet southwest of the subject property.

(c) The relationship between the exception area and the lands adjacent to it; and

Exception Area No. 429-2 is bordered by the UGB of Creswell on the west and north. The parcelization pattern in the rural areas outside the D&C areas consists of small farm parcels ranging from ten to 20 acres with the majority developed with residences.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Residential development within the UGB of Creswell to the west of D&C 429-2 is developed at urban subdivision densities. UGB parcels north of Cloverdale Road are five to six acres on the average and residentially developed. The County solid waste transfer site is composed of two tax lots 2600 and 2700 that are 27.87 and 26.02 acres in size respectively.

(b) Existing public facilities and services (water and sewer lines, etc.);

The residences D&C No. 429-2 are served by on-site wells and subsurface sewage disposal systems. Electrical power is provided by Emerald Peoples Utility District. Fire protection is provided by South Lane Fire and Ambulance District. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Creswell by the School District #40 facilities.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that

every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The total acreage of the subject parcel 1.98 acres. The contiguous properties to the west and east are 2.89 acres and 3.07 acres.

Even though the subject property is developed with the water treatment plant, there are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the individual property or as a tract under Goal 3. The majority of the soils are nonproductive with fluvents found on 68% to 78% of the land. The development of an agricultural use on the subject tract with other EFU properties in the region is impracticable due to the intervening transportation corridors and river. Development of the impacted and isolated site is impracticable due to these encumbrances.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

The riparian corridor consists of deciduous and some conifer species providing critical habitat in compliance with riparian and greenway protection standards. The soils identified on the subject property do not have a Douglas fire site index capability. An in-stream collection gallery and intake-outtake pipes passing through the riparian corridors to and from the river further eliminate the options to manage the land for forest fiber products.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

"660-06-025(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction ad maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;"

Commercial forest practices on the 1.98 acres, for the reasons stated above in *(b),* are not practicable.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Refer to Findings of Fact above in response to OAR 660-004-0028(2)(b), above.

(b) Existing public facilities and services (water and sewer lines, etc.);

The subject property is served by the product of the water treatment plant and a subsurface sewage disposal system onsite.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

Based on the findings of fact presented in this application, the Board finds the subject acreage has been irrevocably committed to water treatment since 1989 (16 years).

Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

County roads and the Willamette River isolate the subject property from management with other resource lands under separate ownership in the area. Small woodlot management, grazing or grass seed operations are not an option within the 1.38 acres outside the fenced development site.

(d) Neighborhood and regional characteristics;

Exception Areas in the vicinity are residential clusters along the transportation corridors between the City of Creswell and Cottage Grove to the south, the rural communities of Goshen and Pleasant Hill to the north and east. The subject property is located within the north-south, east-west, development pattern along the eastern edge of the valley floor and western toe of the forested foothills.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Cloverdale Road, River Drive, and the Willamette River separate the triangular-shaped tract from the EFU lands to the southwest and to the east and impede consolidation of the subject property with nearby resource lands.

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Refer to above Findings of Fact and the inserted aerial photograph and site photograph above.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Refer to Exhibit "D" – Site Plan and the photographs in this report.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule, and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

d. 660-004-0030 – Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the city or county governing body adopts the comprehensive plans or plan amendment. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

The proposed "developed" exception and the proposed amendment to the zoning designation are a portion of the Lane County adopted and acknowledged Periodic Review Work Program Work Task 5 for the Coast Fork of the Willamette Watershed.

e. Lane Code 16.294 – Rural Public Facility (RPF)

Lane Code 16.294(3)(c) specifically notes that water treatment plants are an allowed use in the Rural Public Facility zone.

While the potential impacts of the water treatment plant appear to be the consistent with the livability and appropriate development of the surrounding area, future uses to which the property could be put is unknown at this point. This application does not include a compatibility analysis of all conditional uses in the Rural Public Facility Zone (RPF). To provide a level of comfort for the surrounding resource properties, the special use permit process of LC 16.294(3) and the site review criteria of Lane Code 16.294(4) will be used to achieve this end.

The "public interest" must be considered, as such, but for the purposes of this decision it will be assumed that any of the proposed uses allowed in LC 16.294 will not have an adverse impact on surrounding uses and it will not be contrary to the public interest.

III. CONCLUSIONS

The Board finds that the subject 1.98 acres qualify for a Rural Comprehensive Plan (RCP) designation as Public Facility Land with a (RPF) Rural Public Facility zoning designation.

The Board finds the facts presented accurately conclude the subject acreage is not forest or farm land as defined by Statewide Planning Goals 3 and 4, and that the proposed redesignation is consistent with RCP policies and the approval standards addressed in these findings.

The Board finds the subject 1.98 acres is developed with rural public facility uses and will not adversely affect surrounding lands, either with its existing water treatment facility, or with future uses through imposition of applicable site review provisions in LC 16.294(4).

The Board concludes that based upon the findings provided, the Plan amendment and zone change conform with all applicable standards to allow redesignation from Forest Land to Public Facility Land and rezoning from E30 Exclusive Farm Use to RPF Rural Public Facility.

IV. RECOMMENDATIONS

1. That the City of Creswell application PRZC Control No. 13 of Ordinance No. 1226 for the plan amendment of tax lot 2901 (1.98 acres) of Assessors Map 19-03-13 from Agricultural Land (A) Public Facility (PF), be approved.

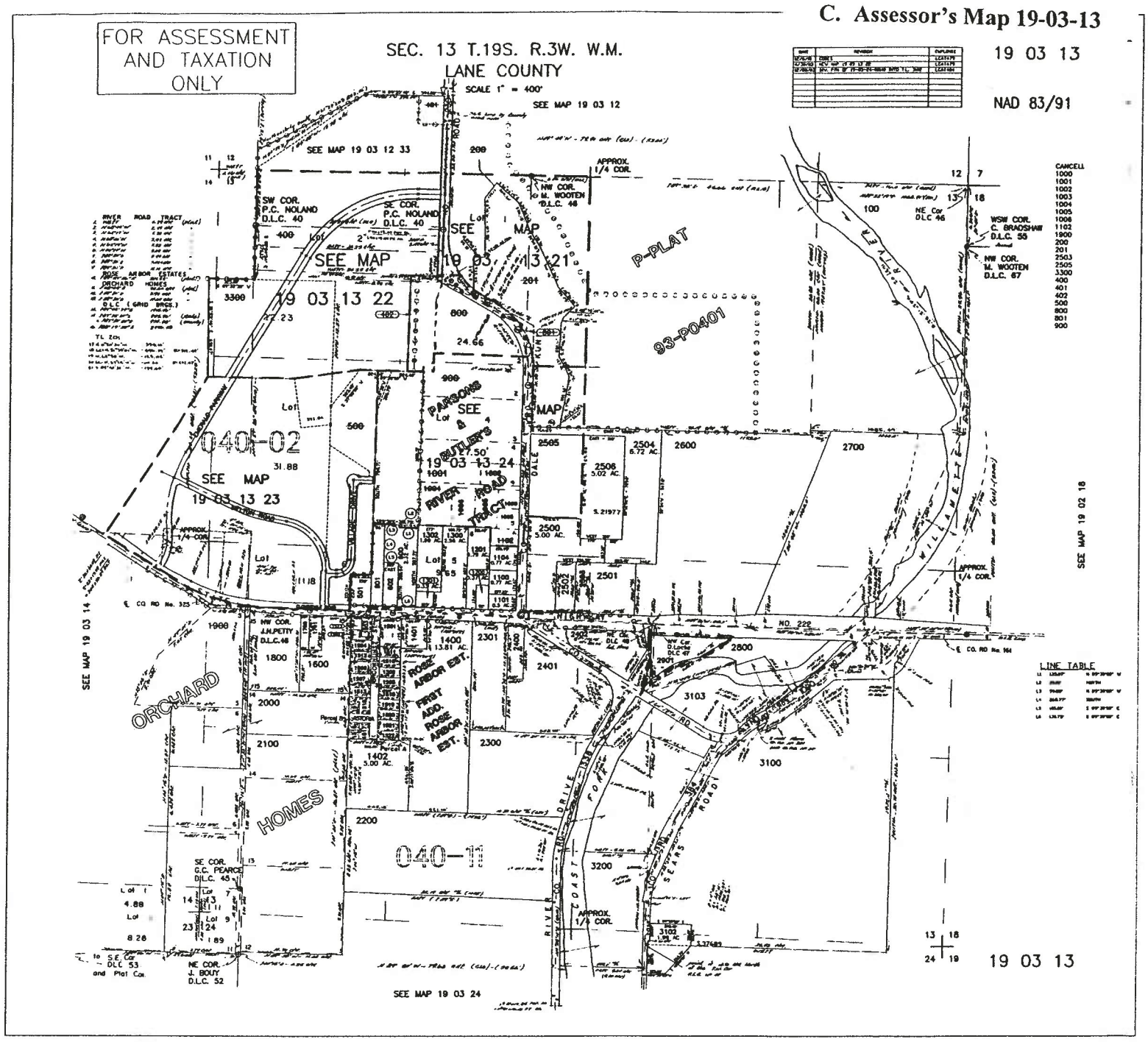
2. That the City of Creswell application PRZC Control No. 13 of Ordinance No. 1226 for the rezoning of tax lot 2901 (1.98 acres) of Assessors Map 19-03-13 from Exclusive Farm Use (E30) to Rural Pubic Facility (RPF), be approved.

3. That an exception to Statewide Goal three and Goal Four be approved for tax lot 2901 (1.98 acres) of Assessors Map 19-03-13.

V. EXHIBITS

A. Plan Map, Plot No. 429
B. Zoning Map, Plot No. 429
C. Assessor's Map 19-03-13
D. Site Plan (1989).

C. Assessor's Map 19-03-13



D. Site Plan (1989).

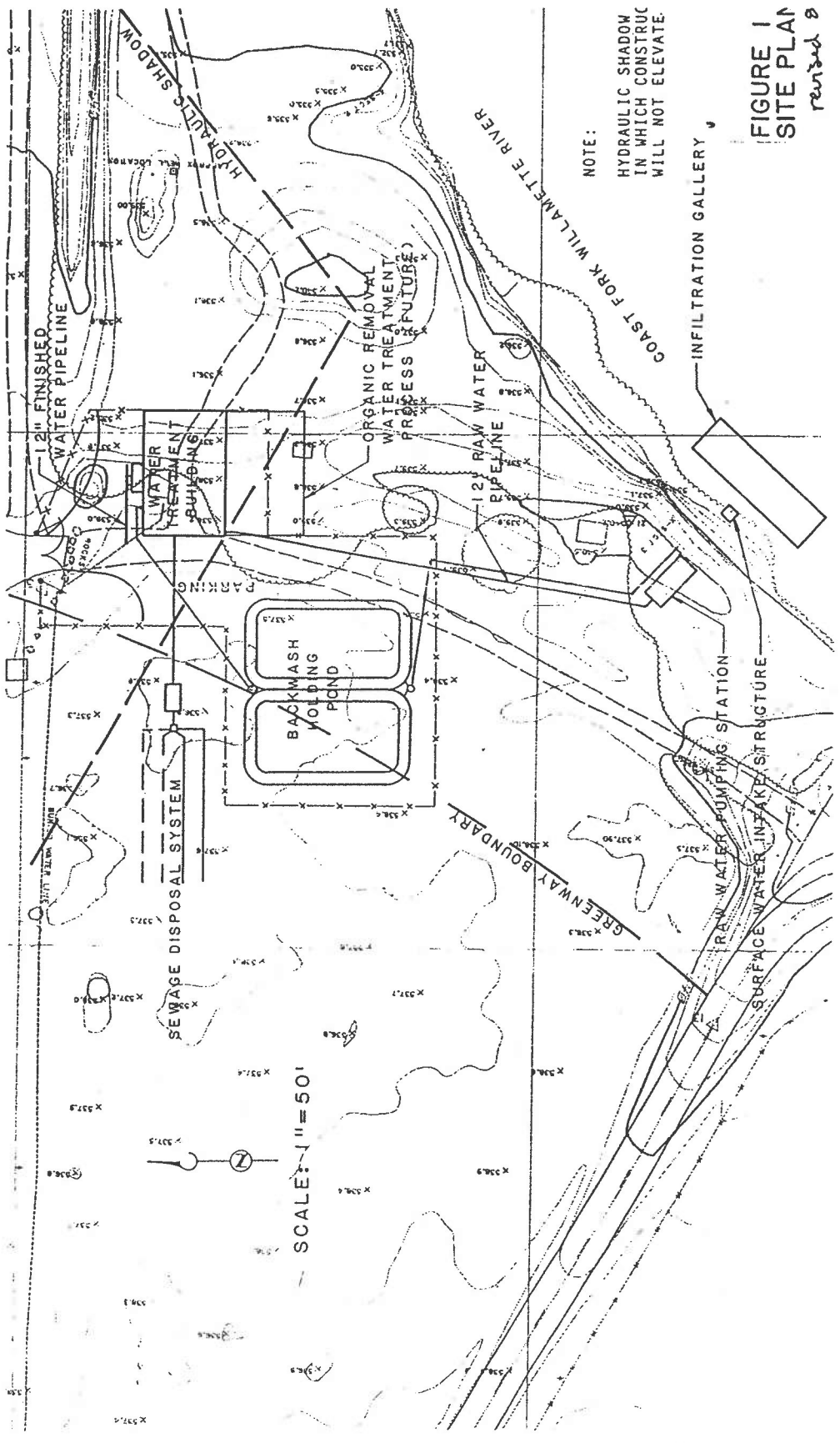


Exhibit No. _C-14 _

PAPA Control No. _14_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 443 -1

Plan Amendments and Zone Changes for:
Tax lot 107 of Assessor's Map TRS 21-02-19

TRS - Tax lot	Acres	From/Action	To
21-02-19, 107	0.45	Rural Residential (RR5)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.294 – *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

TRS 21-02-19, tax lot 107 – 0.45 of-an-acre
Properties Owner: Lane Electric Cooperative
Proposed change in zoning designation from Rural Residential (RR5) to Rural Public Facility (RPF).

The proposed plan amendment and zone change is for one property in the ownership of Lane Electric Cooperative that was designated as Rural Residential (RR5) in 1984. The appropriate designation for the 0.45 of-an-acre facility that includes the Mosby Creek Substation is Rural Public Facility (RPF).

II. FINDINGS OF FACT

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located north of the right-of-ways of the intersection of Mosby Creek Road and Perkins Creek Road. It is within the Developed & Committed Exception Area No. 443-1. It can be identified as tax lot 107 of Assessor's map 21-02-19 and is 0.45 of-an-acre in size.

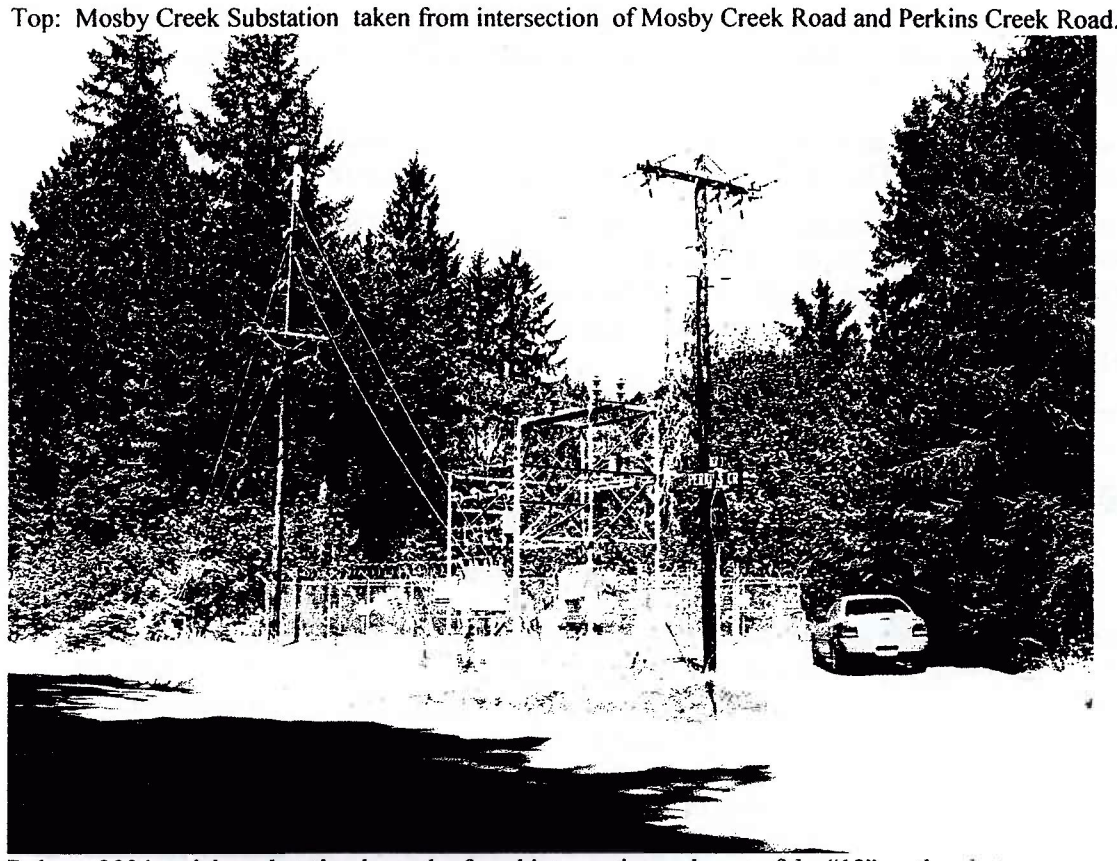
2. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and was developed with the substation at the time.

3. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the utility's public service and facilities is inconsistent with the Rural Residential Zone (RR5).

4. The existing public facility use of the subject property is an allowable use in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution..*

   The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

Top: Mosby Creek Substation taken from intersection of Mosby Creek Road and Perkins Creek Road.



Below: 2004 aerial – substation is north of road intersection and west of the "19" on the photo.



6. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
7. The subject property does lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility does not require a potable source of water.
8. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Blue Mountain 2.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize the "public facility" use of Lane Electric Cooperative substation which was established on the subject property in mid-1970s and amend the zoning designation to conform to the use.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 443-1, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject property is enveloped by Rural Residential (RR5) lands to the north and east. The right-of-ways of Mosby Creek Road to the west and Perkins Creek Road to the south separate the facility from Forest Land in those two directions. The closest EFU lands are located approximately 400 feet to the north and separated from the subject property by Rural Residential lands. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 and F2 lands to the west and south or the EFU lands to the north.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 443-1 includes six Rural Residential properties along the northern right-of-way of Perkins Creek Road and five are developed with residences. Two additional residences exist south of the right-of-way on two forest land (F2) properties.

The Lane Electric Cooperative facility has been providing a service in southeastern Lane County for decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 443-1 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy #12.</u> Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not

been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The development of the public facility use has not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current use or new use will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.294 (RPF).

(2) Protect and diversify the economy of the County.

The Cosby Creek Substation transports and provides access to electrical power in the rural areas and economy of Southern Lane County. Re-designation of the subject properties will allow diversification of the current use in compliance with the required permit processes, criteria and standards.

(8) Provide for the ultimate development and arrangement of efficient public services and facilities within the County.

The facility is well located for distribution of services to their customers.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 107 will acknowledge the existing public facility on the subject property. The current use of the facility does not require onsite potable water and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural

level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing public service on the subject property has co-existed since the mid-1970s with the agricultural and forest product industries in the surrounding area. Electrical utility facilities commonly occur adjacent to resource lands and in some instances are essential to the distribution of power to rural uses including resource operations. Any expansion or intensification of the Lane Electric facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Blue Mountain 2 quad of the National Wetlands Inventory. Past development on the subject property in the 1970s-1980s has significantly altered the natural flora communities and habitat on the one-half acre. The gravel surface and equipment within the fenced facility are partly a matter of function and partially for security and safety reasons. As a result of past alterations, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is less than one-half acre in size and abuts two public roads. Surrounding lands are residentially developed. Nearby forest and agricultural lands are

buffered from the facility by road right-of-ways or nonresource parcels. None of the six RR5 properties north of Perkins Road have been managed for the production of crops, livestock or timber products for the past twenty years. The two forest land parcels west and south across the roadways are developed with residences and are under passive forest management.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with five residential and one public facility uses. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The substation facility on the subject property is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2400F of 2975 (6-2-99).

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use strongly suggests that there is a need for the public facility in this area.

Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. *Lane Code 16.294*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and use on tax lot 107 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited, however, the facility does not require a domestic water source.

The subject property is small in size (0.45 acre) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-02-19, tax lot 107 (0.45 of-an-acre) from Rural Residential (RR5) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 14 of Ordinance No. PA 1226, amending the Official Plan Map No. 443 designation for tax lot 107 of Assessors Map TRS 21-02-19, from Rural (R) to Public Facility (PF); and

2. Approval of PRZC Control No. 14 of Ordinance No. PA 1226, amending the Official Zoning Map No. 443 designation for tax lot 107 of Assessors Map TRS 21-02-19, from Rural Residential (RR5) to Rural Public Facility (RPF).

VII. EXHIBITS

A. Plan Maps No. 443 with proposed plan change depicted.
B. Zoning Map Plot No. 443 with proposed zone change depicted.
C. Lane County Assessor's Maps TRS 21-02-19.

C. Lane County Assessor's Maps TRS 21-02-19.

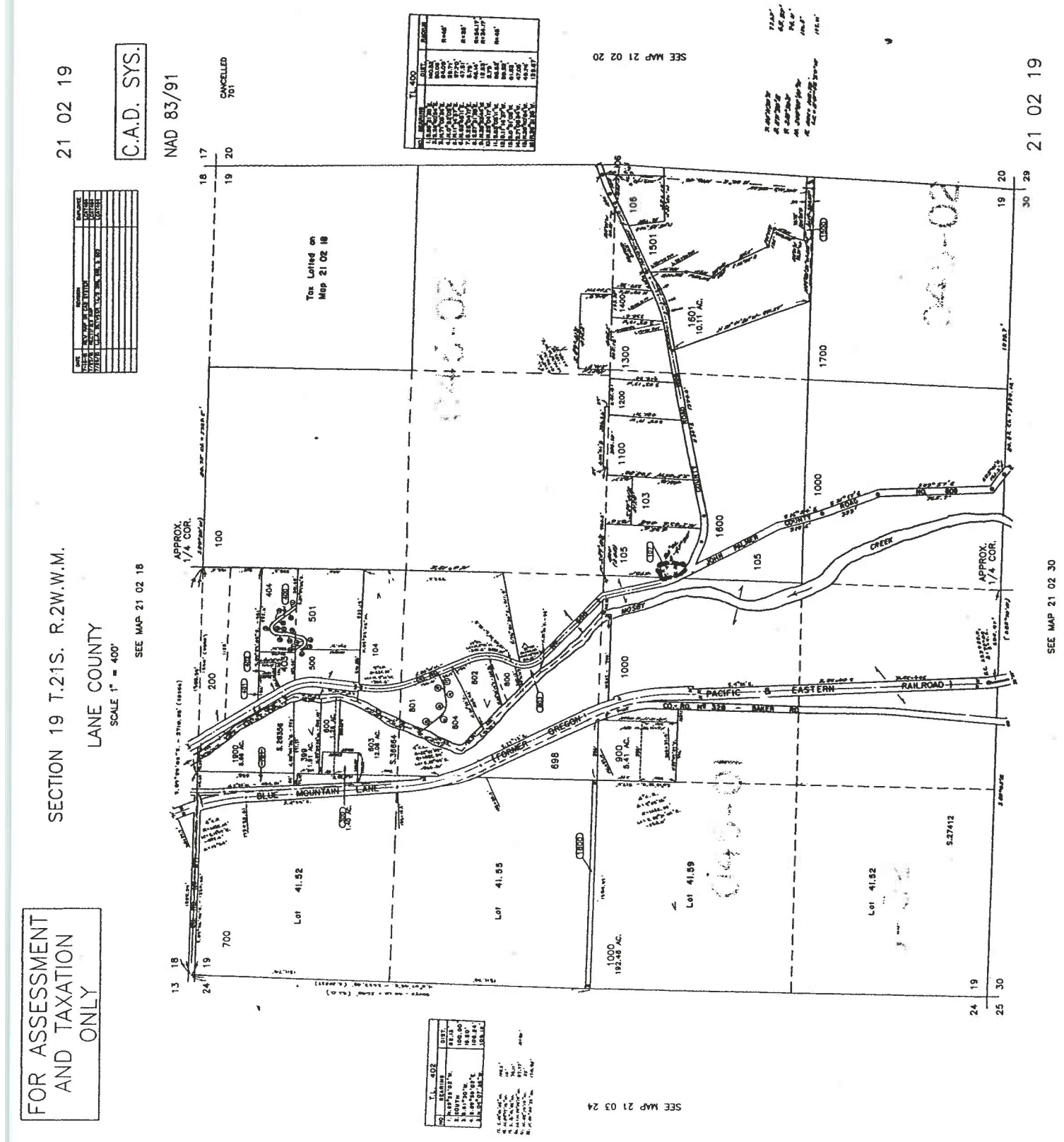


Exhibit No. _C-15_

PRZC Control No. _15_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 443-2

Plan Amendment and Zone Change for Tax Lot 900 of Assessor's Map 21-02-19

Tax lot	Acreage	From	To
900	5.41	Rural Industrial (RI)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone*
Lane Code 16.294 - *Rural Public Facility Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Blue Mountain School Road and approximately 2,700 feet south of the intersection of Allen Road. It is within the Developed & Committed Exception Area No. 443-1. It can be identified as tax lot 900 of Assessor's map 21-02-19, with a rural address of 76132 Blue Mountain School Road, Cottage Grove, OR 97424-9491, 5.41 acres in size.

2. The subject property, tax lot 900, is developed with the Blue Mountain School constructed in 1955 by the South Lane School District #45. The school is currently a private elementary school.

3. The subject property was designated as Public Facility (PF) in February 1984 in conjunction with the prior public school use of the property. In April 1984, the South Lane School District requested an amendment from PF to Limited Industrial (M1) zoning to allow the District to lease the facility to Able Computers as a research center. The amendment was approved in Ordinance No. PA 888 on July 17, 1984. In compliance with Work Task 5 of the Periodic Review Work Program, the property designation was amended from M1 Limited Industrial to Rural Industrial (RI) by Ordinance No. PA 1222 on June 15, 2005.

4. On October 13, 1998, the Lane County Hearings Official approved a temporary use permit (PA 98-5018) to allow the operation of a school within the M-1 Limited Industrial Zone.

5. This request for the zone change is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the school activities is inconsistent with the Rural Industrial Zone (RI) and a more permanent acknowledgement of the use of the facility is warranted.

6. Both educational and residential uses are consistent with the Rural Public Facility (RPF) zone and allowed by Lane Code 16.294(3)(f) and Lane Code 16.294(3)(v), respectively.

   Lane Code (LC) 16.294(3)(f) Educational facilities and services such as: nursery, primary and secondary education; colleges and professional schools; special training schools such as those for: vocations, trades, arts, music, dancing, gymnastics and correspondence. Such uses must be located inside an unincorporated community.

Lane Code (LC) 16.294(3)(v) A single family dwelling for a caretaker that meets the following conditions.

(i) The single family dwelling shall be for a caretaker in conjunction with an existing public facility use permitted by LC 16.294(2)(a) through (d) or (3)(a) through (u) above and located on the same lot or parcel as the existing public facility use.

(ii) There shall not be any other living quarters or dwellings on the lot, parcel or tract where the single family dwelling for the caretaker will be located; and

(iii) The single family dwelling for the caretaker shall not be partitioned or separated by a boundary line adjustment from [a} portion of the same lot or parcel with the public facility use on it.

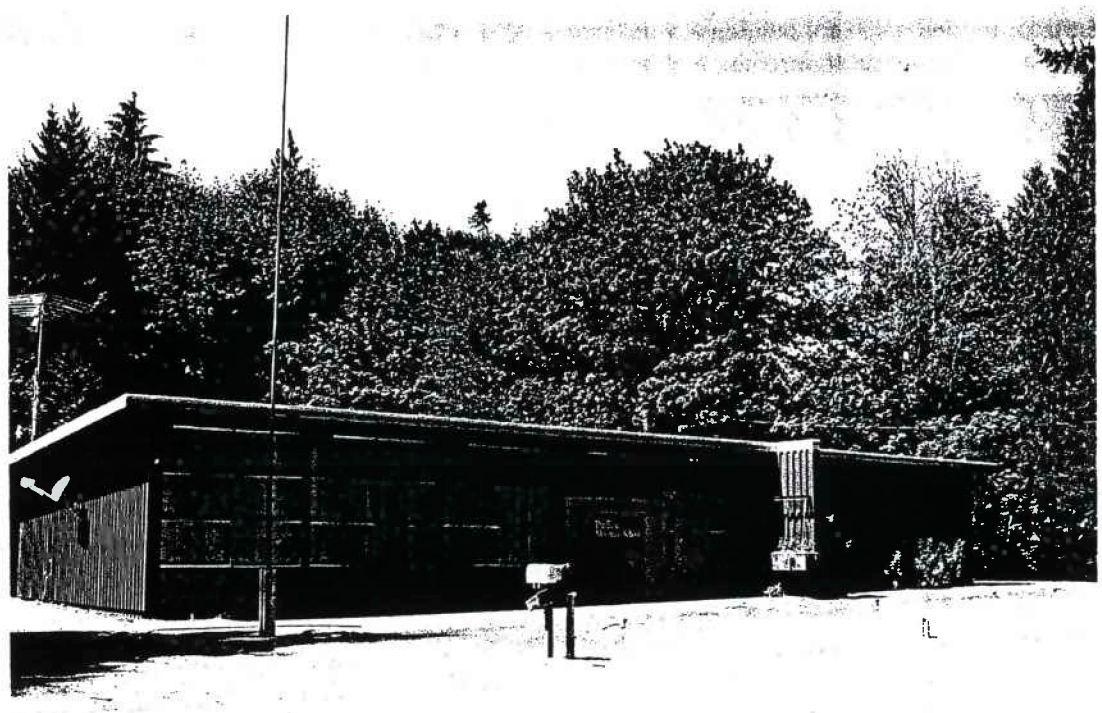
The use complies with the *Purpose* statement of *LC 16.294(1)(b) Purpose: The purposes of the Rural Pubic Facility Zone (RPF-RCP) are . . . (b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associate with other zones . . .*



- The Blue Mountain facility is the cluster of buildings in the center of the aerial photograph above.

7. The existing school facilities and uses include:

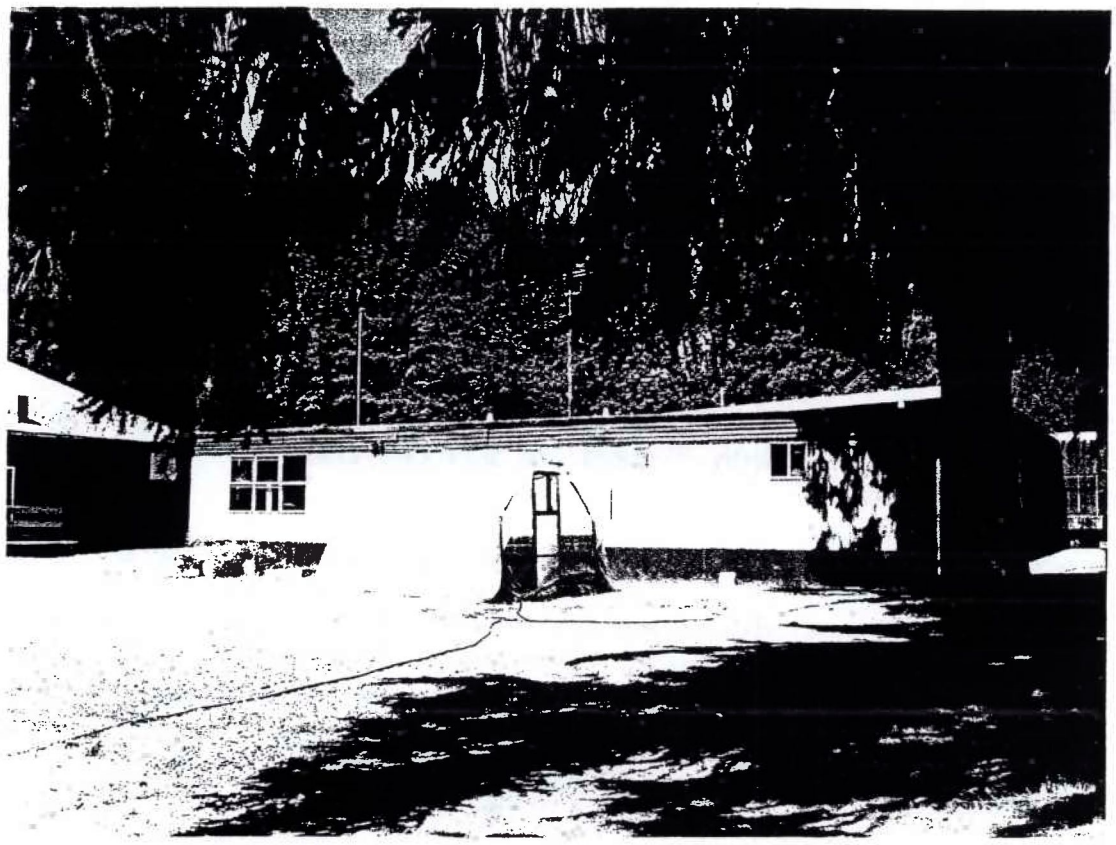
Main school building:	35' x 94' @ 3,290 sq. ft. (classrooms)
	15' x 94' @ 1,410 sq. ft. (covered play area)
Gymnasium:	41' x 60' @ 2,460 sq. ft.
Cafeteria:	24' x 32' @ 1,128 sq. ft. (+ additional attached storage areas)
Quiet reading room:	16' x 30' @ 480 sq. ft.



Top: Main building (classrooms). Bottom: Gymnasium



8. On May 27, 1999, approval was granted for placement of a caretaker mobile home per BP 99-0751, to the south of the main school building.



9. There is no record of any historical compatibility issues occurring between the existing school uses on the subject property and their neighbors since the school was re-established in the 1998.

10. The subject property does lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. However, the existing school and the prior operation of the District #45 facilities are adequately served by an on-site well.

11. The subject property receives the following public services: South Lane School District #45 (upper elementary, middle and high schools); Emerald People's Utility District (electrical power); South Lane County Fire & Rescue Department (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.

12. There is no apparent wetland on the subject property, per NWI map Blue Mountain 2.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in

compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to apply a zoning designation in conformity with the existing use of the property as a school facility in conjunction with the existing caretaker residential use, that have been integrated into the surrounding rural area for 50 years, 1955-2005.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is not located within an urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for the public and private educational uses that have existed on the subject property during several extended periods since 1955.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

There are (F2) Impacted Forest Lands located to the northwest of the subject property. Nonimpacted Forest Land (F1) abuts on the western and southern boundaries . The closest EFU lands are located across Blue Mountain School Road, Mosby Creek and Mosby Creek Road approximately 700 feet to the east. Rural Residential (RR5) properties abut to the north. The eastern boundary is defined by Blue Mountain School Road and the Lane County Blue Mountain Park is situated east of the road right-of-way between the road and Mosby Creek. The RR5 lands were designated in 1984 within Developed and Committed Exception Area No. 443-2. The existing educational facility

on the subject property was present at the time and no intensification has occurred since then. No new impacts or increased commitment to nonresource uses have been identified on the F1 or F2 lands to the west, northwest and south since 1984.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing and prior schools on the subject property have been compatible with the resource use of the adjacent forest lands since 1955.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 443-2 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property (tax lot 900 of TRS Map 21-02-19) is relatively flat across the developed area enclosing the school facilities and rises to the west into 20-30 percent slopes. The slopes in the western portion of the subject property are forested with no identified hazards due to excessive slope, grade or terrain features. Development has been orderly since 1955 and through application of land use regulations providing for the current uses. The resulting educational uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.294 (RPF).

(2) Protect and diversify the economy of the County.

Re-designation of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The developed site is small, approximately 2.5 acres including the ball fields, and has been in existence since 1955. The upland 2.9 acres is wooded and under passive forest management.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 900 will acknowledge the existing elementary school facility and provide an opportunity for continuation and improvements on the subject property. The current residential and educational uses are served by on-site well and sand filter subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing school structures and residential use on the subject property has co-existed since 1955 and 1998 with the agricultural and forest product industries in the surrounding area. The nearest EFU E40 resource lands are located 700 feet to the northeast across Highway two county roads and Mosby Creek. Schools commonly occurred adjacent to resource lands in past decades to provide educational opportunities for forest and mill worker's families. Any expansion or intensification of the school would require compliance with Lane Code

16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10* *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

There are no delineated wetlands on the subject property. There is a small, unnamed stream that traverses from west to east along the northern property line that is identified as a Class I Stream for protection under the RCP riparian protection regulations. The closest structure on the subject property to the stream is approximately 55 feet which complies with the riparian setback standards of LC 16.294 and 16.253. The current development is approximately 500 feet from Mosby Creek, also a Class I stream (Type F) located 500 feet to the east. The continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where the specific development has been in place and active since 1955. The existing school and caretaker residence are rural uses that utilize a rural level of facilities. Recognizing the Blue Mountain School for what it has been for 50 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject property (tax lot 900) is not within the 100-year flood hazard area. There are no other natural hazards identified on the property.

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then

it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the school's services in this area.

c. *Lane Code 16.294*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is . . .*to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual not normally associated with other zones.* The proposed rezoning and uses on tax lot 900 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited, however the subject property utilizes an onsite well that has provided adequate water for the school during the past 50 years...

The subject property is small in size (5.41 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.294(4)(i).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 21-02-19, tax lot 900 (5.41 acres) from Industrial (I) to Public Facility (PF), and Rural Industrial (RI) to Rural Public Facility (RPF), respectively, have been met.

IV. RECOMMENDATIONS

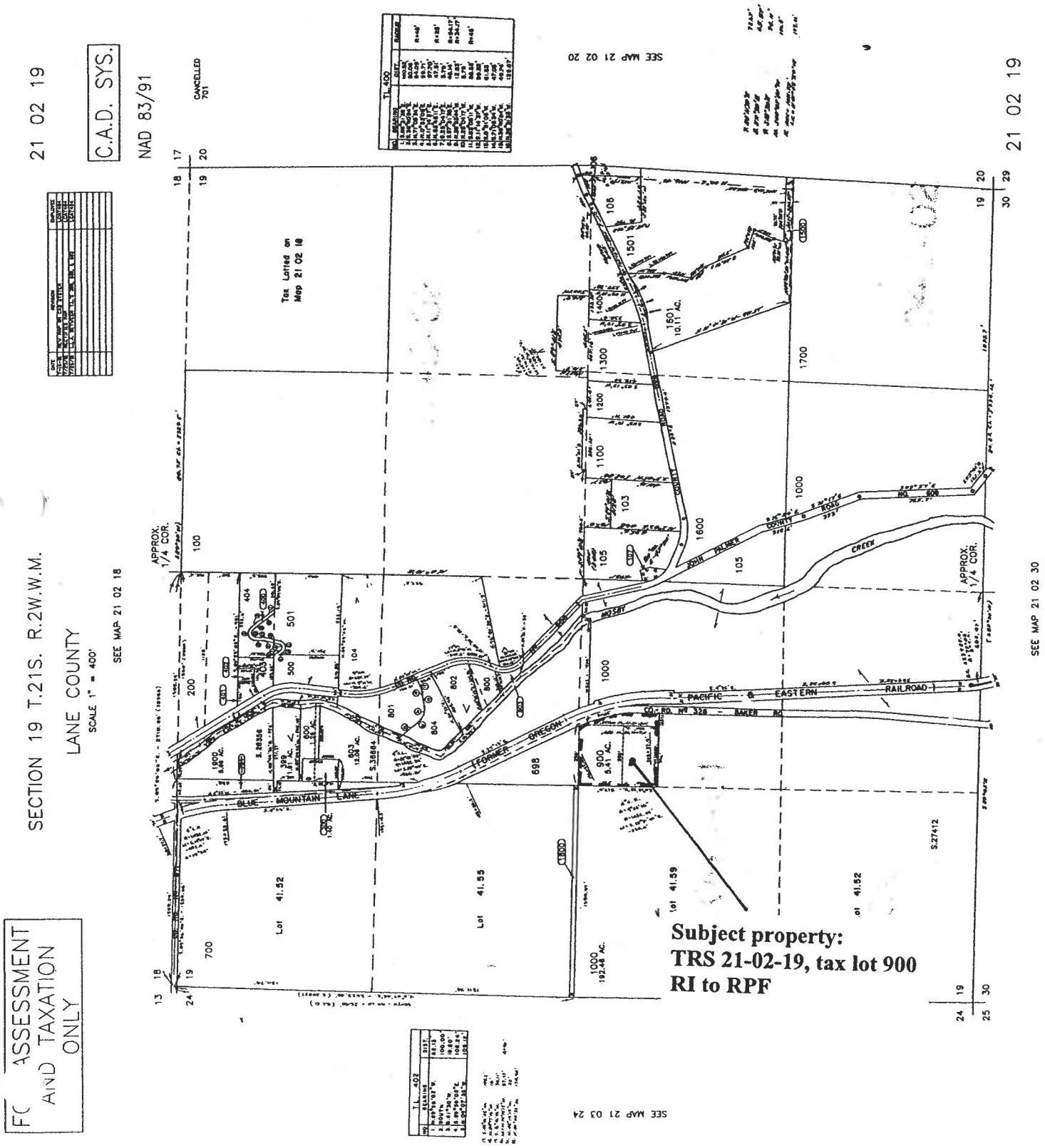
1. Approval of PRZC Control No. 15 of Ordinance No. PA 1226, amending the Official Plan Map No. 443 for tax lot 900 of Assessors Map TRS 21-02-19, from Industrial (I) to Public Facility (PF); and

2. Approval of PRZC Control No. 15 of Ordinance No. PA 1226, amending the Official Zoning Map No. 443 designations for tax lot 900 of Assessors Map TRS 21-02-19, from Rural Industrial (RI) to Rural Public Facility (RPF).

V. EXHIBITS

A. Plan Map No. 443 with proposed plan change depicted.
B. Zoning Map Plot No. 443 with proposed zone change depicted.
C. Lane County Assessor's Maps TRS 21-02-19
D. Plot Plan (9-9-98)
E. Assessor's field notes

C. Lane County Assessor's Maps TRS 21-02-19



Subject property:
TRS 21-02-19, tax lot 900
RI to RPF

ITTAL FORM

r drawings

D. Plot Plan (9-9-98)

APPLICANT NAME:	APPLICANT ADDRESS:
LESLEY STINE	1044 ASH AVE.
APPLICANT PHONE #: 988-9412	COTTAGE GROVE OR 97424

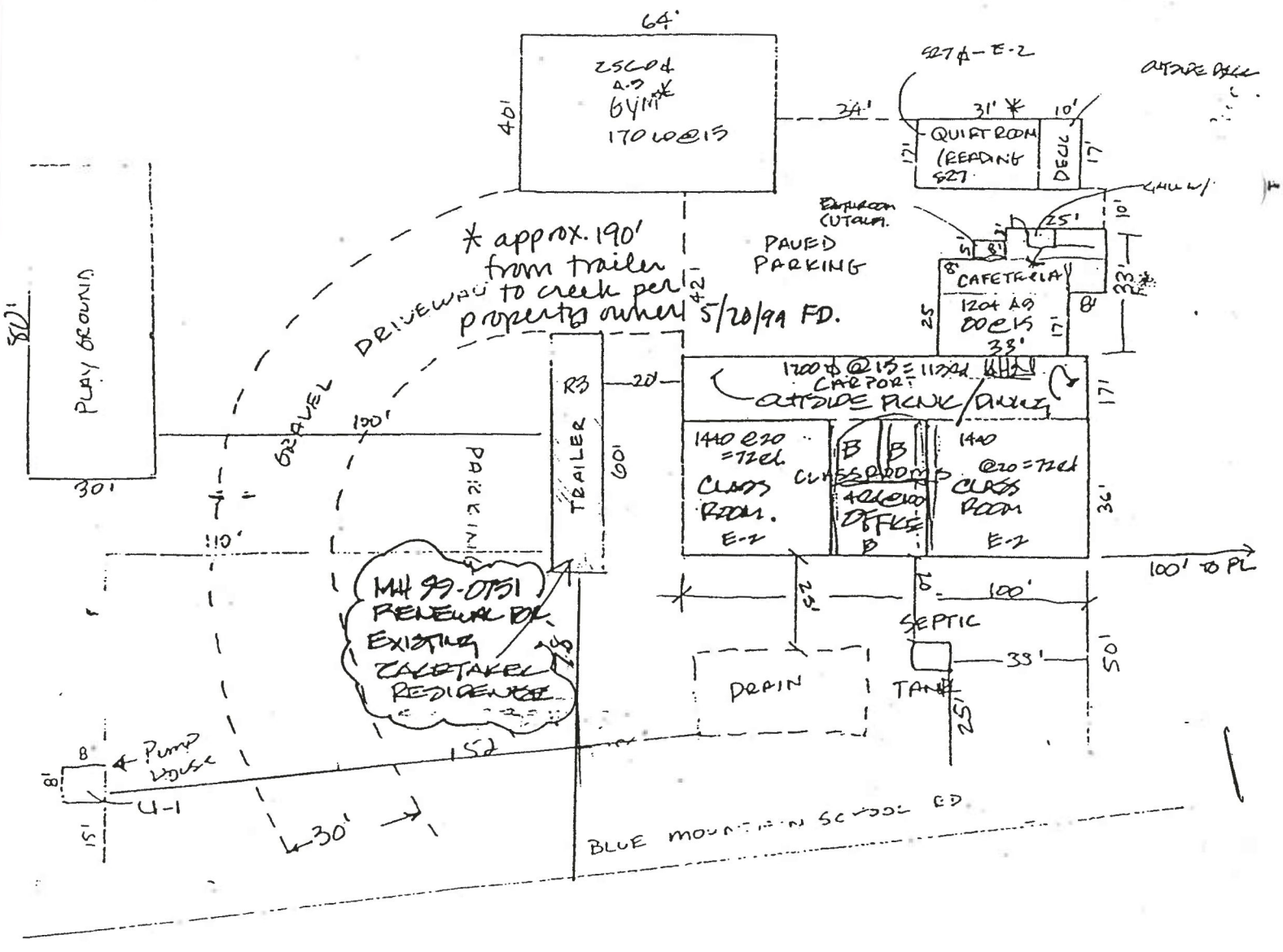
*ANTICIPATED USE(S)

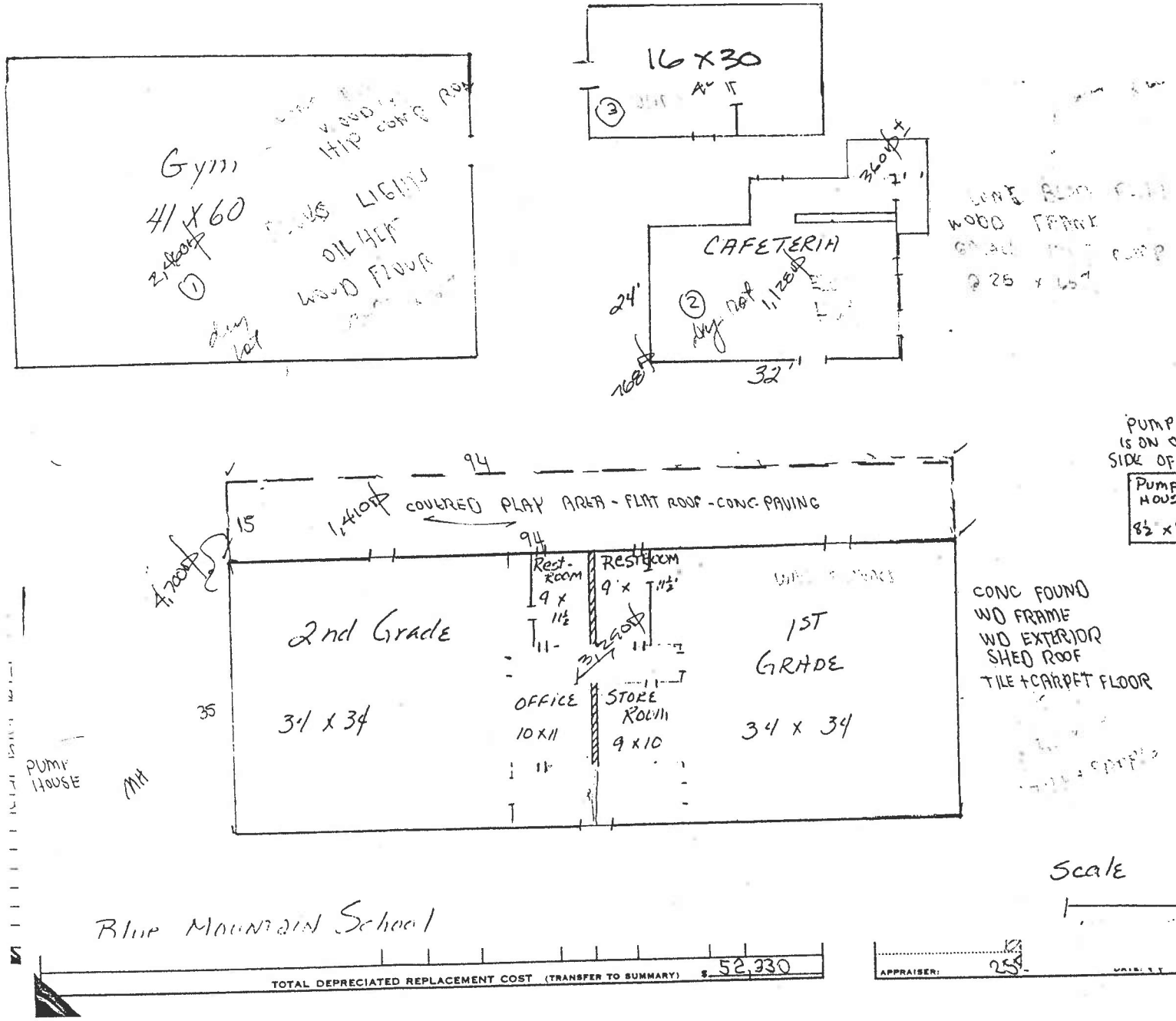
9/9/98
PLOT PLAN ACCEPTED
SUM

Indicate which direction is north with an arrow

BUILDING PLAN
CLOSE-UP

SCALE 1"=40'





E. Assessor's field notes

Exhibit No. _C-16 _

PAPA Control No. _16_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Rural Community of Culp Creek
Developed & Committed Exception Area No. 509 -2

Plan Amendments and Zone Changes for:

Tax lot 4200 of Assessor's Map TRS 21-01-30
and
Tax lot 1800 of Assessor's Map TRS 21-01-31.1.2

TRS - Tax lot	Acres	From	To
21-01-30, 4200	0.78	Rural Residential (RR2-C)	Rural Public Facility (RPF-C)
21-01-31.1.2, 1800	0.24	Rural Residential (RR2-C)	Rural Commercial (RC-C)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.291 - *Rural Commercial Zone (RC)*
Lane Code 16.294 – *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

The proposed plan amendments and zone changes are for one property in the ownership of Lane Electric Cooperative, a public utility company, and one property in the ownership of Qwest Corporation, a telephone communications provider, that were designated as Rural Residential (RR2) in 1984.

The appropriate designation for the 0.78 of-an-acre, tax lot 4200 of TRS 21-01-30 that includes the Lane Electric Cooperative - Culp Creek Substation is Rural Public Facility (RPF-C).

The appropriate designation for the 0.24 of-an-acre, tax lot 1800 of TRS 21-01-31.1.2, that includes the Qwest telephone facility is Rural Commercial (RC-C).

II. FINDINGS OF FACT

TRS 21-01-30, tax lot 4200 – 0.78 of-an-acre
Properties Owner: Lane Electric Cooperative
Proposed change in zoning designation from Rural Residential (RR2) to Rural Public Facility (RPF-C).

1. The property subject to this application, hereinafter referred to as the "subject property," is located east of the right-of-way of the Row River Road. It is within Developed & Committed Exception Area No. 509-2. It can be identified as tax lot 4200 of Assessor's map 21-01-30 and is 0.78 of-an-acre in size.

2. The subject property was designated as Rural Residential (RR2) in 1984 in conjunction with surrounding properties and was developed with the Lane Electric Cooperative – Culp Creek Substation at the time.

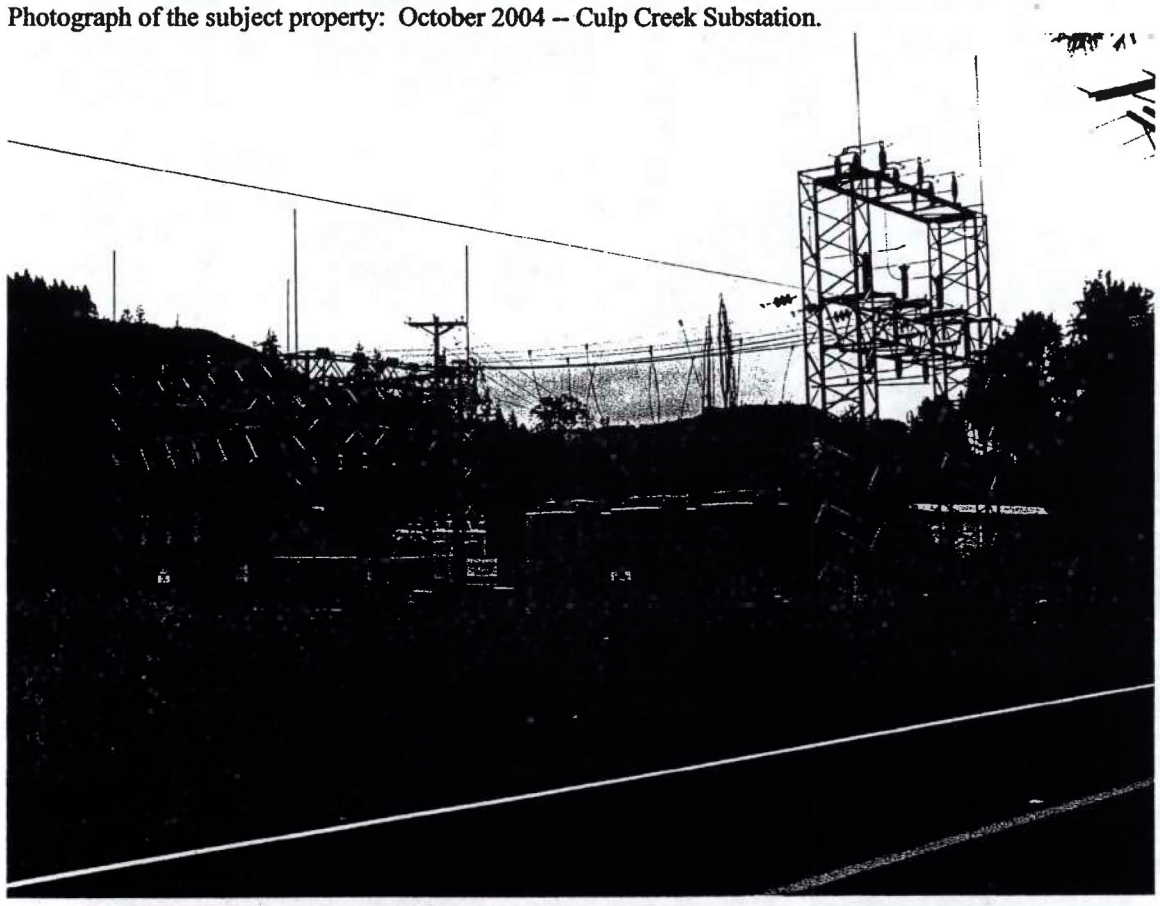
3. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the utility's public service and facilities is inconsistent with the Rural Residential Zone (RR2).

4. The existing public facility use of the subject property is an allowable use in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution..*

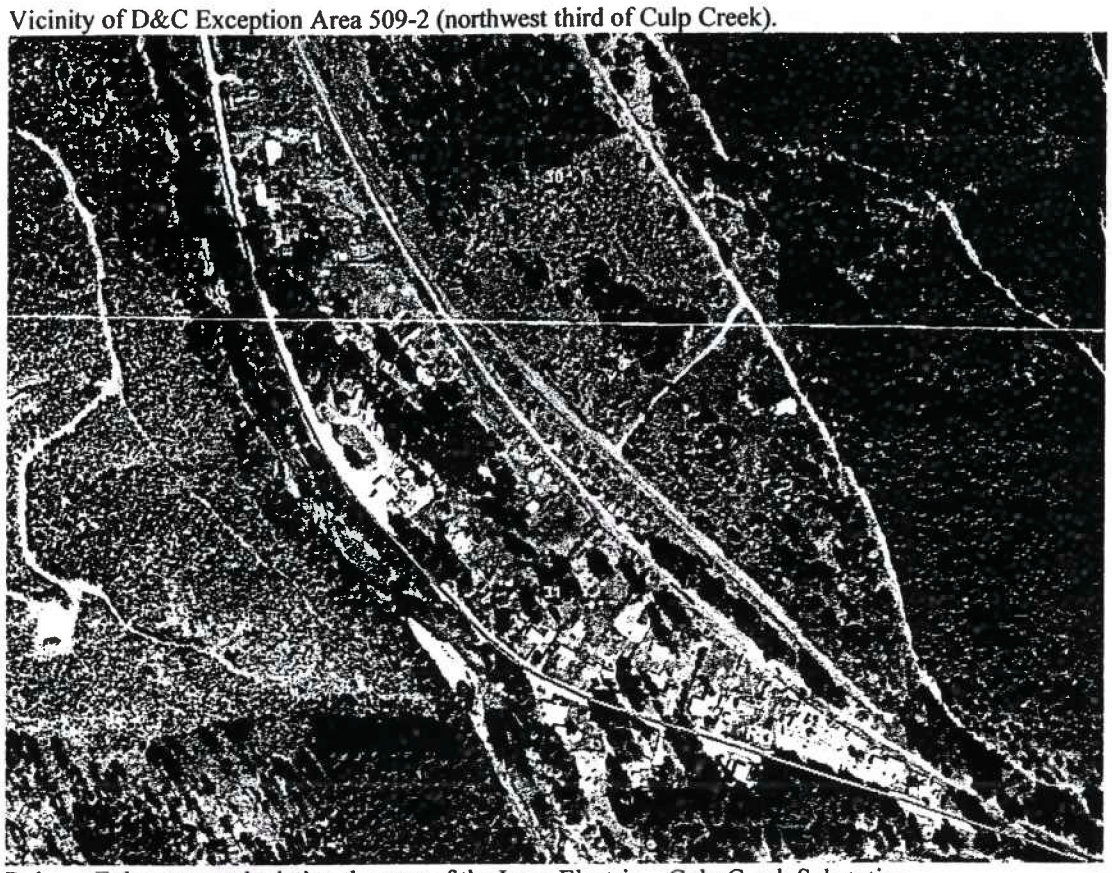
The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

6. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility does not require a potable source of water.
8. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Culp Creek 2.

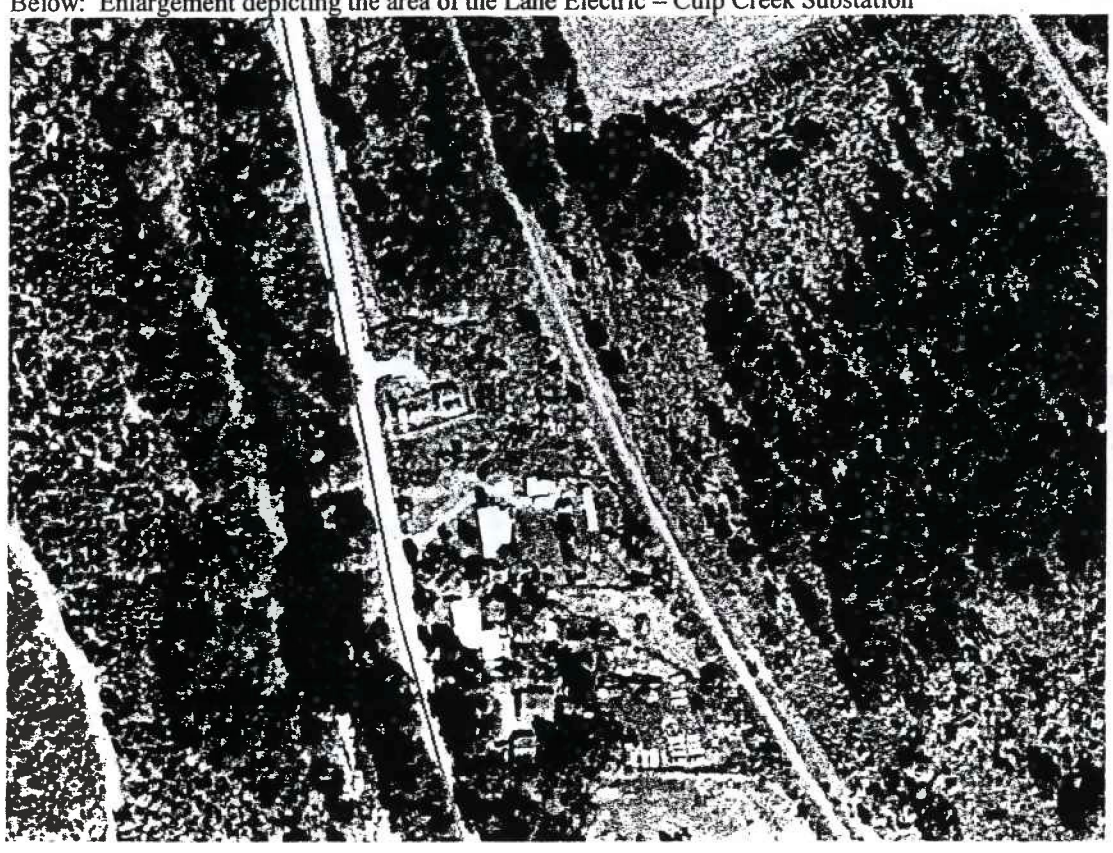
Photograph of the subject property: October 2004 -- Culp Creek Substation.



Vicinity of D&C Exception Area 509-2 (northwest third of Culp Creek).



Below: Enlargement depicting the area of the Lane Electric – Culp Creek Substation



TRS 21-01-30.1.3, tax lot 1800 – 0.24 of-an-acre
Properties Owner: Qwest Corporation
Proposed change in zoning designation from Rural Residential (RR2-C) to Rural Commercial (RC-C).

1. The property subject to this application, hereinafter referred to as the "subject property," is located south of the right-of-way of the Row River Road. It is within Developed & Committed Exception Area No. 509-2. It can be identified as tax lot 1800 of Assessor's map 21-01-30.1.2and is 0.24 of-an-acre in size.

2. The subject property was designated as Rural Residential (RR2) in 1984 in conjunction with surrounding properties and was developed with the telephone exchange facility at the time. The original facility (398 sq. ft.) was constructed in 1980 (LC 490-80) and an addition (272 sq. ft.) was added in 2001 (PA 01-5527, BP 01-0201).

3. The request for the change of zone is to bring the existing use of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the commercial telephone service and facilities is inconsistent with the Rural Residential Zone (RR2), Lane Code 16.290.

4. The existing commercial use and opportunity for diversification of the use on of the subject property is allowable under either of two provisions in the Rural Commercial Zone (RC) Lane Code 16.291:

   Lane Code (LC) 16.291(3)(w) Communication facilities including but not limited to those for radio, television, computers, or satellites.

   Lane Code (LC) 16.291(3)(x) Telecommunications facilities, including towers, antennas, and ancillary facilities as allowed pursuant to LC 16.264.

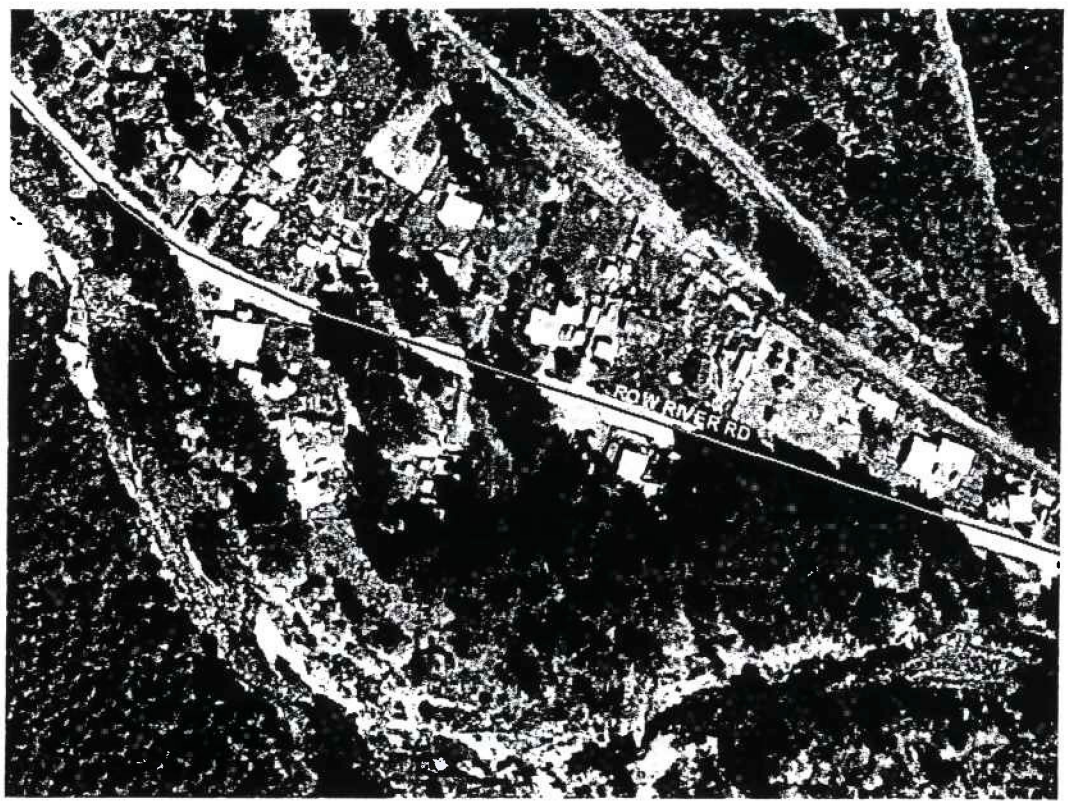
   The use complies with the Purpose statement of LC 16.291(1) Purpose: One of the purposes of the Rural Commercial Zone (RC) is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents and people traveling through the rural . . .*

5. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
6. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility includes a "limited use" restroom served by an onsite septic system and the water is provided by the Cottage Grove Water District.
7. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
8. There is no apparent wetland on the subject properties, per NWI map Culp Creek 2.

Photograph of the subject property: Qwest Corporation telephone exchange facility.



Below: Aerial photo – Subject property in the Rural Community of Culp Creek



III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this staff report are intended to recognize:

1. The "public facility" use of Lane Electric Cooperative substation which was established on the subject property in mid-1970s and amend the zoning designation to conform to the use; and
2. The "commercial" use of Qwest Corporation transfer station which was established on the subject property in 1980 and added onto in 2001 and amend the zoning designation to conform to the use.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within developed & committed exception area No. 509-2, and are not within an urban growth boundary. The properties receive a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

- Tax lot 4200 -- Lane Electric Cooperative - Culp Creek Substation – TRS 21-01-30.

  The subject property is adjacent to Rural Residential (RR2) lands to the south. The right-of-ways of Row River Road and the Row River to the west separate the facility from Forest Land (F1) in that direction. Nonimpacted Forest Land also abuts on the northern and eastern boundaries. The closest EFU lands are located over 5,000 feet to the north and separated from the subject property by Rural Community of Dorena. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the adjacent F1 lands.

- Tax lot 1800 – Qwest Corporation telephone transfer station – TRS 21-01-31.1.2

  The subject property is surrounded by Rural Residential (RR2) lands. The right-of-ways of Row River Road abut the northern boundary and the Row River further to the south buffers the facility from Forest Land (F1) in that direction. Nonimpacted Forest Land to the north is buffered by the RR2 lands on the northern side of Row River Road. The closest EFU lands are located over 7,000 feet to the north and separated from the subject property by Rural Community of Dorena. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 lands in the vicinity.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 509-2 includes 17 Rural Residential (RR2) properties along the northern right-of-way of Row River Road and 16 are developed with residences constructed during the 1935 to 1954 period. Five additional residences exist south of the right-of-way on six RR2 properties. One property is currently designated Rural Commercial (RC) and includes the Boyd's Mobile Home and RV Park with thirteen spaces and the vacant Boyd's Market which closed several years ago.

The Lane Electric Cooperative facility has been providing a service in southeastern Lane County for decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

The Qwest telephone transfer facility has been providing a service in southeastern Lane County since 1980 and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. OAR 660-022-0030(6),(7),(8) – Unincorporated Community Rule

OAR 660-022-0030 (6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

Development standards and uses allowed conditionally by LC 16.291 in the Rural Commercial Zone and LC 16.294 in the Public Facility Zone were adopted in April 2002 in compliance with the Unincorporated Community Rule. The operation of the existing Culp Creek Substation and the Qwest transfer station within the rural community of Culp Creek have not adversely affected the management practices of forest operators in the area and there is no foreseeable way that the continued operation of the existing structures in the newly designated public facility and commercial zone respectively, could pose any new adverse impact to management of farm or forest lands in the region. Any new commercial use proposed on either subject property would require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.294(3) and (4) or Lane Code 16.291(3) and (4), respectively.

OAR 660-022-0030(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall 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. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

Both of the properties have developed access points to the County road, Row River Road and the current uses are compatible with the capacity of the road. Both facilities have adequate parking spaces for maintenance vehicles onsite. The only traffic generated by the use of the facilities is for periodic site inspections and preventative maintenance by vehicle or two at a time.

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;

Lane County adopted new Transportation Services Plan (TSP) and revisions to Lane Code 15 Roads in May 2004. Any proposed expansion of the current uses or request for a new use on the subject properties would require compliance with the permitting process and the siting standards and criteria of LC 16.294(3) and (4) in the RPF zone or LC 16.291 (3) and (4) in the Rural Commercial Zone. The criteria of both LC zoning regulations requires that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, and to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone changes has been identified. No need to reduce automobile travel by citizens of Culp Creek or the general traveling public to or through the rural community is warranted. Use of the county road system is essential to the tourism and local trade that supports Culp Creek, the current employment options in Dorena and Culp Creek,

and any potential development of the proposed commercial or public facility properties, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RPF-C zone or RC-C zone require Planning Director approval and compliance with LC 16.294(4)(h) or LC 16.291(4)(i) criteria: *"(--) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RPF-C zone or RC-C zone require Planning Director approval and compliance with LC 16.294(4)(i) or LC 16.291(4)(j) criteria: *"(--) The use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available."*

B. Plan Conformity

The two subject properties are located in developed and committed exception area number 509-2 of the Rural Community of Culp Creek.

The policies of the Rural Comprehensive Plan applicable to these amendment requests are as follows:

A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject properties are relatively flat with no identified hazards due to slope, grade or terrain features. The development of the public facility use and the commercial use have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zones, Lane Code 16.294 (RPF) or Lane Code 16.291 (RC).

(2) *Protect and diversify the economy of the County.*

The Culp Creek Substation transports and provides access to electrical power in the rural areas and economy of the Dorena and Culp Creek region. This service is longstanding and essential to the economy of the region.

The Qwest facility has provided telephone communications to the region since 1980 and is essential to the economy of the region.

Re-designation of the subject properties will allow diversification of the current uses in compliance with the required permit processes, criteria and standards.

(8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The facilities are well located for distribution of services to their customers.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 4200 (Lane Electric) will acknowledge the existing public facility on the subject property. The current use of the facility does not require onsite potable water and therefore will not alter the use or availability of groundwater.

The proposed rezoning of tax lot 1800 (Qwest) will acknowledge the existing commercial use on the subject property. The current use of the transfer station includes community water system service from the Cottage Grove Water District and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] or Lane Code 16.291(4)(h) [RC] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing Culp Creek Substation and the Qwest transfer station have existed on the subject properties and co-existed since the mid-1970s and 1980, respectively, with the agricultural and forest product industries in the region. Electrical utility facilities and telephone transfer stations commonly occur adjacent to resource lands and in some instances are essential to the distribution of power or operation of rural uses including resource operations. Any expansion or intensification of the Lane Electric or Qwest facilities would require compliance with Lane Code 16.294(4) or Lane Code 16.291(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on the subject properties. There are no wetlands on the subject properties identified on the Culp Creek 2 quad of the National Wetlands Inventory. Past development on the subject properties in the 1970s-1980s have significantly altered the natural flora communities and habitat on both properties. The gravel surface and equipment within the fenced facilities are partly a matter of function and partially for security and safety reasons. As a result of past alterations, the continued uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the subject properties are in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The two subject properties are approximately three-quarters and one-quarter of-an-acre in size. Surrounding lands are residentially developed. The existing uses have been in place for at least 25 years. Nearby forest and agricultural lands are buffered from the facilities by road right-of-ways or nonresource parcels. Neither of the properties has been managed for the production of crops, livestock or timber products for the past forty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in a rural community (Culp Creek) and adjacent to another (Dorena). Both communities were "timber towns" centered on lumber mills that have since ceased production. The Dorena mill is vacant and the Culp Creek mill has been dismantled. Both communities have extensive residential development dating back to the 1930s-1940s. Both have post offices, commercial and industrial lands. No additional divisions can occur under the RR2 or RR 5-acre standards in the two communities. The existing uses are rural uses that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The Culp Creek Substation facility on the subject property, tax lot 4200, is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2425F of 2975 (6-2-99).

The Qwest transfer station on the subject property, tax lot 1800, is within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2425F of 2975 (6-2-99). Any development would require compliance with the FIRM regulations and Lane Code 16.244 Floodplain Combining Zone regulations (/FP, RCP).

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then they will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the public facility and commercial service in this area.

Development on the subject properties are not, or need not be, contrary to the public health, safety convenience and welfare. In fact, the two uses provide essential services that ensure that the public health, safety, and welfare for the citizens in the area vicinity will continue to be provided for.

c. *Lane Code 16.294 and Lane Code 16.291*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and use on tax lot 4200, map 21-01-30, are consistent with this purpose.

One of the purposes of the Rural Commercial Zone (RC) [Lane Code 16.291(1)] is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents and people traveling through the rural . . .*

The proposed rezoning and use on tax lot 1800, map 21-01-31.1.2, are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The Lane Electric substation does not require a domestic water source.

The Qwest transfer station is provided metered water from the Cottage Grove Water District.

The subject properties are both less than an acre in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

1. This staff report has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-01-30, tax lot 4200 (0.78 of-an-acre) from Rural Residential (RR2/C) to Rural Public Facility (RPF/C), have been met.

2. This staff report has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-01-31.1.2, tax lot 1800 (0.24 of-an-acre) from Rural Residential (RR2/C) to Rural Commercial (RC/C), have been met.

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Plan Map No. 509 designation for tax lot 4200 of Assessors Map TRS 21-01-30, from Rural (R) to Public Facility (PF).

2. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Zoning Map No. 509 designation for tax lot 4200 of Assessors Map TRS 21-01-30, from Rural Residential (RR2/C) to Rural Public Facility (RPF/C).

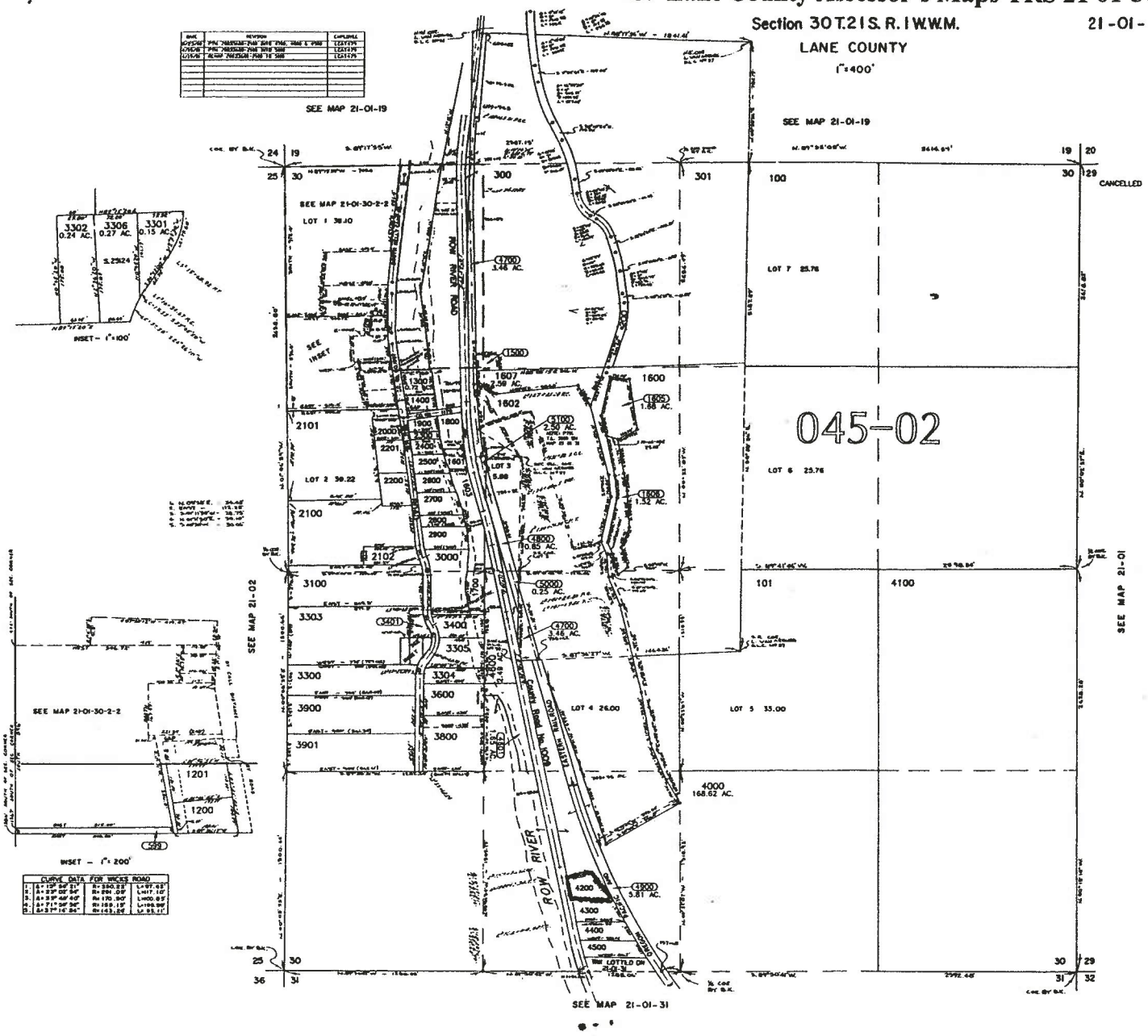
3. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Plan Map No. 509 designation for tax lot 1800 of Assessors Map TRS 21-01-31.1.2, from Rural (R) to Commercial (C).

4. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Zoning Map No. 509 designation for tax lot 1800 of Assessors Map TRS 21-01-31.1.2, from Rural Residential (RR2/C) to Rural Commercial (RPF/C).

VII. EXHIBITS

A. Plan Maps No. 509 with proposed plan changes depicted.
B. Zoning Map Plot No. 509 with proposed zone changes depicted.
C. Lane County Assessor's Maps TRS 21-01-30.
D. Lane County Assessor's Maps TRS 21-01-31.1.2.

C. Lane County Assessor's Maps TRS 21-01-30.



Lane County Assessor's Maps TRS 21-01-31.1.2

NW1/4 NE1/4 Sec. 31 T.21S. R.1W.W.M.

LANE COUNTY

1"=100'

21 01 31 1 2

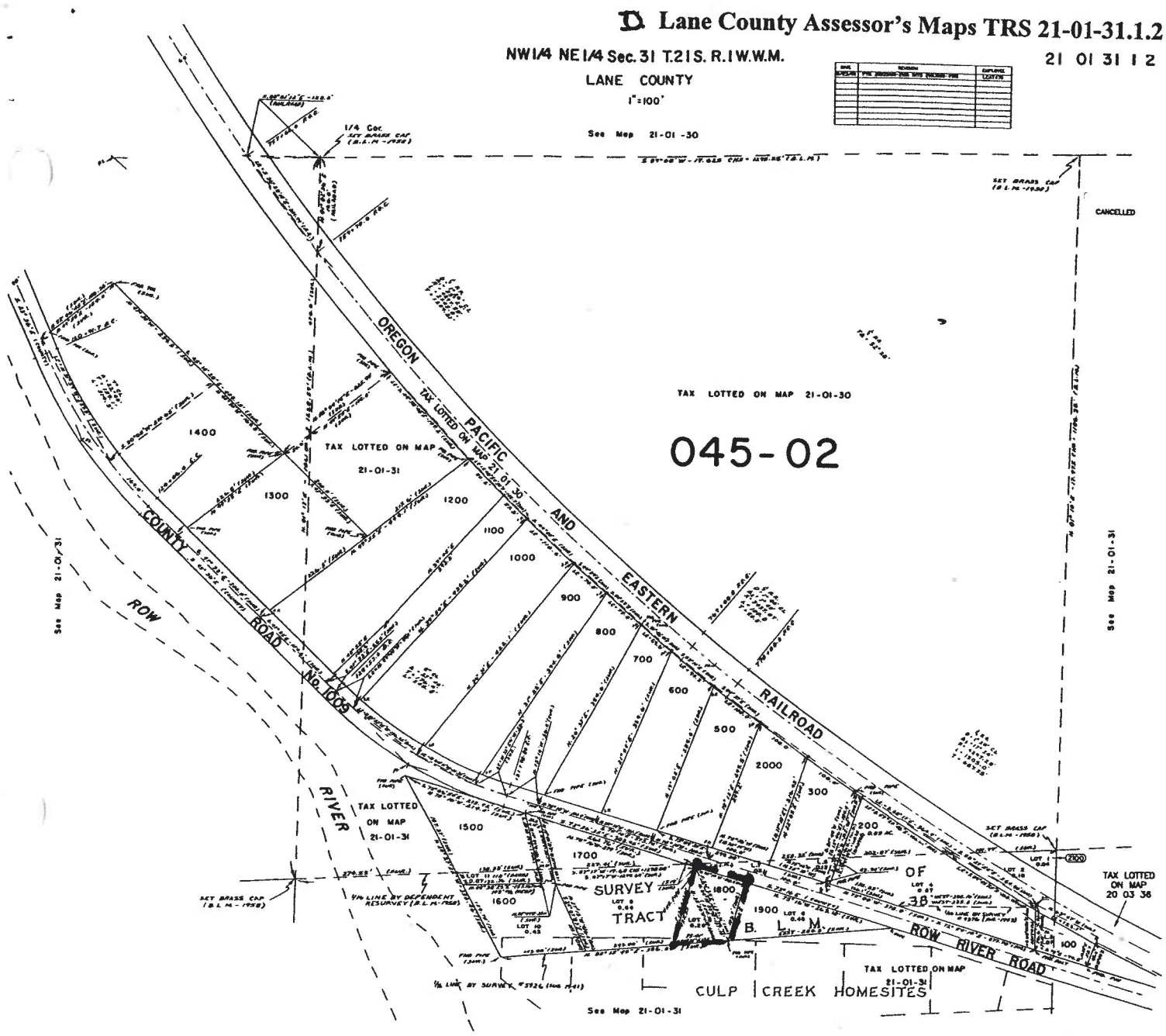


Exhibit No. _C-17 _

PAPA Control No. _17_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 420-3

Plan Amendments and Zone Changes for:
Tax lot 8400 of Assessor's Map TRS 20-03-35

TRS - Tax lot	Acres	From/Action	To
20-03-35 – 8400	**2.27**	**Rural Industrial (RI)**	**Rural Residential (RR5)**

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.292 – *Rural Industrial (RI)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

TRS 20-03-35, tax lot 8400 – 2.27 acres
Properties Owner: Tom Chrestman.
Proposed change in zoning designation from Rural Industrial (RI) to Rural Residential (RR5).

The proposed plan amendment and zone change is for one property that was designated Heavy Industrial (M3) in 1984. The property owner proposes to rezone the 2.27-acre property to Rural Residential (RR5).

II. FINDINGS OF FACT

Findings of Fact

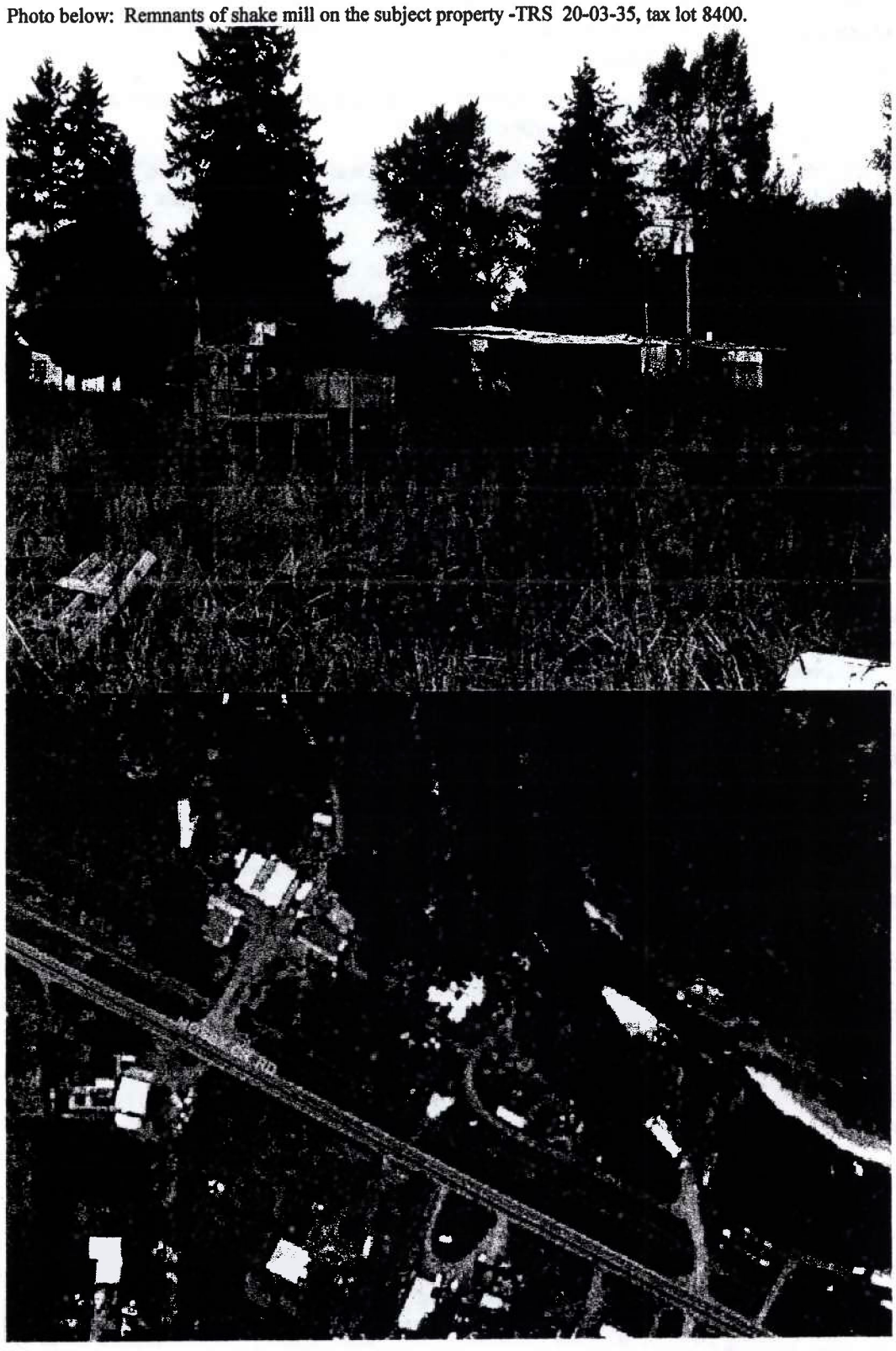
1. The property subject to this application, hereinafter referred to as the "subject property," is located north of the right-of-way of Mosby Creek Road and south of the Row River. It is within the Developed & Committed Exception Area No. 420-3. It can be identified as tax lot 8400 of Assessor's map 20-03-35 and is 2.27 acres in size. The subject property abuts the right-of-way of the old Oregon Pacific-Electric Railroad that has been converted to an asphalt bicycle patch running parallel to Mosby Creek Road.

2. The subject property is developed with skeletal remains of an old shake mill dating back to 1978. The most recent use was allowed by the Planning Commission in 1976 as a renewal of a temporary permit with a five-year period to operate portions of the old mill as a shake mill. The permit expired in 1981. The subject property was designated as Heavy Industrial (M3) in 1984 and rezoned Rural Industrial (RI) in 2002 in a countywide action to comply with Goal 14 and the Rural Community Rule (OAR 660 Division 22).

3. The request for the change of zone is to acknowledge the most compatible use of the subject property in conformity with the Rural Comprehensive Plan and Lane Code. The industrial use of the subject property ceased approximately 20 years ago and the owner seeks to zone the parcel consistent with the surrounding Rural Residential Zone (RR5).

4. The proposed residential zone complies with the Purpose statement of LC 16.291(1)(b) *Purpose: The purposes of the Rural Residential Zone (RR-RCP) are: . . .(b) To promote a compatible and safe rural residential living environment by limiting allowed uses and development to primary and accessory rural residential uses and to other rural uses compatible with rural residential uses and uses of nearby lands.*

Photo below: Remnants of shake mill on the subject property -TRS 20-03-35, tax lot 8400.



5. The subject property is situated in the center of the 2004 aerial photograph above. Access to the property is by way of the gravel road running southwest to northeast, parallel to the "bike path" and Mosby Creek Road. The collection of three structures immediately to the northwest are three residences with rural addresses. The property to the southwest is developed with a residence and accessory building.
6. There is no record of any historical compatibility issues occurring between the prior use of the subject property and the surrounding property owners.
7. The subject property does lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility utilized an onsite well as a source of domestic water in the past.
8. The subject property receives the following public services: South Lane District #45 (schools); Emerald Peoples Utility District (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetlands on the subject properties, per NWI map Cottage Grove SE4.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by the property owner is intended to provide for residential development of the subject property. It is a more compatible and reasonable use of the 2.26 acres within the center of a residential area. The change of zoning would also eliminate the potential for a more intensive and less-compatible industrial use to be established on the subject property in the future.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 420-3, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject property is enveloped by Rural Residential (RR5) lands to the west, south and east. The northern boundary is defined by the Row River. In addition to the surrounding residential uses, the right-of-ways of Mosby Creek Road to the south and the riparian area and river to the north separate the subject property from the nearest Forest Lands over 1,200 feet to the northeast and southwest and buffered from the subject property by intervening Rural Residential lands (RR5/RR2). The closest EFU lands are located approximately 1,800 feet to the east and separated from the subject property by Rural Residential lands (RR5). There are no foreseeable impacts from the proposed zone change, or any increased commitment to nonresource uses of nearby forest lands and agricultural lands or practices.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 420-3 is adjacent to the urban growth boundary of the City of Cottage Grove. The subject property is 1,800 feet upstream from the UGB and is within a developed and committed exception area which includes 116 acres, 42 Rural Residential parcels averaging 2.76 acres and developed with 41 residences (Hoglund-Mann 1997-1998) The development pattern indicates the addition of one more residence in the center of the D&C area will be compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 420-3 of Lane County. It is proposed to be designated Rural by the Lane County Rural Comprehensive Plan and zoned Rural Residential (RR5). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>*Land Use Planning Policy #12.*</u> *Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The past development of the subject property as a saw mill has not contributed any known adverse impacts to the immediate area or resources. Any development or new use on the property will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.290 (RR).

(2) Protect and diversify the economy of the County.

Re-designation of the subject property will allow marketing and development of the subject property for residential uses in compliance with the required permit processes, criteria and standards.

(8) Provide for the ultimate development and arrangement of efficient public services and facilities within the County.

The subject property receives the necessary services from public agencies for residential development.

b. <u>*Water Resources Policies #3 and #5:*</u>

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The past industrial uses of the subject property were provided with potable water from an onsite well and therefore the anticipated residential use should not alter the availability of groundwater.

In the event that a more intensive use is proposed for the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.290(5)(c) [RR] *"The proposed use and development shall not exceed the carrying*

capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The vacant mill on the subject property co-existed since the early-1950s with the agricultural and forest product industries in the surrounding area.. Saw and shake mills commonly occurred adjacent to resource lands and in some instances were essential to the rural residents for employment and materials. Any development of the property with a residence would require compliance with Lane Code 16.290(5) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Cottage Grove SE4 quad of the National Wetlands Inventory. Past development on the subject property in the 1950-1980s has significantly altered the natural flora communities and habitat. The property is overgrown with grasses, low scrubs, and blackberry along the Row River stream back. The riparian setback standards of LC 16.253(2)(a)-(b) provide protection for the front 50 feet upland from the ordinary high water.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is 2.27 acres in size and has access to Mosby Creek Road, a County road. Surrounding lands are residentially developed. Nearby forest and agricultural lands are buffered from the subject property by road right-of-ways, Row River, and intervening residentially developed properties. None of the 42 parcels designated as RR2 or RR5 properties in the D&C exception area 420-3 have been managed for the production of crops, livestock or timber products for the past thirty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with 41 residences. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

A portion of the subject property is within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2092F of 2975 (6-2-99). Any development will be required to comply with the standards of LC 16.244 (Floodplain Combining Zone).

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the anticipated residential use will not have an adverse impact on surrounding uses, then it will not be contrary to the public interest. Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. *Lane Code 16.290*

Lane Code 16.290(1) states that one of the purposes of the Rural Residential Zone is *(1)(b) To promote a compatible and safe rural residential living environment by limiting allow uses and development to primary and accessory rural residential uses and other rural uses compatible with rural residential uses and the uses of nearby lands;*

The proposed rezoning of tax lot 8400 is consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited. It has also been developed with an onsite well and has an established domestic water source.

The subject property is small in size (2.27 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 20-03-35, tax lot 8400 (2.27 acres) from Rural Industrial (RI) to Rural Residential (RR5), have been met;

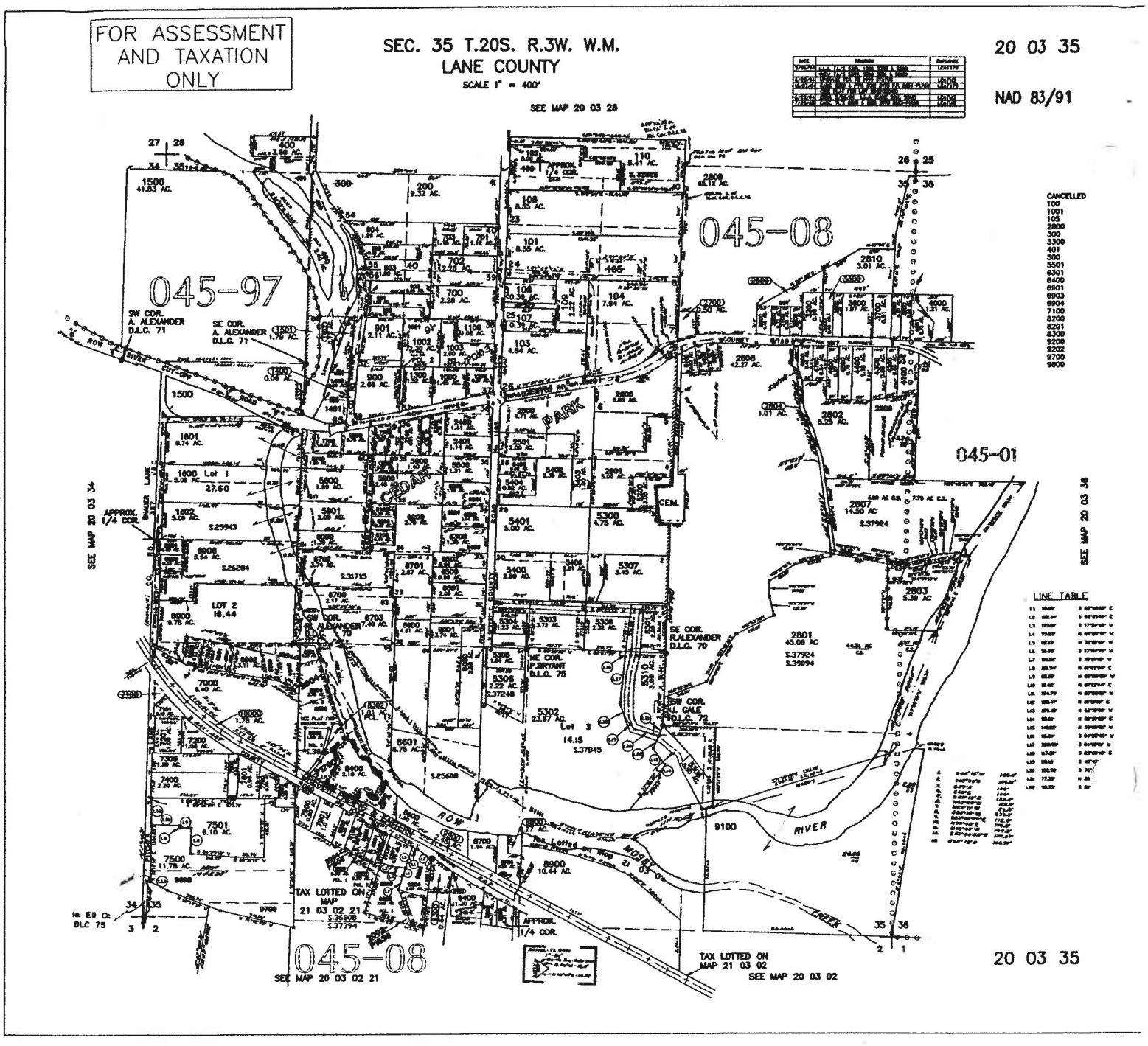
VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 17 of Ordinance No. PA 1226, amending the Official Plan Map No. 420 designation for tax lot 8400 of Assessors Map TRS 20-03-35, from Industrial (I) to Rural (R); and

2. Approval of PRZC Control No. 17 of Ordinance No. PA 1226, amending the Official Zoning Map No. 420 designation for tax lot 8400 of Assessors Map TRS 20-03-35, from Rural Industrial (RI) to Rural Residential (RR5).

VII. EXHIBITS

A. Plan Map, Plot No. 420 with proposed plan change depicted.
B. Zoning Map, Plot No. 420 with proposed zone change depicted.
C. Lane County Assessor's Map TRS 20-03-35.


FOR ASSESSMENT AND TAXATION ONLY
SEC. 35 T.20S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'
20 03 35
NAD 83/91
SEE MAP 20 03 26
045-97
045-08
045-01
SW COR. A. ALEXANDER D.L.C. 71
SE COR. A. ALEXANDER D.L.C. 71
CEDAR PARK
CEM.
SEE MAP 20 03 34
SEE MAP 20 03 36
APPROX. 1/4 COR.
LOT 2 16.44
SW COR. R. ALEXANDER D.L.C. 70
NE COR. P. BRYANT D.L.C. 75
SE COR. R. ALEXANDER D.L.C. 70
SW COR. J.L. GALE D.L.C. 72
ROW
RIVER
CREEK
TAX LOTTED ON MAP 21 03 02 21
TAX LOTTED ON MAP 21 03 02
SEE MAP 20 03 02 21
SEE MAP 20 03 02
20 03 35
LINE TABLE
CANCELLED

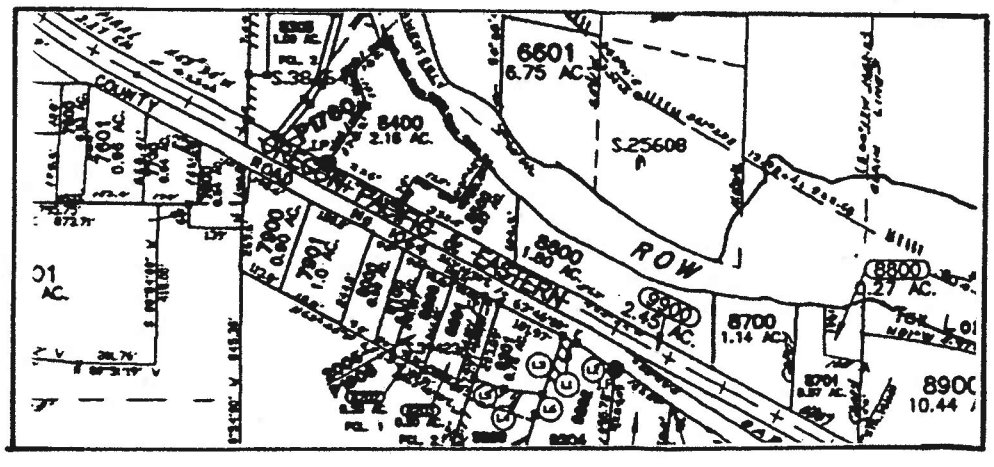

6601
6.75 AC.
S.25608
8400
2.16 AC.
ROW
8800
1.80 AC.
9900
2.45 AC.
8700
1.14 AC.
8800
.27 AC.
8900
10.44
COUNTY
ROAD
EASTERN

Exhibit C-17-1 – Supplemental Findings of Fact
Control No. C-17 - Chrestman
Ordinance No. PA 1226

I. ISSUE

Written testimony submitted into the Lane County Planning Commission pubic hearing record by Goal One Coalition has claimed that the rezoning of a developed & committed property from a prior designation of Rural Commercial (RC – LC 16.291), Rural Industrial (RI – LC 16.292), or Rural Public Facility (RPF – LC 16.294) to Rural Residential (RR – LC 16.290) would require that Lane County establish a minimum lot size of ten acres for the rezoned property. This challenge arose specifically from the proposed rezoning of a 2.27 acre property identified as tax lot 8400 of Lane County Assessor's map 20-03-35 in Control Number 17 of Ordinance No. PA 1226 (hereinafter, "the subject property").

The subject property was initially designated as Rural Residential RR in 1972. The subject property was conditionally permitted for five years to be developed with a shake mill in 1974 per Temporary Permit 74-084. The subject property was designated as M3 Heavy Industrial (LC 16.226) in recognition of the facilities and industrial use history with the adoption of Lane County Ordinance No. 884 in 1984.

The subject property was rezoned to RI Rural Industrial (LC 16.292) by Lane County Ordinance No. PA 1173 on April 17, 2002, in compliance with Work Task #1 in the Lane County Periodic Review Work Program and acknowledged by Oregon Department of Land Conservation & Development in DLCD Order No. 01431 on October 31, 2002.

The shake mill (55' x 100') facility ceased operations approximately 20 years ago. The isolated, industrial site and vacant structure is surrounded by a rural residential area with a minimum lot size of five acres which the Board of County Commissioners adopted as Developed and Committed Exception Area 420-3 in 1984.

The designation of the 2.27-acre, subject property as Rural Residential RR5 with a minimum lot size of five acres conforms with the surrounding rural residential area of developed & committed exception area (Plot 420-3) and existing RR density of five-acres.

II. FINDINGS OF FACT

Designation of minimum lot sizes for rural residential lands in developed & committed exception areas is subject to compliance with Lane County Rural Comprehensive Plan – General Plan Policies, Goal Two, Policy 11.a., and Oregon Administrative Rule 660-004-040 *Application of Goal 14 (Urbanization) to Rural Residential Areas.*

Goal One Coalition testimony in opposition to the five-acre minimum lot size contends that the density does not comply with OAR 660-004-040(7). In specific, non-compliance with OAR 660-004-040(7)(i):

OAR 660-004-040(7)

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or
(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements of an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660 -004-0018, "Planning and Zoning for Exception Areas."

The Board of County Commissioners finds that the proposed RR5 designation for the subject property is in compliance with OAR 660-004-0040 as set forth in the following findings of fact in support of Exhibit C-17 - Findings of Fact and Conclusions of Law (Control No. 17, Ordinance No. PA 1226).

Findings of Fact

1. Tax lot 8400 of Assessor's map 20-03-35 (hereinafter, the "subject property") was created by deed in 1951 and recorded metes and bounds description in Lane County Deeds and Records in Book 418, page 173. The subject property has been a lawfully created parcel for approximately 55 years.

2. The subject property is 2.27 acres in size and situated north of the right-of-way of Mosby Creek Road and south of Row River. It is located in approximately the center of Developed & Committed Exception Area No. 420-3 that includes 116 acres distributed throughout 42 Rural Residential (RR) properties averaging 2.76 acres and developed with 41 residences. Properties to the east and west and south across Mosby Creek Road are designated RR5 Rural Residential with a five–acre minimum lot size. Lands across the Row River to the north are designated RR2 Rural Residential with a two-acre minimum lot size.

3. OAR 660-004-0040 provides guidelines and criteria for establishing a minimum lot size for the creation of new residential "lots or parcels" and also for new "rural residential areas". The difference between the two circumstances is clear in the OAR and compliance with OAR 660-004-0040 is, in part, based on recognition of the intended differences.

   The term "rural residential area", as used in OAR 660-004-0040, is clear in meaning and is understood to be inclusive of an area of contiguous lots and parcels in a developed & committed exception area with the common designation of "Rural Residential". In this instance, the "rural residential area" is identified as Developed & Committed Exception Area 420-3 and the applicable density affecting the subject property is the minimum lot size enveloping the subject property which was adopted in Ordinance No. 884 in 1984, and acknowledgment by DLCD in 1984, and subsequently re-adopted in the Lane County Periodic Review Work Program in 2002 (Ordinance No. PA 1173) and acknowledged by the Department of Land Conservation and Development Order No. 01431 in 2002 to be in compliance with Goal 14 as implemented through OAR 660-004-0040. As such, Developed & Committed Exception Area 420-3 is not a "rural residential area being designated after the effective date of this rule". Developed & Committed Exception Area 420-3 has existed as an official plan and zoning diagram in the Lane County Rural Comprehensive Plan (RCP) since adoption of the RCP in February, 1984.

   If the intention of OAR 660-004-0040 was that the "area" meant or should be interpreted to mean "lot or parcel", it would have stated that connection in the terminology. In fact, OAR 660-004-0040(2)(a) states this very clearly what "rural residential area" means:

   (2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide

Planning Goal 3, (Agricultural Lands), Goal 4 (Forest Lands), or both has been taken. Such lands are referred to in this rule as ***rural residential areas.*** (emphasis added)

OAR 660-004-040(5)
(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

Developed & Committed Exception Area ("D&C Area") 420-3 includes minimum lot densities of two-acres, five-acres and ten-acres. The five-acre area encompasses the subject property on three boundaries (west, south and east) and the lands to the north of Row River have a two-acre designation for the creation of new lots or parcels. The "rural residential zone" in the Lane County Rural Comprehensive Plan which implements OAR 660-004-0040 in developed & committed exception areas outside designated unincorporated communities is Lane Code 16.290. Lane Code 16.290 was adopted by the Board of Commissioners in Ordinance No. 6-02 on April 17, 2002, and acknowledged by the Oregon Department of Land Conservation and Development to be in compliance with OAR 660-004-0040 in DLCD Order No. 01431 on October 31, 2002.

The surrounding five-acre density which is adopted for the subject property is in compliance with OAR 660-004-040(5)(a).

(c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

The five-acre minimum lot size within D&C Area 420-3 was originally adopted as a component of the Lane County Rural Comprehensive Plan in February 1984 and was acknowledged by DLCD during the County's reacknowledgment work program during 1989-1990. The minimum lot sizes of D&C Area 420-3 including the five-acre minimum surrounding the subject property were readopted by Lane County Ordinance No. PA 1173 on April 17, 2002 and acknowledged by DLCD Order No. 01431 on October 31, 2002.

The surrounding five-acre density as applied to the subject property is in compliance with OAR 660-004-040(5)(c).

OAR 660-022-040(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.

The plan amendment and zone change for the subject property is from Rural Industrial (RI, LC 16.292) to Rural Residential (RR, LC 16.290). The Rural Industrial Zone does not and is not required by state law to have a numerical minimum lot size. The rural residential area south of Row River within D&C area 420-3 is designated Rural Residential (RR5) with a five-acre division standard. Designation of the subject property as "RR5" conforms to the adopted and acknowledged minimum lot size standard and would not allow a minimum smaller than the surrounding RR density for the subject property.

The surrounding five-acre density for the subject property is in compliance with OAR 660-004-040(6).

OAR 660-022-040(7)

(a) The creation of any new lot or parcel smaller that two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall to be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

The subject property's metes and bounds were lawfully created in 1951 and include 2.27 acres. The subject property is not a "new" lot or parcel and it exceeds the two-acre minimum standard for a rural residential parcel.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(a).

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

The subject property is not a "new lot or parcel" and the surrounding and adopted five-acre density which is applied to the subject property is in compliance with OAR 660-004-040(7)(b).

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

The subject property is not a "new lot or parcel", the adopted minimum lot size in the rural residential area surrounding the subject property is five-acres, and the adopted density for the subject property is five-acres and equal to the existing and enveloping, minimum lot size.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(c).

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

The subject property is not a "new lot or parcel" and the adopted five-acre minimum lot size exceeds the two-acre minimum.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(d).

(e) (A)- (H) addresses *Planned Unit Development (PUD)* and subsection *(e)* is not applicable to the plan amendment and rezoning of the subject property.

(f) addresses development of a single family dwelling and the option for a medical hardship dwelling on a property which does not apply to the proposal for the plan amendment and zone change of the subject property.

(g) addresses establishment of a new mobile home park or manufactured dwelling park which does not apply to the proposal for plan amendment or zone change of the subject property.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the condition described in paragraphs (A) through (D) of this subsection exist.

Subsection *(h)* is not applicable to the rezoning of the subject property since the adopted minimum lot size is five-acres.

(i) For rural residential area designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

The subject "rural residential area" is Developed & Committed Exception Area 420-3 adopted in 1984, readopted on April 17, 2002 (Ordinance No. PA 1173) and acknowledged on October 31, 2002 by Oregon Department of Land Conservation and Development Order No. 01431. D&C 420-3 has existed since 1984 and was not designated after the effective date of OAR 660-004-040.

The subject property was lawfully created in 1951, zoned Heavy Industrial (M3) in 1984 for which a developed & committed exception was taken, and is not a "new lot or parcel".

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 669, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-00118, "Planning and Zoning for Exception Areas."

The adopted minimum lot size for the subject property in conformity with the surrounding rural residential lands of D&C Area 420-3 is five acres and exceeds the "minimum size of at least two acres for new lots or parcels. . ."

The adopted five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(i)(A)-(B).

OAR 660-022-040(8)(a)-(g)

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c)

(A) Ashland;
(B) Central Point;
(C) Medford;
(D) Newburg;
(E) Sandy.
* * *

(8)(b) If a city of urban area listed in Subsection (8)(a):

* * *

(8)(c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional

growth plan as described in Subsection(B), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

The subject property and D&C Area 420-3 are not located within one mile of Ashland, Central Point, Medford, Newberg, or Sandy. Subsections (8)(b) and (c) do not apply to the subject property.

(8)(d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district . .

* * *

(8)(e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less that one mile from the urban growth boundary of Portland . . .

* * *

(8)(f) Notwithstanding the provisions of Section 7 and Section (8)(e), . . . densities set forth in the Metro 2040 Plan . . .

* * *

The subject property and D&C Area 420-3 are not located within or less than a mile from the Portland metropolitan service district or urban growth boundary. Subsection (8)(d), (e) and (f) do not apply to the subject property.

(8)(g) A local government may allow the creation of a new parcel, or parcels , smaller that a minimum lot size required under subsections (a) though (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:
(A) The parcel to be divided has two or more permanent, habitable dwelling son it;

* * *

The subject property is not developed with any dwellings and the adopted minimum lot size is five-acres. Subsection (g) does not apply to the subject property.

OAR 660-022-040 (9)

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Development or use of the subject property in D&C Area 420-3 shall be required to comply with all applicable State and local land use regulations and Oregon Specialty Code requirements at the time such development or use is identified, and required permit applications are submitted.

4. Lane County Rural Comprehensive Plan (RCP) – General Plan Policies: Goal 2, Policy 11.a. speaks directly to the issue of applying the existing and surrounding minimum lot size standard to the subject property. Goal 2, Policy 11.a. was reviewed for compliance with OAR 660-004-0040 during the Lane County Periodic Review Work Program. The application of the adopted and acknowledged Policy 11.a. was directly applied to the subject rural residential area (D&C Area 420-3) with the adoption of the OAR Compliance Report for the Coast Fork Willamette

Watershed adopted by the Board of Commissioners in Ordinance No. PA 1222 on June 15, 2005 and acknowledged by DLCD Order No. 001672 to be in compliance with OAR 660-004-0040 on July 19, 2005.

Lane County Rural Comprehensive Plan (RCP) – General Plan Policies: Goal 2, Policy 11.a. i-vii provides for the application of the policy using the following criteria:

a. *A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:*
   i. *existing development pattern and density;*

In 1998, the existing development pattern within D&C Area 420-3 consists of 116 acres distributed throughout 42 Rural Residential (RR) properties averaging 2.76 acres and developed with 41 residences. Adjacent properties to the east and west, and south across Mosby Creek Road are designated RR5 Rural Residential with a five–acre minimum lot size. Lands across the Row River to the north are designated RR2 Rural Residential with a two-acre minimum lot size. The subject property is enveloped on three boundaries by RR5 lands and separated from RR2 lands by Row River. The adoption of the adjacent five-acre minimum lot size for the subject property complies with Goal 2, Policy 11.a. criteria.

ii. on-site sewage disposal suitability, or community sewerage

The subject property is developed with a subsurface sanitation disposal system (SDS) authorized by Permit No. 1125-74 (7-19-74) that served the shake mill facilities from 1974 to approximately 1986. Use of the SDS for the residential use of the subject property shall be subject to compliance with applicable Lane County and Oregon Department of Environmental Quality sanitation permit requirements and inspections.

iii. domestic water supply availability:

The subject property is developed with an onsite well that served the shake mill facilities from 1976 to approximately 1986. Use of the well and water system for the residential use of the subject property shall be subject to compliance with applicable Lane County land use and building permit requirements and inspections.

iv. access;

Legal access to the subject property has been establish for approximately 35 years from Mosby Creek Road and over an at-grade railroad crossing of the old Oregon Pacific & Eastern railroad right-of-way. The old railroad bed has been developed with an asphalt surface and is used as a public bike path.

v. public services

The subject property is provided with the following public services:
South Lane School District #45 (schools);
Emerald Peoples Utility District (electricity);
South Lane County Fire and Rescue (fire and ambulance);
US Qwest (telephone);
Lane County Sheriff's Department and Oregon State Police (law enforcement); and
Lane County Receiving Station (solid waste disposal).

vi. lack of natural hazards; and

The subject property is level with slight slope of 0-5% towards Row River. There are no identified natural hazards, such as steep slopes, on the property. Portions of the property are within a flood hazard area which will require conditional use permits for development. There are no identified wetlands on the subject property per NWI map Cottage Grove SE4.

vii. effect on resource lands.

D&C Area 420-3 is adjacent to the urban growth boundary (UGB) of the City of Cottage Grove. The subject property is 1,800 feet upstream from the UGB. The subject property is enveloped within a rural residential area of 42 parcels developed with 41 dwellings. Residential development of the subject property is buffered on all sides by existing dwellings and residential uses. The closest Forest Lands to the northeast and southwest are separated by 1,200 feet from the subject property by developed parcels zoned Rural Residential RR5/RR2. The closest Exclusive Farm Use Lands to the east are separated by 1,800 feet from the subject property by developed parcels zoned Rural Residential RR5. No anticipated impacts or effects have been identified from the infill of one new residence on the subject property within the existing tapestry of residential development of D&C Area 420-3.

III. CONCLUSION OF LAW

In summary, the Board of County Commissioners' find, conclude and decide that the adopted zone change for the subject property from Rural Industrial (RI – Lane Code 16.292) to Rural Residential (RR5 – Lane Code 16.290) with a minimum lot size of five-acres (RR5) is in compliance with the criteria and standards of Oregon Administrative Rule 660-004-0040 and Lane County Rural Comprehensive Plan – General Plan Policies: Goal 2, Policy 11.a. Accordingly, we find, conclude and decide in support of the Findings of Fact and Conclusions of Law in Exhibit C-17 of Ordinance No. PA 1226, that the subject property should, through the enactment of Ordinance No. PA 1226, be designated Rural and zoned Rural Residential (RR5, RCP).

Exhibit No. _C-18_

PRZC Control No. _18_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Plot No. 292

Plan Amendment and Zoning Designation for
Tax Lots 800, 900 and 1000 of Assessor's Map 15-04-21

TRS - Tax lot	Acreage	From	To
15-04-21, 800	171.08	Linn County	Exclusive Farm Use (E30)
15-04-21, 900	4.18	Linn County	Exclusive Farm Use (E30)
15-04-21, 1000	1.80	Linn County	Exclusive Farm Use (E30)

Statement of Criteria

Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.212 – *Exclusive Farm Use*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. Findings of Fact

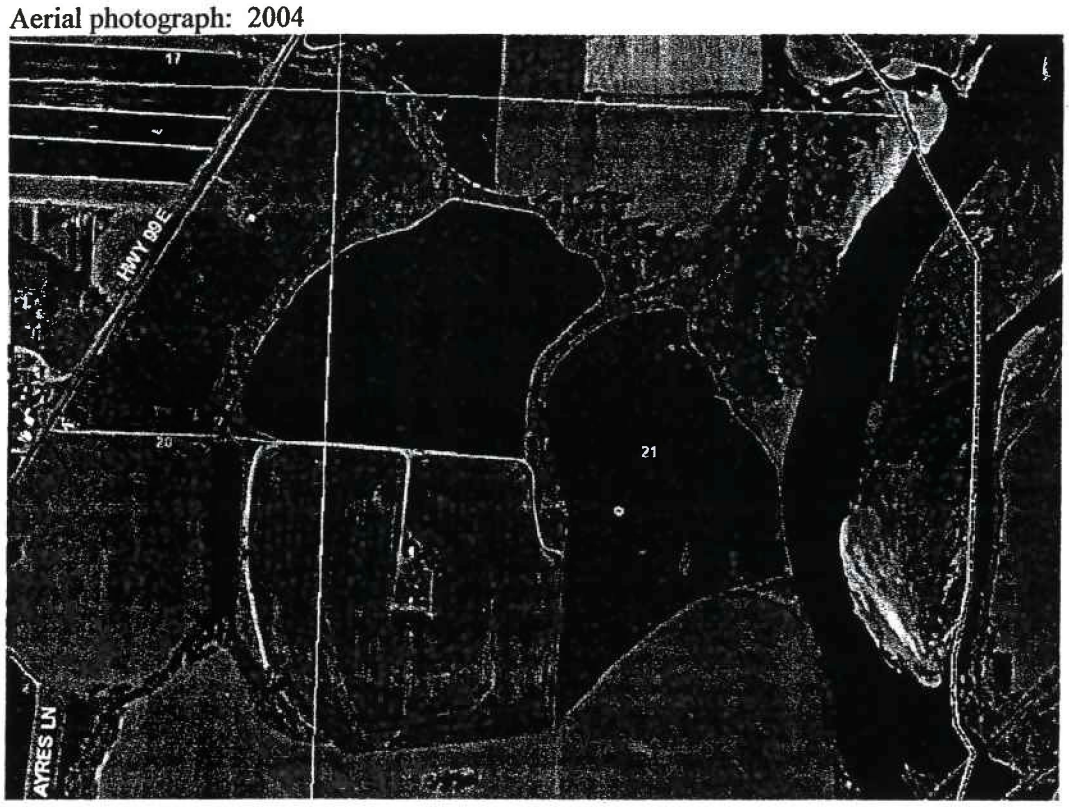
1. The lands subject to this conformity determination amendment are identified as tax lots 800, 900 and 1000 of Lane County Assessor's Map 15-04-21. Refer to Exhibit "C".

   TRS 15-04-21, tax lot 800 is 171.08 acres in size and developed with a residence constructed in 1946 and has an assigned rural address of 95401 Highway 99E, Junction City, OR 97448. The subject property is managed for agricultural crops by the owners, Paul and Bonnie Sandland.

   TRS 15-04-21, tax lot 900 is 4.18 acres in size, undeveloped woodland owned by Oregon Department of State Lands.

   TRS 15-04-21, tax lot 1000 is 1.80 acres in size with portions in the ownership of the Estate of Ronald E. McNutt and the State Land Board of Oregon.

   Aerial photograph: 2004



2. At the time of adoption of the Rural Comprehensive Plan, Plan Diagrams and Zoning Diagrams in 1984, the subject properties were designated as land within the boundaries of

Linn County being considered historically east of the center line of the Willamette River, the common boundary between Land County and Linn County. Decades prior to 1984, the Willamette River had meandered to the East isolating the previous Linn County lands within a dry oxbow channel to the west of the new channel. The 2004 aerial photograph (above) depicts the subject properties west of the Willamette River (aligned north-south along the right side of the photograph) as the green cultivated lands in the center of the photograph and the wooded lands in the upper right corner. Some open water and small tributaries remain in western and northern portions of the old channel.

3. House Bill 3272 was approved by the Governor on July 29, 2003, filed in the office of the Secretary of State on the same date, and became effective on January 1, 2004. The Act amended Chapter 622 of the Oregon Laws 2003, Section 2 and amended county boundary lines for Linn County and Lane County. Specific to this Plan and Zoning amendment, Section 2 stated:

   "**SECTION 2.** ORS 201.200 is amended to read:

   . . .

   (2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225."

   Oregon Laws 2003, Chapter 622 is attached as Exhibit "D".

4. Lane Code 16.252(2) Criteria states: *Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes f the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for an portion of Lane County which has not been acknowledged for compliance with Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures I this section.*

   a. The three subject properties are bordered to the North, West and South by lands designated as Agricultural and zoned Exclusive Farm Use (E30) with a minimum division standards of 30 acres.
   b. The privately owned lands (Sandland, tax lot 800; and McNutt, tax lot 1000) are actively management for farm use. The publicly owned lands (State of Oregon, tax lot 900) are passively managed for woodlot and wildlife habitat.
   c. The E30 designation is compatible with the historical and existing uses.
   d. The proposed amendments to the Plan and Zoning Diagrams are being considered Control No. 18, a component of Ordinance No. PA 1226.

5. The proposed amendments conform to the actions of HB 3272 and implement Chapter 622, Section 2 adjustments to the Lane County boundary.

II. Conclusion

This staff report has shown by a preponderance of evidence that the criteria applicable for approval of an amendment of Official Plan and Official Zoning Plot 292 designations for TRS 15-04-21, tax lots 800, 900 and 1000 from unzoned land to Agriculture and Exclusive Farm Use (E30), have been met.

III. Recommendations

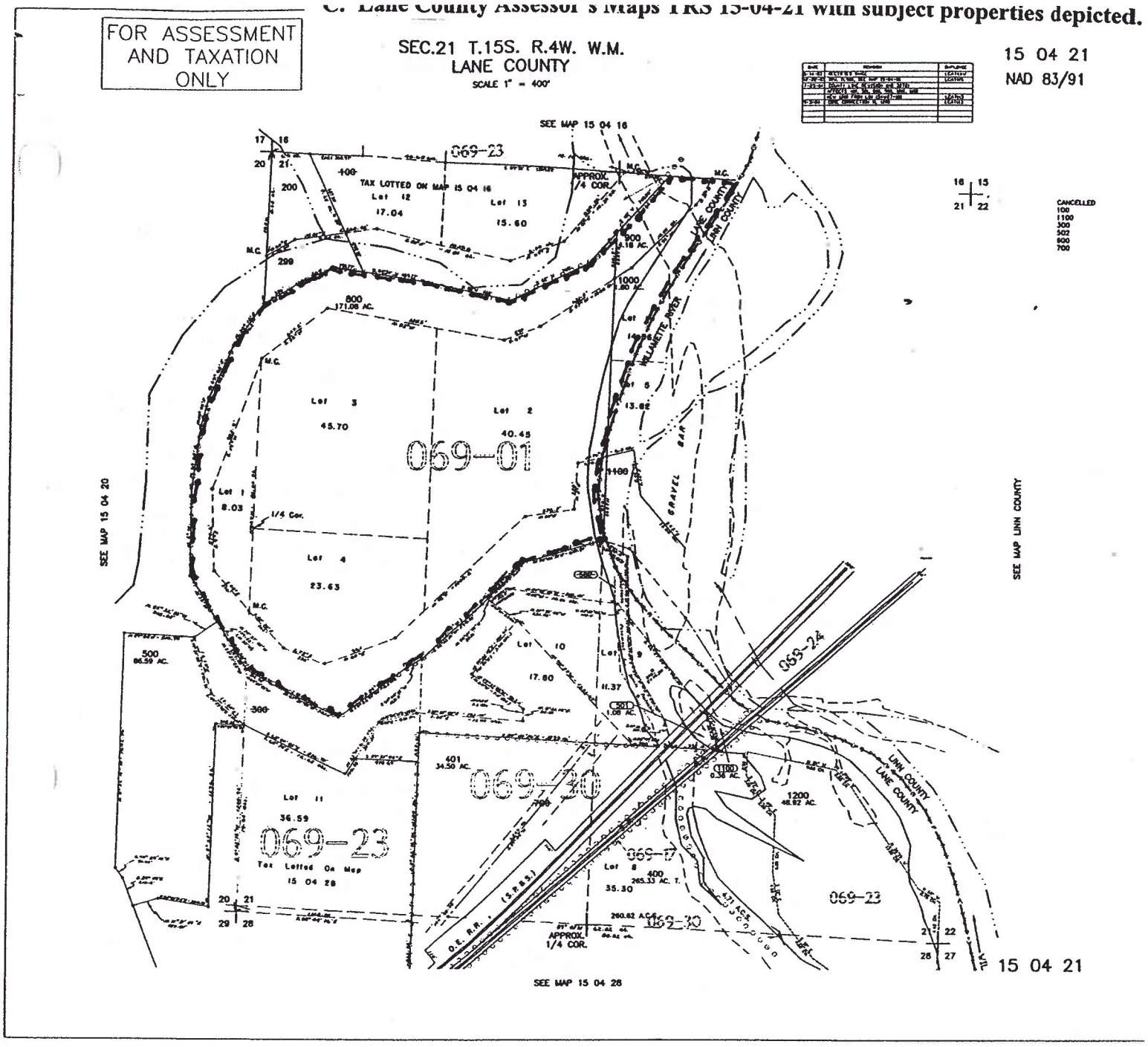
1. Approval of PRZC Control No. 18 of Ordinance No. PA 1226, amending the Official Plan Map No. 292 designation for tax lots 800, 900 and 1000 of Assessors Map TRS 15-04-21, from Unzoned to Agriculture (A).

2. Approval of PRZC Control No. 18 of Ordinance No. PA 1226, amending the Official Zoning Map No. 292 designation for tax lots 800, 900 and 1000 of Assessors Map TRS 15-04-21, from Unzoned to Exclusive Farm Use (E30).

IV. Exhibits

A. Plan Maps No. 292 with proposed plan changes depicted.
B. Zoning Map Plot No. 292 with proposed zone changes depicted.
C. Lane County Assessor's Maps TRS 15-04-21 with subject properties depicted.
D. Oregon Laws 2003, Chapter 622 (HB 3272) 4 pp.

C. Lane County Assessor's Maps TRS 15-04-21 with subject properties depicted.



CHAPTER 622

AN ACT HB 3272

Relating to county boundary lines; amending ORS 201.020, 201.200, 201.220, 201.240 and 201.270.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 201.020 is amended to read:

201.020. **(1)** The boundary of Benton County is as follows:

[*(1)*] **(a)** Commencing in the middle of the Willamette River, at the southeast corner of Polk County; thence running south along the main channel of [*such*] **the** river to the middle fork [*thereof*] **of the river**; thence up [*such*] **the** middle fork to its source; thence due south to the forty-second parallel of north latitude; thence west along [*such*] **the forty-second** parallel to the Pacific Ocean; thence north along the coast of the Pacific Ocean to the southern boundary of Polk County.

[*(2)*] **(b)** Beginning at a point on the Benton and Lincoln County boundary line which is the northeast corner of section 13, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately one mile to the section corner common to sections 11, 12, 13 and 14, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately one mile to the section corner common to sections 13, 14, 23 and 24, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately four miles to the section corner common to sections 17, 18, 19 and 20, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two miles to the section corner common to sections 29, 30, 31 and 32, township 14 south, range 9 west, Willamette Meridian; thence east a distance of approximately two miles to the section corner common to sections 27, 28, 33 and 34, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two and one-fourth miles to the Lane and Lincoln County boundary along the one-sixteenth section line in sections 10, 11 and 12 in township 15 south, range 9 west, Willamette Meridian; thence east to the boundary lines corner common to Lincoln, Benton and Lane Counties; thence north a distance of approximately five and one-fourth miles to the place of beginning.

[*(3)*] **(c)** The southern boundary of Benton County commences in the middle of the channel of the Willamette River at a point where a line running west will pass three miles south of the ford on Long Tom (near Rowland Hinton's field); thence running due west to a monument set on the present county boundary between Lane and Benton Counties, which is 14.96 chains north of the quarter section corner between sections 11 and 12, township 15 south, range 6 west, Willamette Meridian; thence south to the quarter corner between sections 11 and 12, township 15 south, range 6 west; thence westerly on the quarter line through townships 6 and 7 west, to the quarter corner on the west side of section 7, township 15 south, range 7 west; thence south to the quarter corner on the east side of section 12, township 15 south, range 8 west; thence westerly on the quarter section line through township 15 south, range 8 west, to the west line of section 7 of such township.

(2) When the Willamette River serves as the boundary between Linn and Benton Counties in subsection (1)(a) and (c) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 2. ORS 201.200 is amended to read:

201.200. **(1)** The boundary of Lane County is as follows:

[*(1)*] **(a)** All that portion of Oregon lying south of Linn County, and south of so much of Benton County as is east of Umpqua County.

[*(2)*] **(b)** The southern boundary of Lane County is as follows: Beginning at a point in the present boundary line between Lane and Klamath Counties on the summit of the Cascade Range, at a point due east of the southeast corner of township 24 south, range 5 east of the Willamette Meridian; thence west on the township line to the Willamette Meridian, at the southeast corner of township 24 south, range 1 west; thence north seven and one-half miles to the east one-quarter section corner of section 25, township 23 south, range 1 west of the Willamette Meridian; thence west on the one-half section line 18 miles to the west one-quarter section corner of section 30, township 23 south, range 3 west of the Willamette Meridian; thence north four and one-half miles to the southeast corner of township 22 south, range 4 west of the Willamette Meridian; thence west on the township line one and one-half miles to the south one-quarter corner of section 35, township 22 south, range 4 west of the Willamette Meridian; thence north 12 miles to the north one-quarter corner of section 2, township 21 south, range 4 west of the Willamette Meridian; thence west ten and one-half miles to the southwest corner of township 20 south, range 5 west of the Willamette Meridian; thence north two miles to the southeast corner of section 24, township 20 south, range 6 west of the Willamette Meridian; thence west six miles to the southwest corner of section 19, township 20 south, range 6 west of Willamette Meridian; thence north one and one-half miles to the east one-quarter corner of section 13, township 20 south, range 7 west of the Willamette Meridian; thence west three miles to the west one-quarter corner of section 15, township 20 south, range 7 west of the Willamette Meridian; thence north two and one-half miles to the northwest corner of section 3, township 20 south,

range 7 west of the Willamette Meridian; thence west on township line to northwest corner of township 20 south, range 7 west; thence north to the southeast corner of section 24, township 19 south, range 8 west of the Willamette Meridian; thence west two miles to the southwest corner of section 23, township 19 south, range 8 west of the Willamette Meridian; thence north two miles to the southwest corner of section 11, township 19 south, range 8 west of the Willamette Meridian; thence west to the northwest corner of section 16, township 19 south, range 8 west of the Willamette Meridian; thence north one mile to the northwest corner, section 9, township 19 south, range 8 west of the Willamette Meridian; thence west on section line two miles to the northwest corner of section 7, township 19 south, range 8 west of Willamette Meridian; thence north to the northeast corner of section 12, township 19 south, range 9 west of the Willamette Meridian; thence west six miles on the section line to the southwest corner section 6, township 19 south, range 9 west of the Willamette Meridian; thence south on township line to northeast corner of section 12, township 19 south, range 10 west of the Willamette Meridian; thence west on section line one-quarter mile; thence south one-half mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the southwest corner of section 12, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-quarter mile to the corner common to sections 15 and 22, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile, thence west three-quarters mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the northeast corner of section 29, township 19 south, range 10 west; thence west one mile to the northwest corner of section 29; thence south to the southeast corner of section 31, township 19 south, range 10 west of the Willamette Meridian; thence west to the northeast corner of township 20 south, range 11 west of the Willamette Meridian; thence south one-half mile to the east one-quarter corner of section 1, township 20 south, range 11 west of the Willamette Meridian; thence west on the half-section line to the Pacific Ocean.

[*(3)*] **(c)** Beginning at a point on the left bank of the Willamette River where the south line of section 16, in township 15 south, range 4 west of the Willamette Meridian intersects [*such*] **the left** bank, [*such*] **that** point being 58 links east of the one-quarter section corner on the south line of section 16; thence running along the meanders of [*such*] **the** left bank north 49 degrees east 4.50 chains; thence north 10 degrees east 14.50 chains; thence north 28 degrees west 13.70 chains; thence north 15 degrees east 7.30 chains; thence north 30 degrees east 3.50 chains; thence north 59 degrees east 7.85 chains; thence north 82 degrees east 4.50 chains; thence north 40 degrees east four chains; thence north 10 degrees east 4.50 chains to the meander corner on the north line of section 16 where the section line intersects the left bank of [*such*] **the** river, [*such*] **that** point being south 89 degrees 30 minutes east 14.18 chains distant from the one-quarter section corner on the north line of section 16 in such township and range; thence south 89 degrees 30 minutes east four chains more or less to the center of the [*present*] main channel of the Willamette River; thence following the center of the [*present*] main channel of [*such*] **the** river in a southerly direction up stream to the south line of section 16; thence north 89 degrees 30 minutes west 10 chains more or less to the point of beginning, and containing 120 acres more or less.

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 3. ORS 201.220 is amended to read:

201.220. **(1)** The boundary of Linn County is as follows:

[*(1)*] **(a)** All that portion of Oregon lying south of Marion County and east of Benton County.

[*(2)*] **(b)** The southern boundary of Linn County is as follows: Beginning in the middle of the main channel of the Willamette River, due west from where the south line of section 3, township 16 south, range 4 west intersects [*such*] **the** river; running thence east on the section line to the southwest corner of section 2, township 16 south, range 2 west; thence north on the section line to the northwest corner of section 23, township 15 south, range 2 west; thence east on the section line to the northeast corner of section 24, township 15 south, range 2 west; thence north on the township line between township 15 south, range 1 west, and township 15 south, range 2 west, to the summit of the ridge dividing the waters of the tributaries of the Calapooia River from the waters of the tributaries of the Mohawk River; thence easterly along the summit of the ridge dividing the waters of the Calapooia River and its tributaries from the waters of the tributaries of the Mohawk River and the tributaries of the McKenzie River to where the same intersects the west line of section 35, township 15 south, range 3 east; thence north to the southwest corner of the northwest quarter of the northwest quarter of section 35; thence east to the east line of section 35; thence south to the quarter section corner between sections 35 and 36; township 15 south, range 3 east;

thence east to the east line of section 36; thence south to the summit dividing the waters of Calapooia River from the waters of the tributaries of the McKenzie River; thence easterly along the summit of [*such*] **the** ridge to the intersection of the summit with the present southern boundary of Linn County, in township 15 south, range 4 east; thence east along the present boundary line between the counties to the summit of the Cascade Mountains.

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1)(b) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 4. ORS 201.240 is amended to read:

201.240. (1) The boundary of Marion County is as follows:

[*(1)*] **(a)** The line dividing Marion and Yamhill Counties is a line drawn along the middle of the main channel of the Willamette River where that main channel is located on June 22, 1981. All land on the east side of the line dividing Marion and Yamhill Counties is part of Marion County.

[*(2)*] **(b)** The southern boundary of Marion County and the northern boundary of Linn County commences in the middle in the main channel of the Willamette River opposite the mouth of the Santiam River; thence up the middle of the main channel of the Santiam River as it existed on April 21, 1982, to a point opposite the mouth of the north fork of the river; thence up the middle of the main channel of the north fork as it existed on April 21, 1982, to the mouth of Whitewater Creek; thence up the creek to a point where the creek crosses the section line between sections 21 and 28 in township 10 south, range 7 east, Willamette Meridian; thence due east along the section line projected to the summit of the Cascade Mountains.

(2) When the Willamette River, the Santiam River, the north fork of the Santiam River or Whitewater Creek serves as the boundary between Linn and Marion Counties in subsection (1)(b) of this section, a reference to one of these rivers or creeks refers to the middle of the river or creek as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 5. ORS 201.270 is amended to read:

201.270. (1) The boundary of Polk County is as follows: Commencing at the southeast corner of Yamhill County, at a point in the center of the Willamette River in township 6 south of range 3 west of the Willamette Meridian 62 chains and 16 links south of the first standard parallel south; thence running due west on the south boundary line of Yamhill County to the west boundary of township 6 south of range 8 west of the Willamette Meridian; thence south to the north boundary line of Benton County; thence east along the north boundary line of Benton County to the center of the main channel of the Willamette River; thence down the center of the main channel of the Willamette River where that main channel [*was located*] **existed** on [*June 22, 1981,*] **January 8, 2003, to the confluence of the Santiam River; thence down the center of the main channel of the Willamette River where that main channel was located on June 22, 1981,** to the place of beginning, all land on the east of the line last above described being a part of Marion County.

(2) When the Willamette River serves as the boundary between Linn and Polk Counties in subsection (1) of this section, a reference to the river refers to the center of the main channel of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 5a. If House Bill 2676 becomes law, section 5 of this 2003 Act (amending ORS 201.270) is repealed and ORS 201.270, as amended by section 1, chapter 97, Oregon Laws 2003 (Enrolled House Bill 2676), is amended to read:

201.270. (1) The boundary of Polk County is as follows: Commencing at the southeast corner of Yamhill County, in the [*middle*] **center** of the main channel of the Willamette River in township 6 south, range 3 west of the Willamette Meridian; thence N 89° 42′ 43″ W, 900 feet to a brass cap set in the base of the monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 42′ 43″ W, 5,256.03 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 51′ 52″ W, 14,356.78 feet to an iron pipe and brass cap monument; thence N 89° 48′ 05″ W, 1,314.22 feet to an aluminum pipe and aluminum cap monument; thence N 89° 59′ 01″ W, 3,093.00 feet to an iron pipe and brass cap monument; thence N 89° 59′ 32″ W, 3,487.12 feet to an iron pipe and brass cap monument; thence N 89° 54′ 09″ W, 891.58 feet to an iron pipe and brass cap monument; thence N 89° 52′ 36″ W, 1,131.35 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 53′ 16″ W, 6,000.53 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 40′ 14″ W, 2,690.80 feet to an iron pipe and brass cap monument; thence N 89° 41′

16″ W, 2,708.54 feet to an iron pipe and brass cap monument; thence N 89° 52′ 16″ W, 9,925.57 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 21′ 07″ W, 13,631.79 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 53′ 01″ W, 4,749.60 feet to an iron pipe and brass cap monument; thence S 89° 52′ 12″ W, 4,379.73 feet to an iron pipe and brass cap monument; thence S 89° 51′ 31″ W, 6,113.50 feet to an iron pipe and brass cap monument; thence S 89° 50′ 30″ W, 8,340.37 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 51′ 36″ W, 5,111.72 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 29′ 45″ W, 4,479.59 feet to an iron pipe and brass cap monument; thence S 89° 29′ 01″ W, 2,258.39 feet to a point five links north of a cast iron pyramid monument set in 1890 to denote a reference to the boundary between Polk and Yamhill Counties; thence N 89° 53′ 46″ W, 6,983.34 feet to a brass cap set in concrete; thence S 89° 33′ 19″ W, 8,919.81 feet to an aluminum pipe and aluminum cap monument; thence N 88° 40′ 09″ W, 7,840.11 feet to an iron pipe and brass cap monument; thence N 88° 41′ 27″ W, 6,684.99 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 56′ 52″ W, 9,123.08 feet to an iron pipe and brass cap monument; thence N 89° 58′ 22″ W, 7,936.58 feet to an iron pipe and brass cap monument; thence N 89° 29′ 17″ W, 1,312.89 feet to an iron pipe and brass cap monument; thence N 89° 46′ 31″ W, 14,458.42 feet to an iron pipe and brass cap monument; thence N 89° 00′ 46″ W, 615.90 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 53′ 34″ W, 4,775.55 feet to the northwest corner of Polk County, which is monumented with an iron pipe and brass cap, as depicted on the county line survey of 2003, which lies on the west boundary of and 62.16 chains southerly from the northwest corner of township 6 south, range 8 west; thence south to the north boundary line of Benton County; thence east along the north boundary line of Benton County to the [*middle*] **center** of the main channel of the Willamette River; thence down the [*middle*] **center** of the main channel of the Willamette River where that main channel [*was located*] **existed** on [*June 22, 1981,*] **January 8, 2003, to the confluence of the Santiam River; thence down the center of the main channel of the Willamette River where that main channel was located on June 22, 1981,** to the place of beginning, all land on the east of the line last above described being a part of Marion County.

(2) When the Willamette River serves as the boundary between Linn and Polk Counties in subsection (1) of this section, a reference to the river refers to the center of the main channel of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

Approved by the Governor July 29, 2003
Filed in the office of Secretary of State July 29, 2003
Effective date January 1, 2004

Exhibit No. _C-20_
PRZC Control No. __20__

__Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 437-2

Plan Amendment and Zone Change for
Tax Lot 1300 of Assessor's Map 18-02-19

TRS/Tax lot	Acreage	From	To
18-02-19, 1300	5.22	Rural Residential (RR5)	Rural Industrial (RI)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. Findings of Fact

Refer to Exhibit "D" Applicant's Findings of Fact and Conclusions of Law.

The Board of County Commissioners adopts the findings of fact and conclusions of law of the applicant in Exhibit "D" as their own.

II. Justification for the Recommendation

Refer to Exhibit "D" Applicant's Findings of Fact and Conclusions of Law.

III. Conclusion

The applicant has shown by a preponderance of evidence in Exhibit "D" that the criteria and standards applicable to this rezoning request have been met.

IV. Recommendations

That the Bessett Lucky Limited application PRZC Control No. 20 of Ordinance No. PA 1226 for the amendment to the plan designation of tax lot 1300, Assessors Map 18-02-19, from Rural (R) to Industrial (I), be approved.

That the Bessett Lucky Limited application PRZC Control No. 20 of Ordinance No. PA 1226 for the rezoning of tax lot 1300, Assessors Map 18-02-19, from Rural Residential (RR5) to Rural Industrial (RI), be approved.

V. Exhibits

A. Plan Map, Plot No. 437
B. Zoning Map, Plot No. 437
C. Assessor's Map 18-02-19 depicting subject property tax lot 1300
D. Applicant's Findings of Fact and Conclusions of Law.

Developed and Committed Exception Area -- No. 437-2S

Plan Amendment and Zone Change for Assessor's Map 18-02-19, tax lot 1300 (5.01 acres): From RR5 Rural Residential to RI Rural Industrial

I. PROPOSAL

This application requests that a 5.01 acre parcel adjacent to Highway 58 east of Goshen be redesignated and rezoned from RR5 Rural Residential to RI Rural Industrial. This rezoning would recognize the existing use of the property for heavy equipment storage and repair which has been in continuous operation on the site since 1965. It would permit the existing business to continue operating under many of the same provisions applied in the five conditional use permits previously approved for heavy equipment storage and repair on the site.

Improvements such as a number of buildings, well and septic system have been legally installed on the property. The area used for heavy equipment storage has been expanded beyond what was permitted in the prior approvals. This application will recognize this expansion and manage it within the provisions of the Rural Industrial zone. The uses in this application are consistent with what is permitted in the Rural Industrial zone, and appear to be compatible with the area. The existing use has been compatible with the surrounding neighborhood for 40 uninterrupted years of operation. Another heavy equipment storage and repair business, which is larger in size, is located one parcel away from the subject property to the southeast.

II. PARCEL SPECIFIC FINDINGS OF FACT

Findings of fact specific to the subject property: Assessor's map 18-02-19, tax lot 1300 (hereafter 18-02-19, TL 1300)

1. The property subject to this application, hereinafter referred to as the "subject property," is identified as tax lot 1300 of Assessors Map 18-02-19, and is 5.01 acres in size. The development has an assigned rural address of 34940 Highway 58, Pleasant Hill OR 97455.

2. The subject property is designated and zoned Rural Residential RR5 and is developed with the following improvements (all dimensions are approximate).
   * Shop (4800 sq. ft.),
   * Shop (2800 sq. ft.),
   * Office (520 sq. ft.),
   * Mobile home for caretaker (840 sq. ft.),
   * Shed
   * Parking and outside storage
   * Well

* Subsurface septic system
* Fenced with 6 foot high chain link

3. The development history of the subject property is as follows.

   A. In 1965 the current owners opened their heavy equipment storage and repair business on the property, which has been in continuous operation ever since. On March 5, 1966 the current owners purchased the site.

   B. Four conditional use permits (CUP 71-110, 76-1198, 76-261 and 81-261) have been approved on the subject property to allow the continued operation of the heavy equipment storage and repair business. Improvements required as part of these permits have been constructed on the site:
   * subsurface septic system (SI 77-184)
   * replacement mobile home for caretaker (LC 232-80 MH)
   * accessory buildings (PA 2301-88 and PA 2581-88)

   C. An additional land use approval (PA 2922-86) has been granted for the heavy equipment storage and repair business, after the subject property was rezoned for Rural Residential use in 1984. This approval allowed this use to continue without requiring additional Conditional Use Permit applications.

   D. A fill permit (PA 01-5631) has been approved to add fill dirt to the northern portion of the subject property, so it can be better used for heavy equipment storage. The fill authorized in this permit has not yet been placed on the site, subject to this requested redesignation and rezoning.

4. The subject property is trapezoidal in shape, with approximately 300 feet of frontage along the right-of-way of Highway 58, and from 594.27 to 624.4 feet of depth. It is within three contiguous exception areas which total 375.04 acres in size. The subject property is part of Exception Area 437-2S, which is 104.74 acres in size and extends to the northwest along Highway 58. Another exception area (437-2N) is adjacent to the north, and is 95.5 acres in size. The subject property is adjacent to Exception Area 438-1 which is directly south of the site, 174.8 acres in size, and on both sides of Mathews Road.

5. Land zoned Agricultural E25 is located across Highway 58 from the subject property, and is developed with an orchard and residence. The Highway 58 right-of-way is 140 feet wide in the vicinity of the site. Parcels on all sides of the subject property, including the agricultural parcel across Highway 58, are developed with residences. The site is within a relatively large area of rural residential development. There are 31 dwellings and two businesses/shops located within 1/4 mile of the subject property, with the primary concentration of development located south of the site, along Mathews Road. Another heavy equipment storage and repair business which is larger

than what is on the subject property, is located one parcel away from the site to the southeast.

6. Over 97 percent of the subject property has Malabon silty clay loam (Soil Survey of Lane County Area, Oregon (1987), NRCS Map sheet 104). Malabon loam does not have a Douglas fir site index and has an agricultural capability class of 1. The other 3 percent of soils on the site are Chehalis silty clay loam (2 percent) with no Douglas fir site index and an agricultural capability class of 2, and McBee silty clay loam (1 percent) with no Douglas fir site index and an agricultural capability class of 3. The 40 year use of the subject property for heavy equipment repair and storage has rendered approximately 80 percent of the site unusable for farm or forest uses due to fill, structures, and impacted soil from heavy equipment traffic.

7. No National Wetland Inventory delineated wetlands are located on the subject property (Jasper 2 map).

III. ANALYSIS OF APPROVAL STANDARDS

Statewide Planning Goals

The subject property is within Developed & Committed Exception Area #437-2S, subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application intended to recognize the existing heavy equipment storage and repair use that has existed for forty continuous years on the subject property.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located southeast of Goshen and northwest of Pleasant Hill, is not within a urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning would allow the applicant to continue the existing use of the subject property.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

No resource lands are directly adjacent to the subject property. Land designated for agricultural use (E25) is located 140 feet northeast of the subject property, across Highway 58. Lands to the west , south, and east of the subject property are designated Rural Residential (RR5). Highway 58 is north of the subject property. The subject property is developed with improvements required for heavy equipment repair and storage which have existed without any known conflicts with resource management of the agricultural land to the north.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The use on the subject property will be unchanged from what has existed for the last forty years, which has been and will be compatible with the management of resource lands across Highway 58 to the north.

Therefore, this proposed zoning change is in accord with statewide planning goals.

Plan Conformity

The subject property is located in Developed and Committed Area #437-2S of Lane County. It is proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and be zoned Rural Industrial (RI). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. <u>Land Use Planning Policy 13.</u> Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services experienced by the citizens of D&C Area #437-2S. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject properties is defined, in part, by the operation of residential uses on the properties within the corridor of residential and commercial uses in D&C Area #437-2S along Highway 58. The existing use on the subject property has operated on the site for 40 contiguous years with no apparent impact on the surrounding area. Most of the immediate area is developed with rural residential and rural industrial uses, with all properties directly adjacent to the subject property developed with rural residential uses.

2. Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.

The subject property is located within a node of uses along Highway 58 and Mathews Road. It fronts on Highway 58 which is a primary transportation route to the west and east. The subject property is well within the node identified as the Exception Area, and is appropriately located to Highway 58.

B. <u>Water Resources Policies 3 and 5</u>:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. The proposed rezoning will not change the type of

uses on the subject property and should not alter the use or availability of groundwater, which is currently available from a well on the subject property.

C. **Public Facilities and Services Policy 6.f**:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy 6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

D. **Agricultural Lands, Policy 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."**

The subject property has already been developed, and the current use has been in continuous operation on the site since 1965. Agricultural parcels are located across Highway 58 to the north of the site. The agricultural activities taking place on this parcel have been able to coexist for many years with activities taking place within the exception area, without any recorded adverse impacts or conflicts.

E. **Forest Lands, Policy 8: "Regard nonforest uses within or adjacent to forest lands as being subject to and normal and accepted forest practices in the locality."**

The subject property is not directly adjacent to forest lands outside the exception area. Its forty year use for heavy equipment storage and repair has not created any reported conflicts with normal and accepted forest practices in the area.

F. **Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."**

There are no delineated wetlands on the subject property. The continuation of existing uses on the site should not significantly affect natural systems or wildlife habitat beyond whatever effects that have already taken place.

Therefore, the proposed rezoning is in compliance with these Plan Policies as implemented by the Lane Code protection provisions.

Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

A. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

(1) **Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The existing heavy equipment storage and repair facility on the subject property has been generally compatible with the character and physical qualities of the immediate area since 1965. During that time period, the public health, convenience and welfare has been maintained, and will continue to be with the ongoing operation of the existing use.

(2) **Protect and diversify the economy of Lane County**.

The proposed zone change address the need for employment opportunities by allowing the existing business to continue providing at least 10 jobs for Lane County residents.

(4) **Conserve farm and forest lands for the production of crops, livestock and timber products.**

The subject property is located within Exception Area #437-2S and is currently zoned Rural Residential (RR5). It is 5.01 acres in size, developed with a rural industrial use, and adjacent to three properties (west, south and east) zoned RR5 that are developed with residences. By Board of Commissioners adopted policy dating back to 1989, a parcel of this size with surrounding residential impacts is impracticable for management as part of a farm or forest unit.

(7) **Provide for the orderly and efficient transition from rural to urban land use.**

The proposed change occurs in an exception area with nearby rural properties already intensely developed with residential and industrial uses. The existing uses are rural uses that utilize a rural level of services.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

No natural hazards have been identified on the subject property.

B. Not Contrary to the Public Interest

The "public interest" has not been defined as such, but for the purposes of this decision it will be assumed that if the proposed uses will not have an adverse impact on surrounding uses, then they will not be contrary to the public interest.

C. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d). The water supply system of the subject property has already been examined and found to be adequate to meet the needs of the existing and continued use of the site. The subject property is relatively small in size and would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

D. Lane Code 16.292

Lane Code 16.292(1) states that the purposes of the Rural Industrial Zone are *to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continued operation of existing industries...* The heavy equipment storage and repair use that exists on the subject property (18-02-19, TL 1300) is consistent with these purposes.

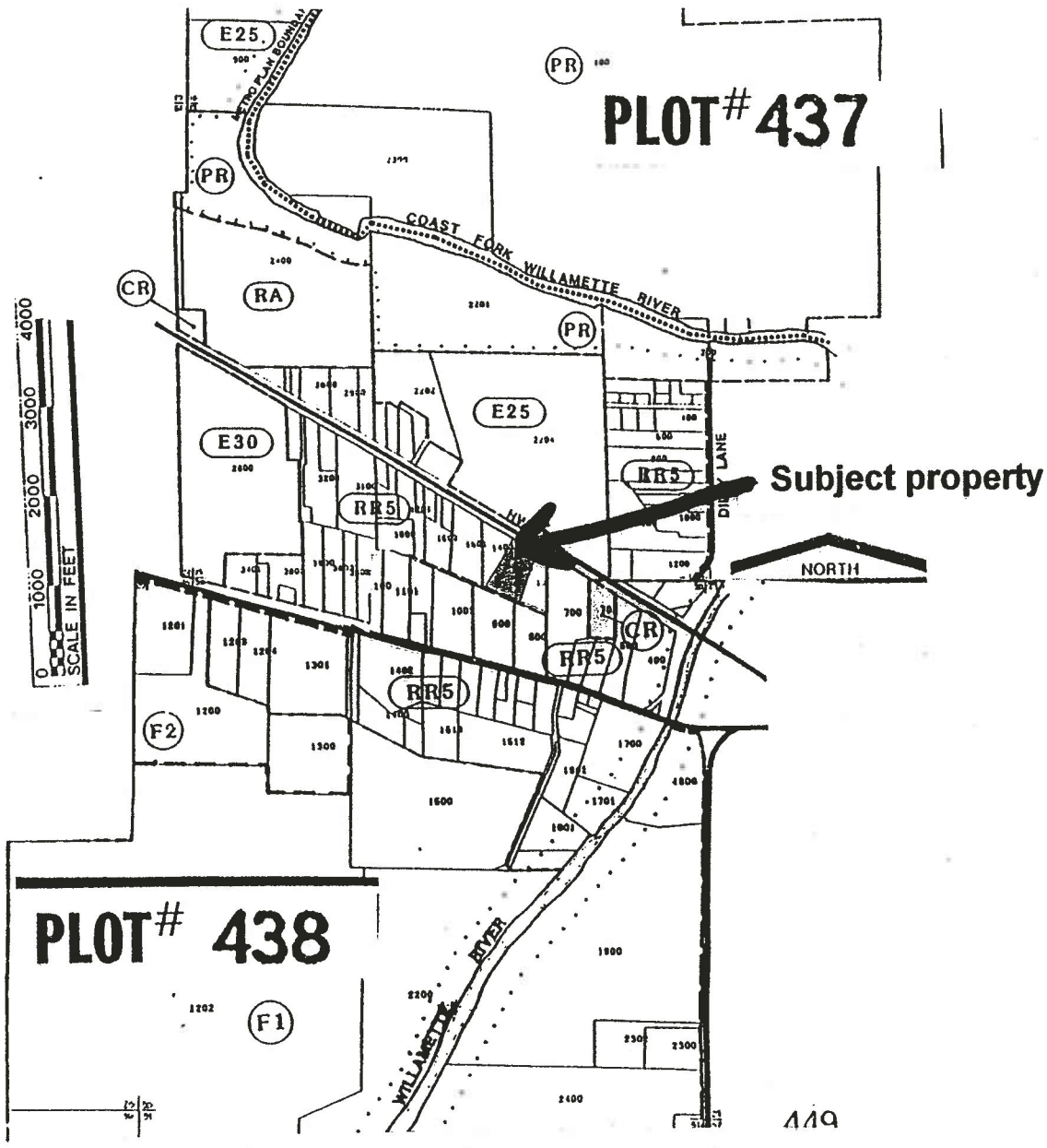
IV. CONCLUSION

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of amendments of Official Plan and Official Zoning Map Plot #437 designations have been met for the subject property (18-02-19, TL 1300). Approval of the application recognizes the existing use which has been in continuous operation on the site since 1965. It has and will not impact surrounding properties and will not require additional levels of public facilities and services. The proposed redesignation and rezoning from RR5 Rural Residential to RI Rural Industrial is consistent with statewide planning goals and Lane Code requirements.

V. EXHIBITS

Exhibit A	Zoning Map, Plots 437 and 438 with proposed zone change for subject property
Exhibit B	Assessor's Maps 18-02-19 and 18-02-30 with proposed zone change depicted
Exhibit C	Site Photograph
Exhibit D	Site Plan
Exhibit E	NRCS Map 104
Exhibit F	Jasper 2 Wetlands map

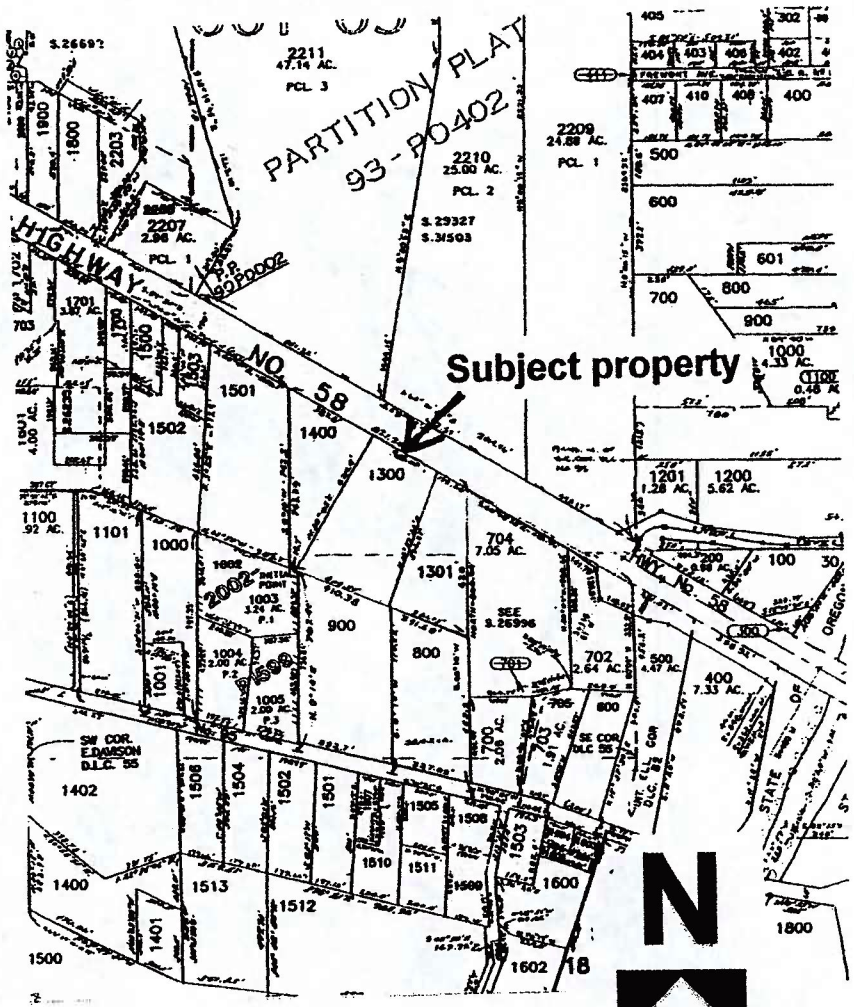
Exhibit "A"
Zoning Map



Bessett RCP/Zone Change
Map 18-02-19, TL 1300

Exhibit "B"

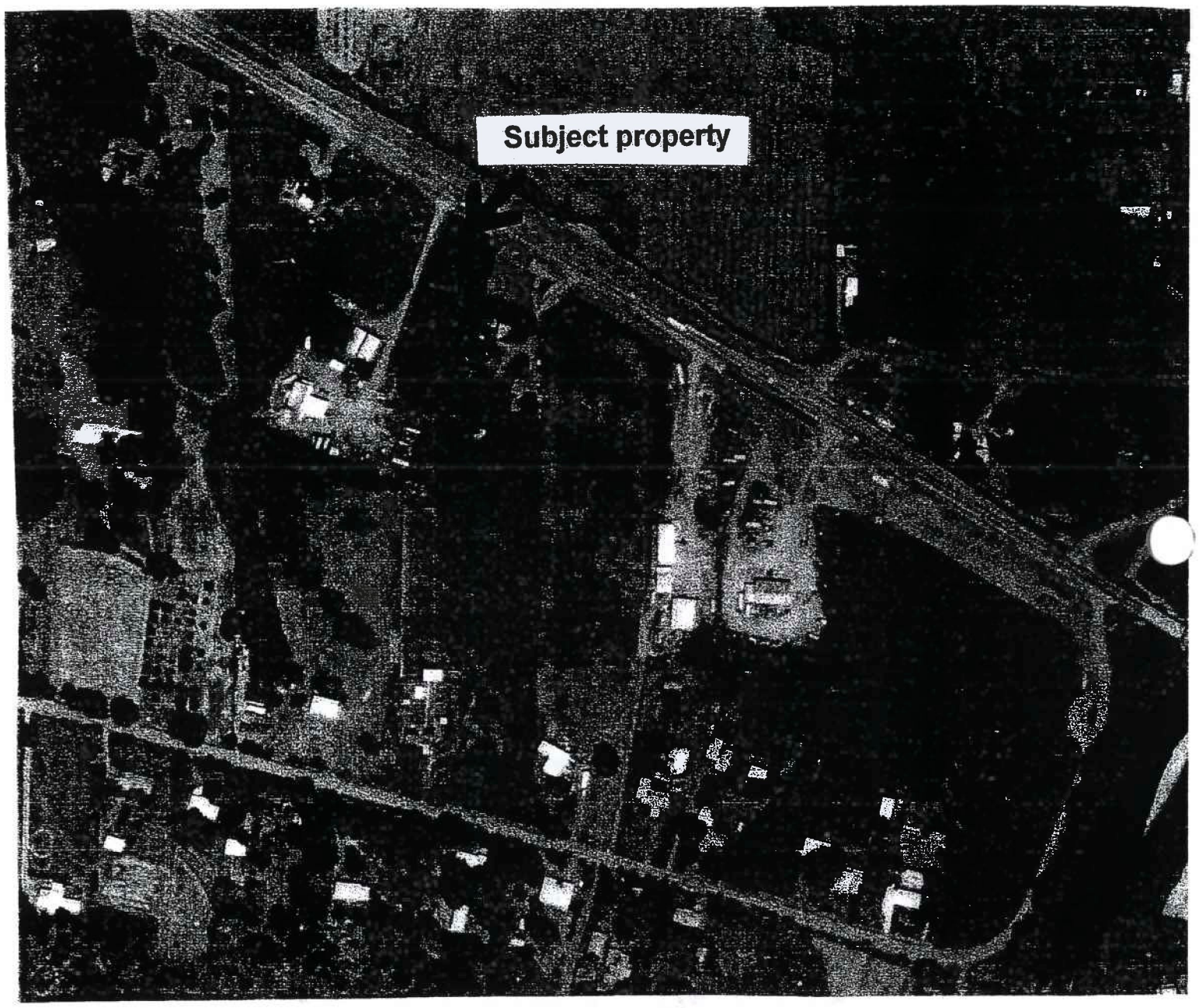
Assessor's Maps 18-02-19 and 18-02-30 (partial)



Scale: 1" = 800'

Bessett RCP/Zone Change
Map 18-02-19, TL 1300

Exhibit "C"
Site Photo

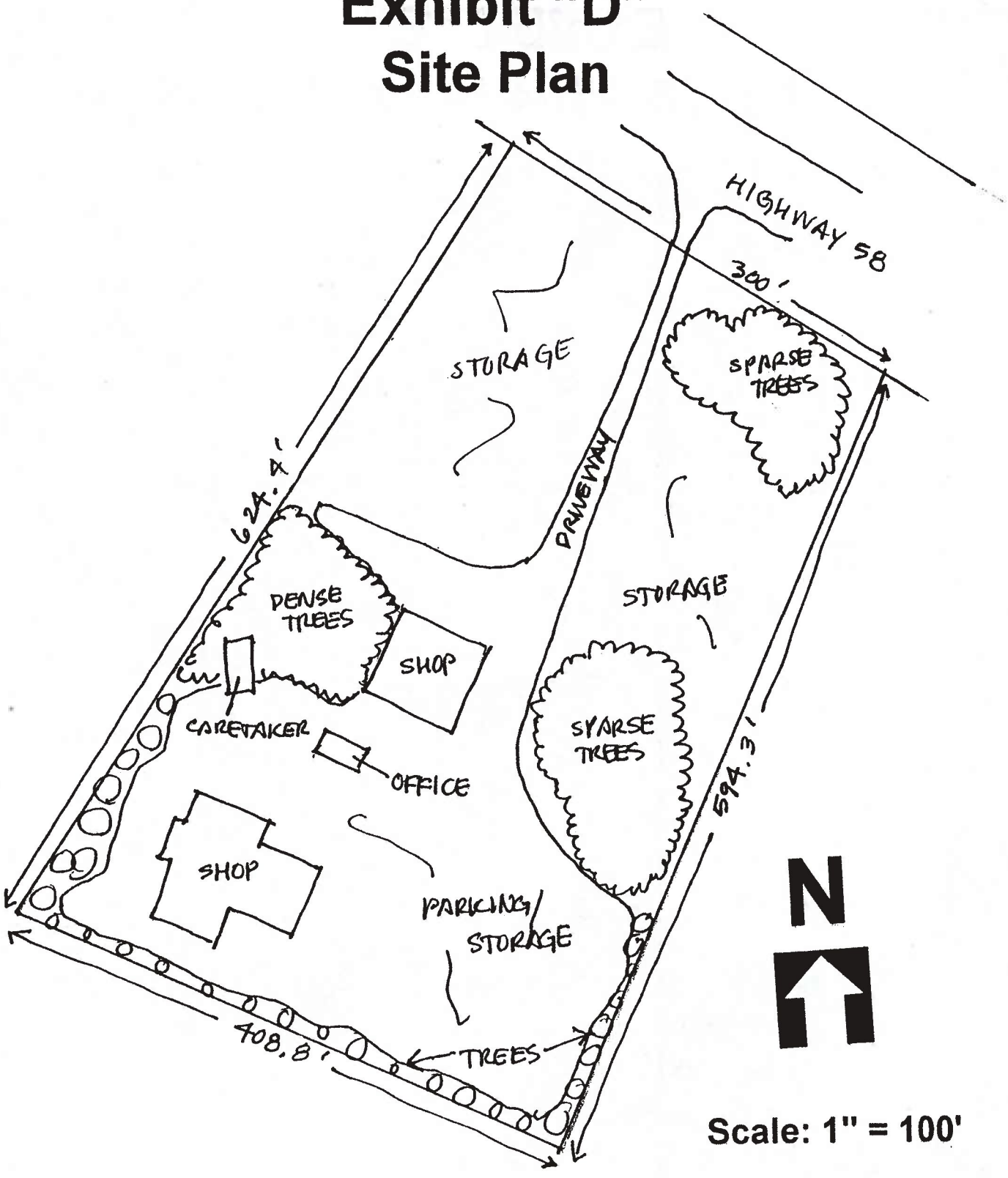


Bessett RCP/Zone Change
Map 18-02-19, TL 1300

N

No scale

Exhibit "D"
Site Plan



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Bessett RCP/Zone Change
Map 18-02-19, TL 1300

Exhibit "E"
NRCS #104 Soils Map

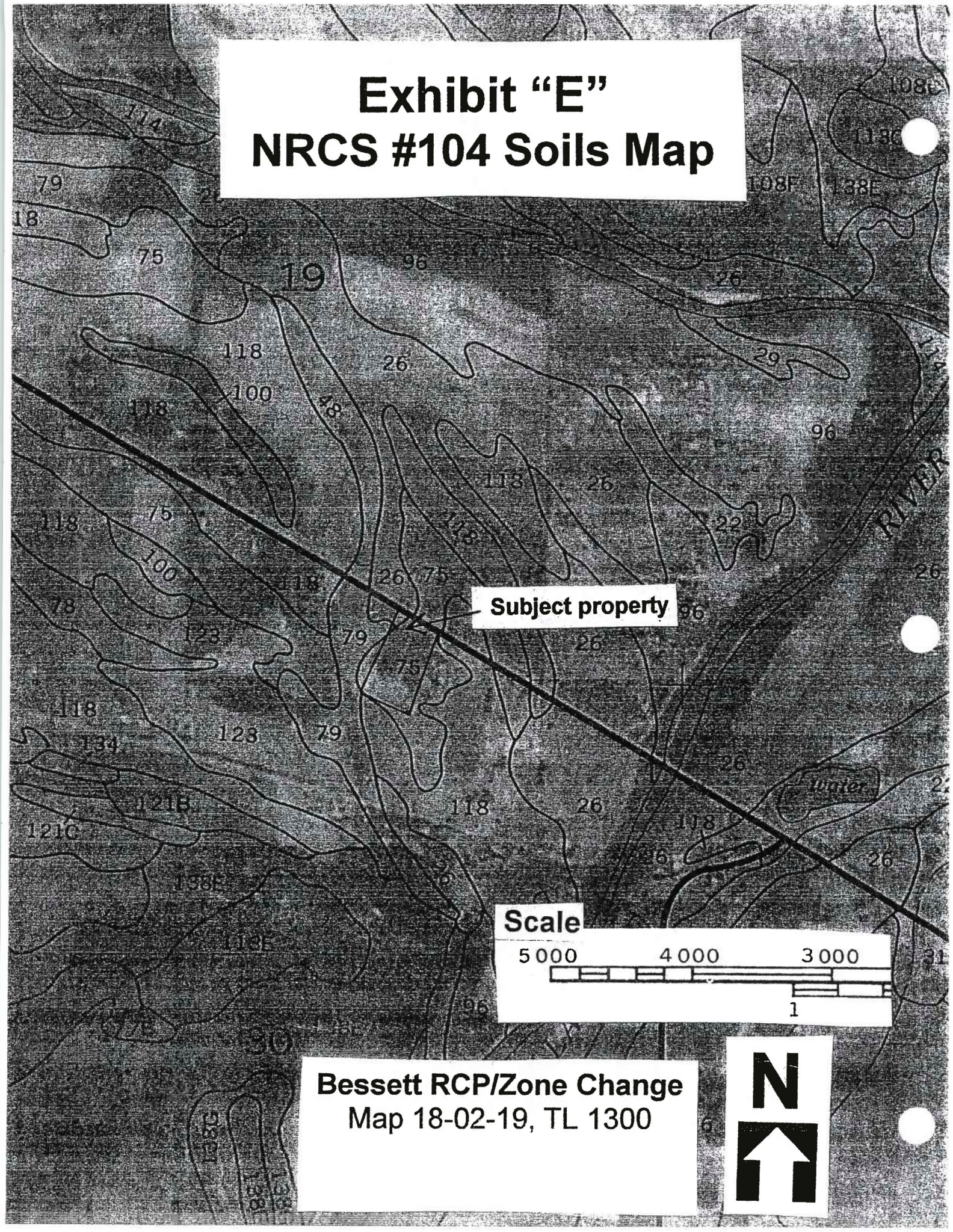
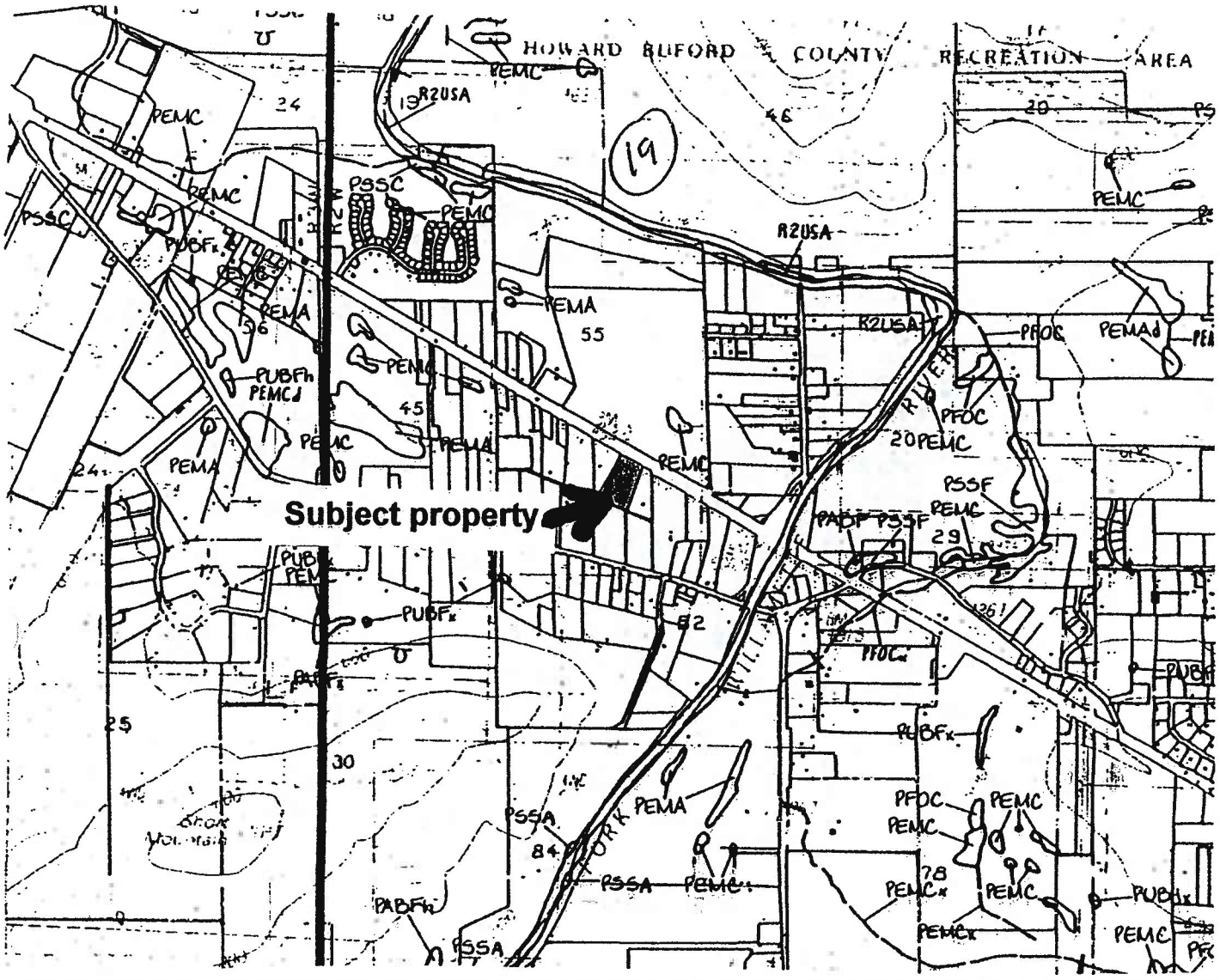
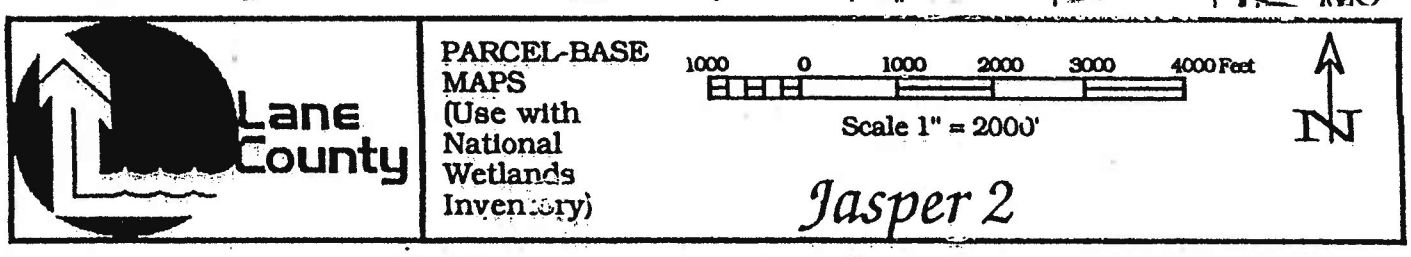
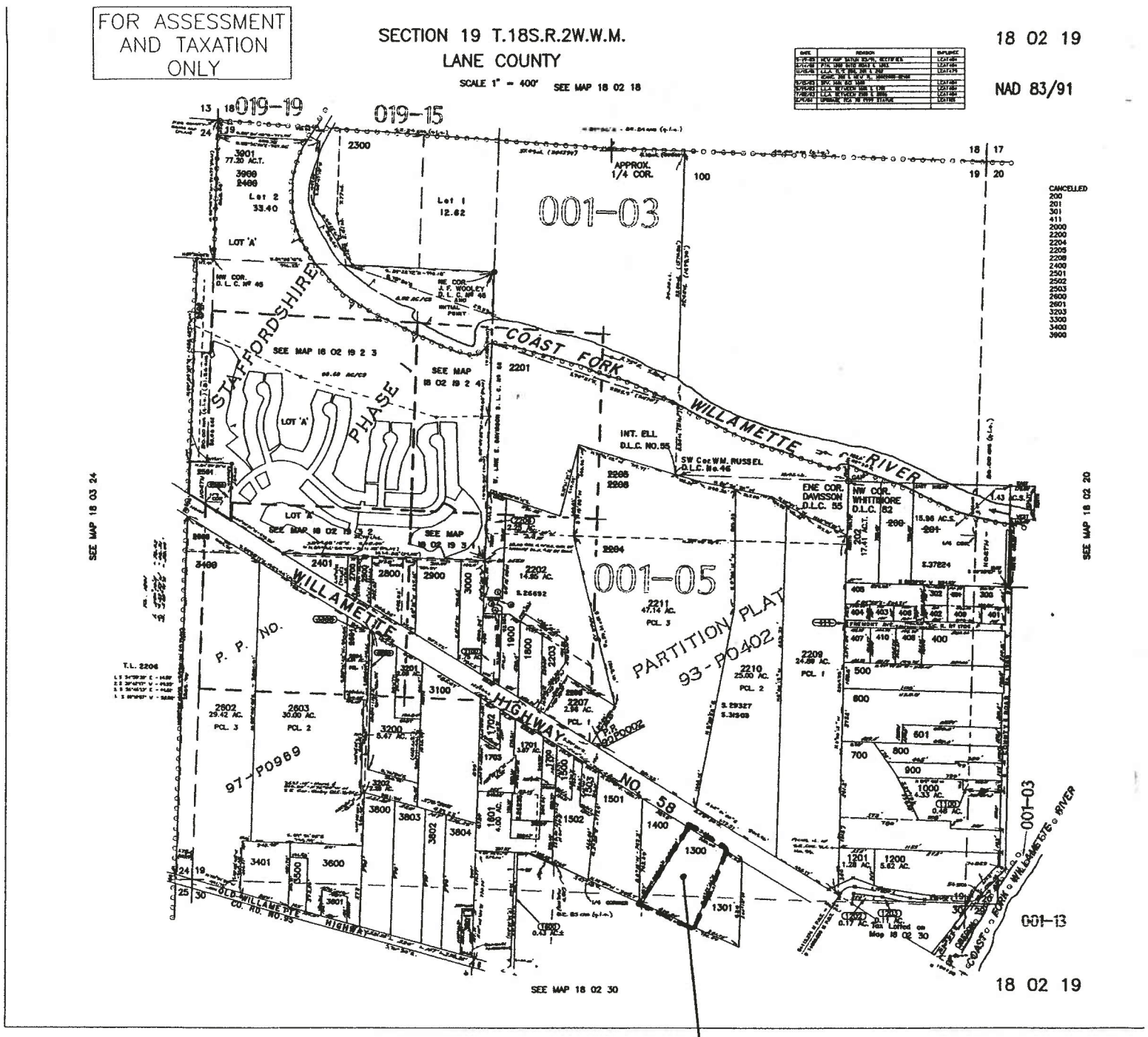


Exhibit "F"
Wetlands Map





Bessett RCP/Zone Change
Map 18-02-19, TL 1300



RR5 to RI
18-02-19, 1300

Exhibit No. _C-21_

PRZC Control No. _21_

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 030-3

Plan Amendment and Zone Change for
Tax Lot 2200 of Assessor's Map 18-12-25

Tax lot	Acreage	From	To
2200	10.24	Rural Industrial (RI)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose* and *Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this request for plan amendment and zone change, hereinafter the "subject property", can be identified as tax lot 2200 of Lane County Assessor's Map TRS 18-12-35. The subject property is 10.24 acres and is located south of the right-of-way of Highway 126 and north of the Siuslaw River and approximately 1,500 feet east of the Highway 126 bridge over the North Fork of the Siuslaw River.

2. The subject property is vacant and was designated Heavy Industrial (M3) with the adoption of the Rural Comprehensive Plan in 1984. The subject property was redesignated Rural Industrial (RI) in 2002 as a component of the Lane County Periodic Review Work Program and in compliance with Statewide Goal 14 and the Rural Community Rule (OAR 660-022).

3. Services are provided to the property by:

Electricity:	Central Lincoln Peoples Utility District
Fire:	Siuslaw Rural Fire Protection District #1
Ambulance:	Western Lane Ambulance District
School:	Siuslaw School District 97J
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police
Other:	Port of Siuslaw
	Siuslaw Public Library District

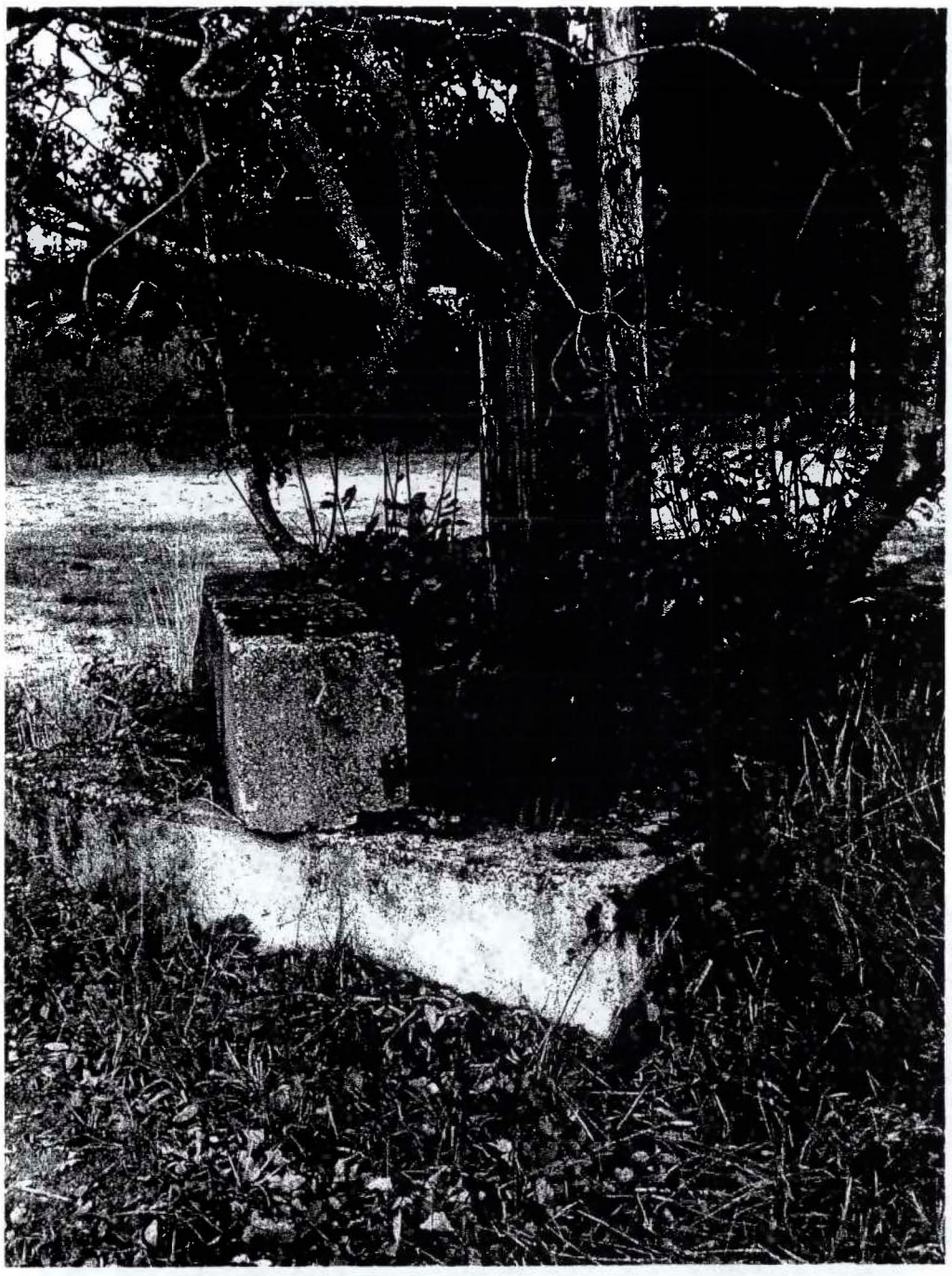
4. The applicant has elected to rezone the subject property, tax lot 2200 of Assessor's Map TRS 18-12-25, from Rural Industrial (RI) to Rural Commercial (RC).

5. The *Purpose* section of *LC 16.291(1)* states: *The purposes of the Rural Commercial Zone (RC, RCP) are: to implement the policies of the Lane County Rural Comprehensive Plan (RCP), to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area, and to provide protective measures for riparian vegetation along Class I streams designated as significant in the Rural Comprehensive Plan.*

6. The subject property is designated in the Siuslaw River Dredged Material Disposal Plan (Wilsey & Ham, November 1978) as including "Site 22" known as the "Johnson's Rock Products site" (east of North Fork Bridge), 150' x 220' with a capacity of 10,000 cubic yards net at 9-foot depth."

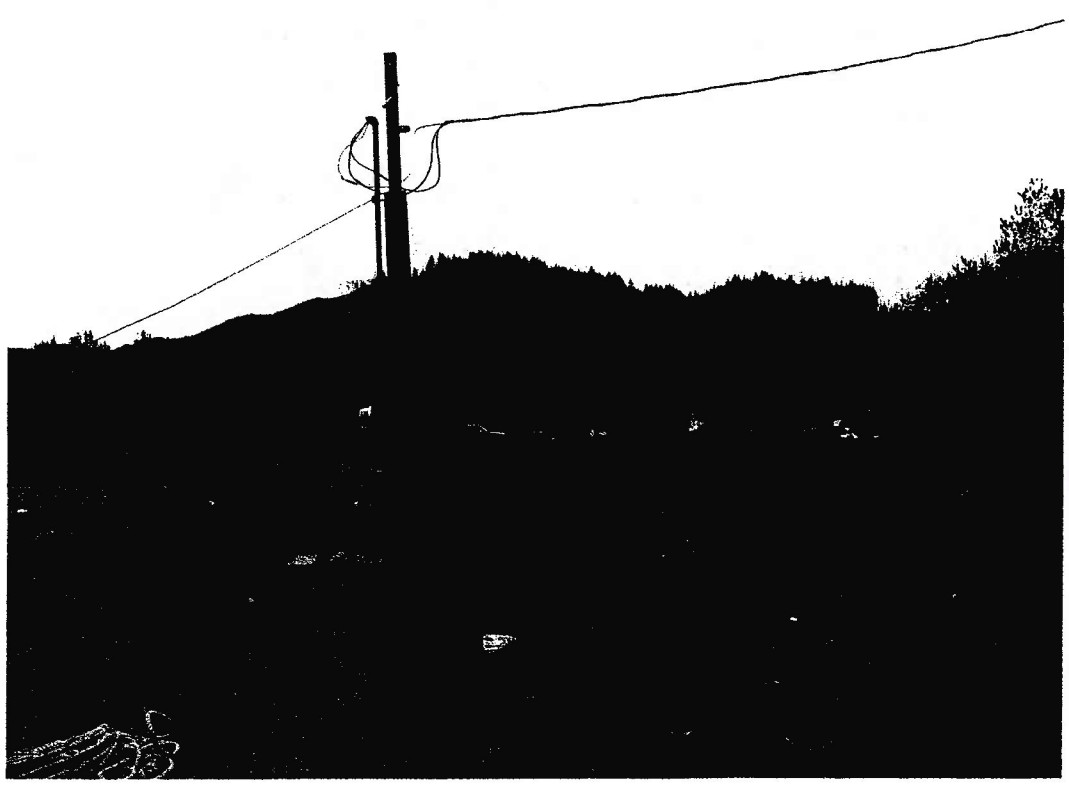
The designated site is depicted in Exhibit "D" Siuslaw River Dredged Material Disposal Plan Site 22. The designated Site 22 is at the eastern end of the subject property.

The subject property served as a materials disposal site in the 1970s and fill covered the western two-thirds of the property to a depth of approximately 8 to 9 feet as evidenced by the remnants of the ancillary pump pit pictured below. The materials were deposited east of the north-south access road serving the developed industrial site, tax lot 2100, to the west.

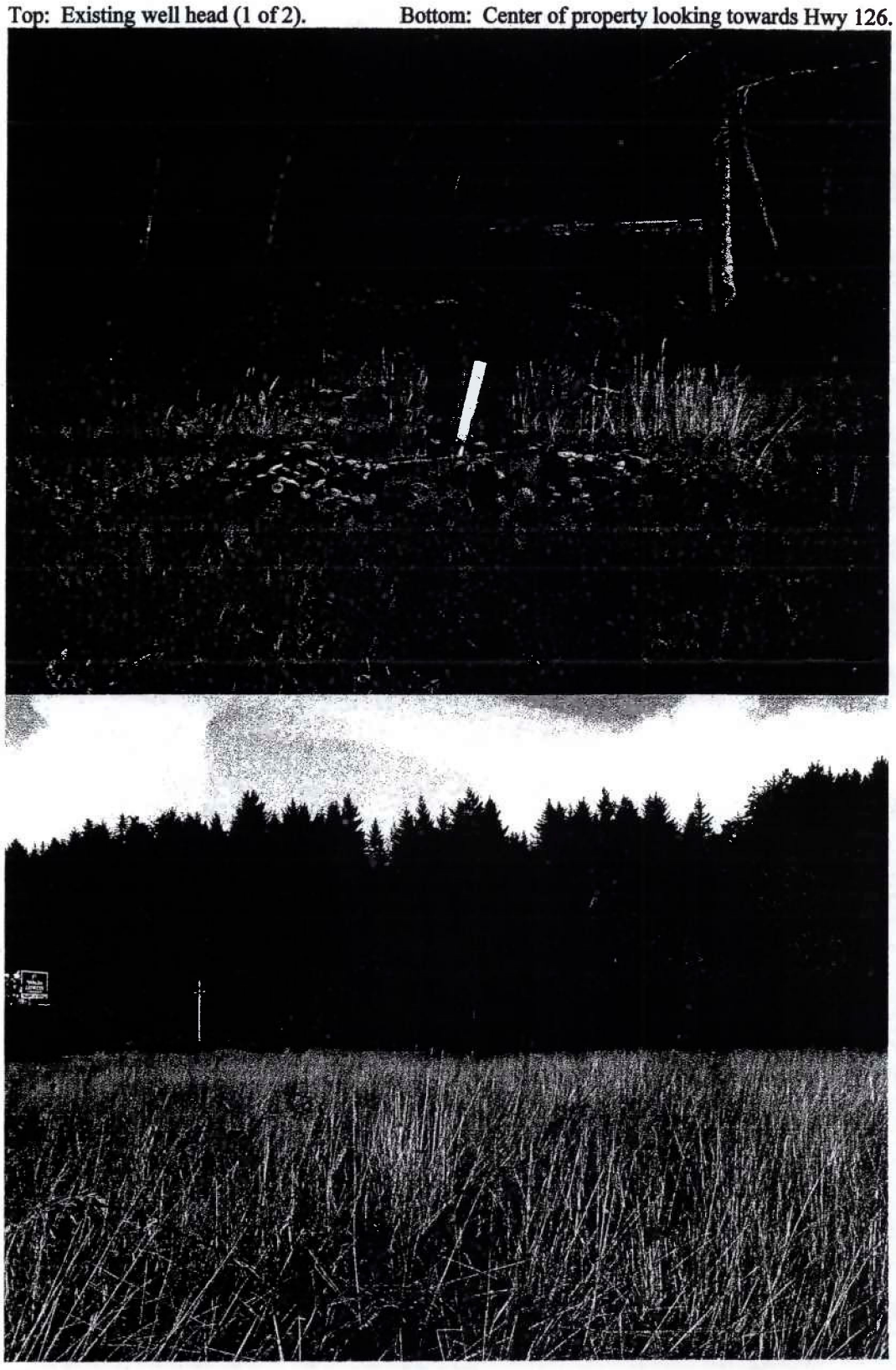


Top photo: Looking northeast across 1970s fill site. Bottom photo: Looking across 1970s site to Siuslaw River.

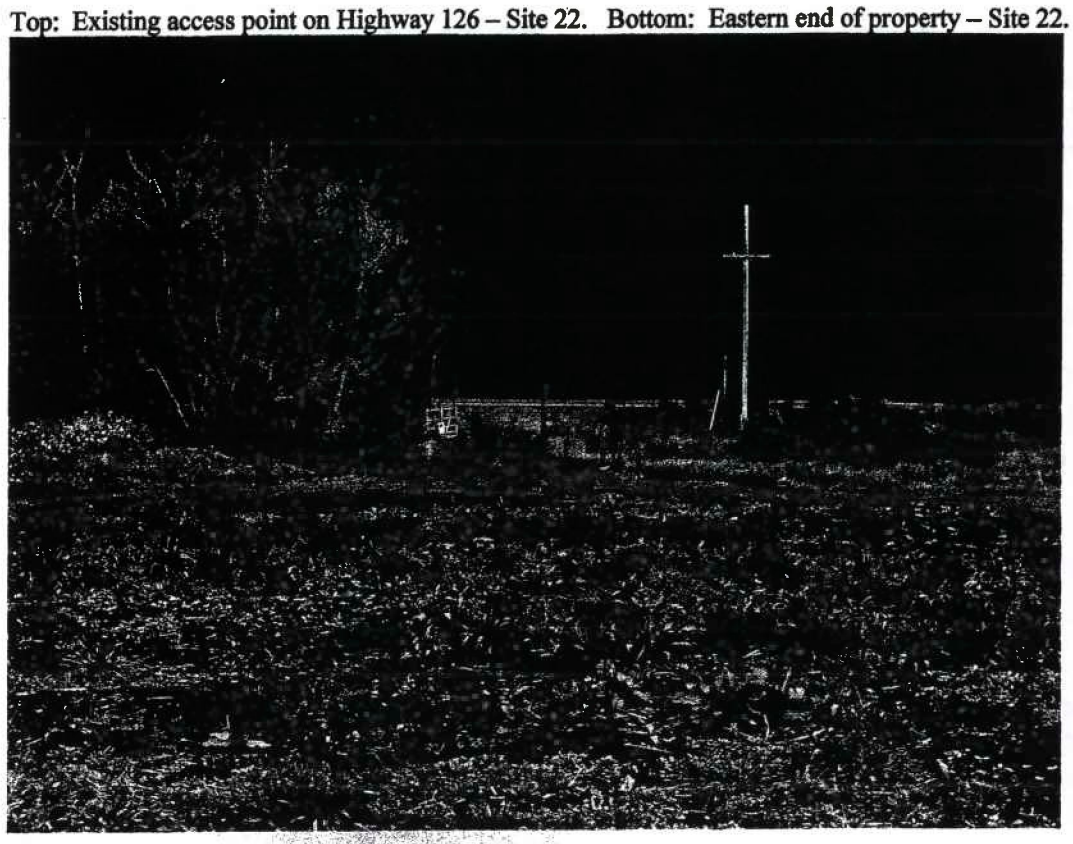




Top: Existing well head (1 of 2). Bottom: Center of property looking towards Hwy 126.



Top: Existing access point on Highway 126 – Site 22. Bottom: Eastern end of property – Site 22.





7. The subject property is triangular in shape with approximately 1,375 feet of frontage along the Siuslaw River. The western property boundary is about 925 feet from north to south and the eastern property line is about 100 feet from highway right-of-way to the river. The western 1/3 portion of the subject property consists of the 1970s elevated fill of dredged materials in prior tidelands.

   Refer to Exhibit "C" – 2004 Aerial Photograph depicting 1970s site and designated Site 22.

   The 1970s fill site was recently cleared of low scrub and is open, compacted sandy soils with grasses and low cover. The middle 1/3 of the subject property is sparsely treed with low to medium height shrubs. The eastern 1/3 including Site 22 is developed with an access point, gravel parking area and boat launch at the shoreline. The eastern portion was used as a staging area for concrete and asphalt batch plants during past road construction and repair periods for Highway 126.

8. The opportunity to amend designations, in this case into the Rural Commercial inventory, addresses the aspirations of the property owners for development of their property, which was one of the primary purposes of the Periodic Review Work Program processes in the five Lane County watersheds. Rezoning of the subject property, tax lot 2200, to Rural Commercial as indicated in Findings 4 above, is the applicant's response to Periodic Review Work Program Task 3. 3. in the Siuslaw Watershed: *Complete a survey of the desires and opinions of people in each unincorporated community about what they would like their community to be and look like.*

   This proposed rezoning of the designation is the implementation phase of the "desires and opinions" for one property within the Siuslaw Watershed.

10. There is no record of any historical compatibility issues occurring between the prior use of the subject property and the surrounding property owners.

11. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The subject property has two existing wells as sources for domestic water.

12. The subject property is within the (AE) 100-year flood hazard area per FIRM panel 1427 of 2975 (June 2, 1999). Any development including fill, removal, or construction of structures shall be required to comply with the regulations of Lane Code 16.244 Floodplain Combining Zone.

13. There are no apparent wetlands on the subject property, per NWI map Florence 2.

14. The Official Coastal Zones – Plot # 030 depicts the subject property within the /DMD Dredged Material Deposit Site Combining Overlay. No other Coast Resource Management Plan combining zones apply to the subject property.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The subject property is developed with two well heads, temporary electrical power, and an access point from Highway 126.

The zone change requested by the property owner is intended to provide for future commercial development of the subject property. It has the potential to allow more compatible, water-dependent use of the 10.24 acres than the current Rural Industrial (RI) designation. The change of zoning would eliminate the potential for a more intensive and less-compatible industrial use to be established on the subject property in the future.

Lands to the west are zoned Rural Industrial property, tax lot 2100, which includes boat storage and repair, industrial manufacturing, a weigh station, and staging of barges connected with the driving of pilings and shoreline stabilization.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 030-3, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660–004–0028; and

The subject property is situated south of Highway 126 and bordered by Rural Industrial properties to the west and east. There are four properties directly across Highway 126 to the north zoned Impacted Forest Land (F2) and developed with six residences.

- TRS 18-12-25 tax lot 200 (northeast), 06171 Highway 126, Florence;
- TRS 18-12-25 tax lot 300 (north), 06061 and 06063 Highway 126, Florence;
- TRS 18-12-25 tax lot 400 (north), 05979 Highway 126, Florence; and
- TRS 18-12-25 tax lot 600 (northwest), 05805 and 05811 Highway 126, Florence

One property, TRS 18-12-25, tax lot 500, to the northwest is zoned Rural Public Facility (RPF) and developed with the Sunset Memorial Park cemetery.

The residential uses within the F2 zone intervene between the forest management practices on lands to the north and the subject property to the south. The nearest Exclusive Farm Use lands are located further to the northwest beyond the F2 lands reference above and are located to the west of the North Fork of the Siuslaw River. Forest lands to the south are located on the southern shoreline of the Siuslaw River. The isolation of the subject property by the public road right-of-way, residential uses, and the two rivers buffer any allowable use in the Rural Commercial Zone from resource management practices on nearby lands. There are no foreseeable impacts from the proposed zone change, or any increased commitment to nonresource uses of nearby forest lands and agricultural lands or practices.

(C) *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.*

D&C Area No. 030-3 is separated from the urban growth boundary of the City of Florence by a distance of approximately 2,400 feet and the North Fork of the Siuslaw River. The residential development on F2 lands and the public facility and industrial development pattern discussed in *(B)* above, indicates the rezoning from industrial use to commercial use in the center of the D&C area will be compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 030-3 of Lane County. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The past build-up of the western portion of the subject property as a dredged material disposal site has not contributed any known adverse impacts to the immediate area or resources. Any development or new use on the property will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.291 (RC) and all applicable overlay zones. Any proposal for development of structures must comply with load-bearing, compaction specifications and Oregon Specialty Codes for construction.

(2) *Protect and diversify the economy of the County.*

Re-designation of the subject property will allow marketing and development of the subject property for commercial uses in compliance with the required Lane Code 16.291 permit processes, criteria and standards.

(8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The subject property receives the necessary services from public agencies for commercial development.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The past owners of the subject property developed two onsite wells.

In the event that an intensive commercial use was proposed for the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) [RC] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. *Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever*

possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

There are no identified farm uses or agricultural lands within 2,000 feet of the subject property. Any development of the subject property with a commercial use would require compliance with Lane Code 16.291(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. *Flora and Fauna, Policies 1 and 10* *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Florence 2 quad of the National Wetlands Inventory. Past deposit of dredged spoils on the subject property in the 1970s has significantly altered the natural flora communities and habitat. The property was overgrown with invasive species including blackberries, scotch broom, and gorse. The majority of the invasive species have been removed mechanically from the western half of the property. The riparian setback standards of LC 16.253(2)(a)-(b) provide protection for the front 50 feet upland from the ordinary high water.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is 10.24 acres in size and has access to Highway 126 (Route F), a State of Oregon highway. Surrounding lands are developed with residences. Nearby forest lands are buffered from the subject property by road right-of-way, Siuslaw and North Fork-Siuslaw Rivers, and intervening residentially developed properties. Some commercial thinning and forest management practices are evident on lands to the north.

The soils on the subject property are not well suited to propagation of fiber products. Seventy-five percent of the subject property is composed of Brallier Variant Muck (17, 18) with an 8-9 foot covering of dredged materials. The NRCS do not include a site index rating for Brallier and it has an agricultural capability classification of 5. The

disposal site is not considered either as forest or farm land and has little potential for use in either resource category.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an acknowledged developed and committed exception area (No. 030-3) consisting of three properties. Two of the properties including the subject property, were zoned M3 Heavy Industrial in 1984 and one was zoned PF Public Facility (Sunset Memorial Park). The existing uses and the proposed rezoning to Rural Commercial RC provide for rural uses that utilize a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

A majority of the subject property is within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1427F of 2975 (6-2-99). Any development will be required to comply with the standards of LC 16.244 (Floodplain Combining Zone).

b. *Not Contrary to the Public Interest*

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the anticipated commercial use will not have an adverse impact on surrounding uses, then it will not be contrary to the public interest. Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be less intensive than the current industrial designation and will not cause an increase in public services.

c. *Lane Code 16.291*

The *Purpose* section of *LC 16.291(1)* states: *The purposes of the Rural Commercial Zone (RC, RCP) are: to implement the policies of the Lane County Rural Comprehensive Plan (RCP), to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area, and to provide protective measures for riparian vegetation along Class I streams designated as significant in the Rural Comprehensive Plan.*

The proposed rezoning of the subject property, tax lot 2200, is consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited. It has also been developed with two onsite wells.

Any future partitioning or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements per LC 16.291(4)(j).

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 18-12-25, tax lot 2200 (10.24 acres) from Rural Industrial (RI) to Rural Commercial (RC), have been met;

VI. RECOMMENDATIONS

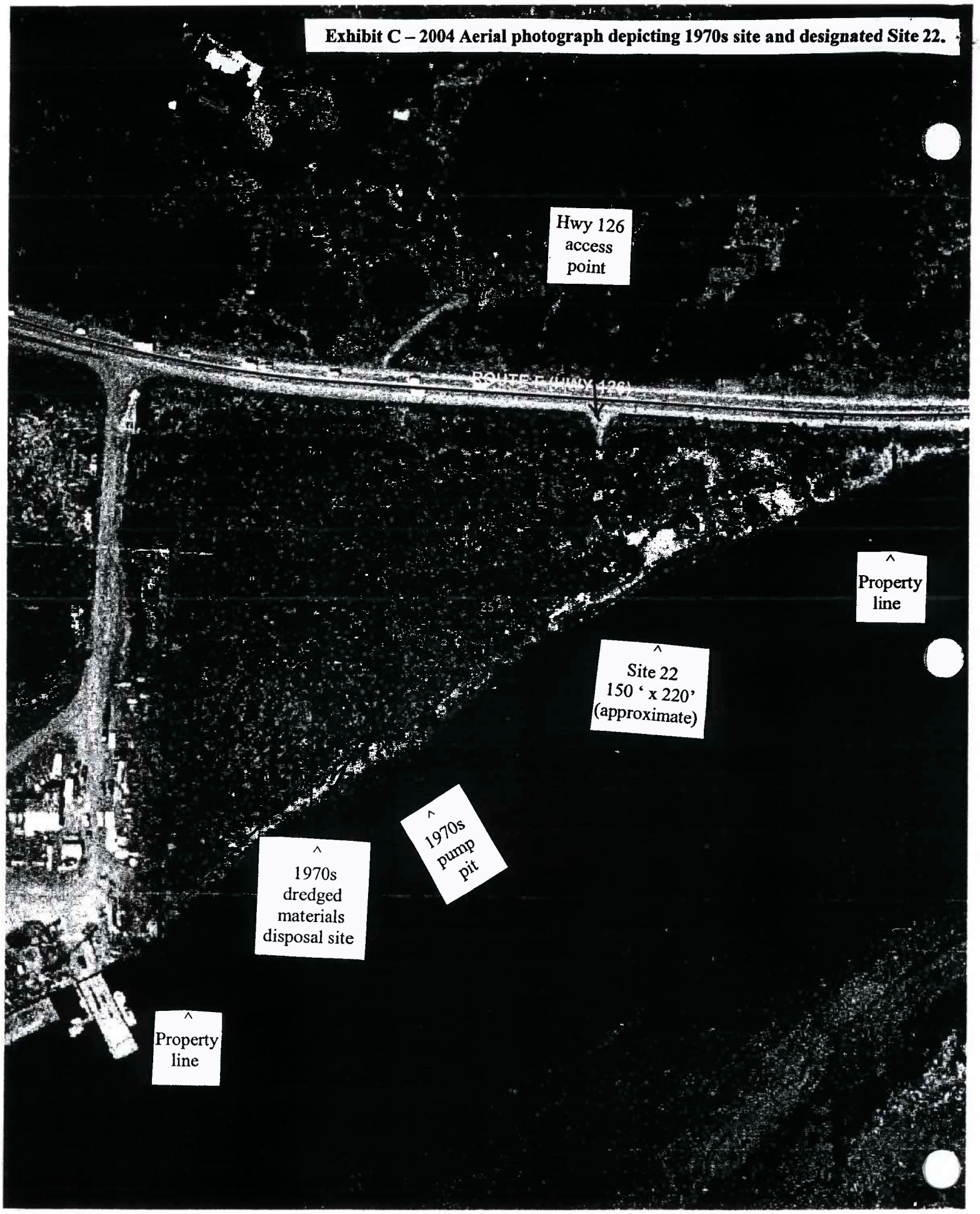
1. Approval of PRZC Control No. 21 of Ordinance No. PA 1226, amending the Official Plan Map No. 030 designation for tax lot 2200 of Assessors Map TRS 18-12-25, from Industrial (I) to Commercial (C); and

2. Approval of PRZC Control No. 21 of Ordinance No. PA 1226, amending the Official Zoning Map No. 030 designation for tax lot 2200 of Assessors Map TRS 18-12-25, from Rural Industrial (RI) to Rural Commercial (RC).

VII. EXHIBITS

A. Plan Map, Plot No. 030 with proposed plan change depicted.
B. Zoning Map, Plot No. 030 with proposed zone change depicted.
C. 2004 Aerial photograph depicting 1970s site and designated Site 22.
D 2004 aerial photograph of Florence area.
E. Siuslaw River Dredged Material Disposal Plan – Site 22 (3 pages).
F. Assessor's Map TRS 18-12-25 with subject property depicted.

Exhibit C – 2004 Aerial photograph depicting 1970s site and designated Site 22.



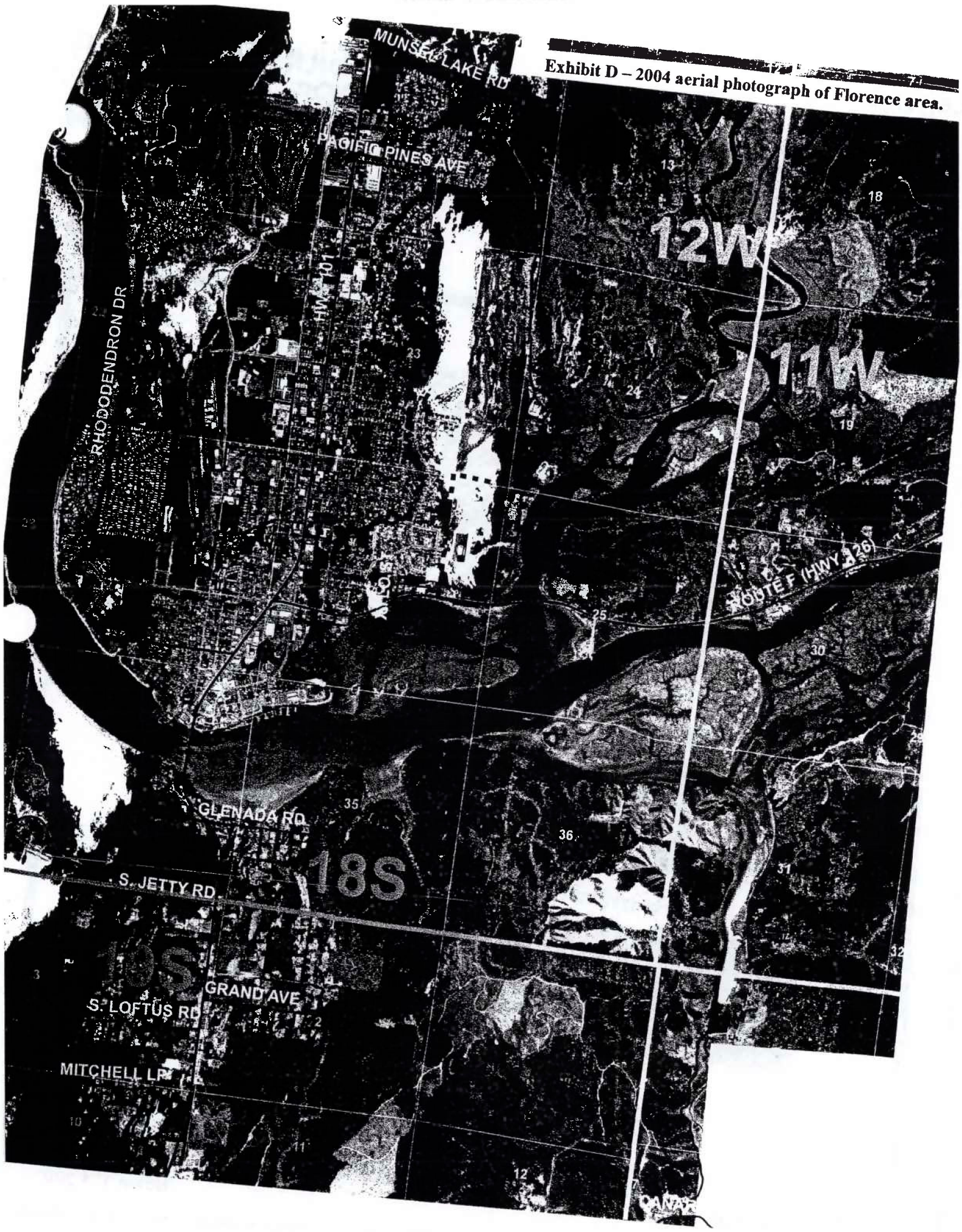


Exhibit D – 2004 aerial photograph of Florence area.

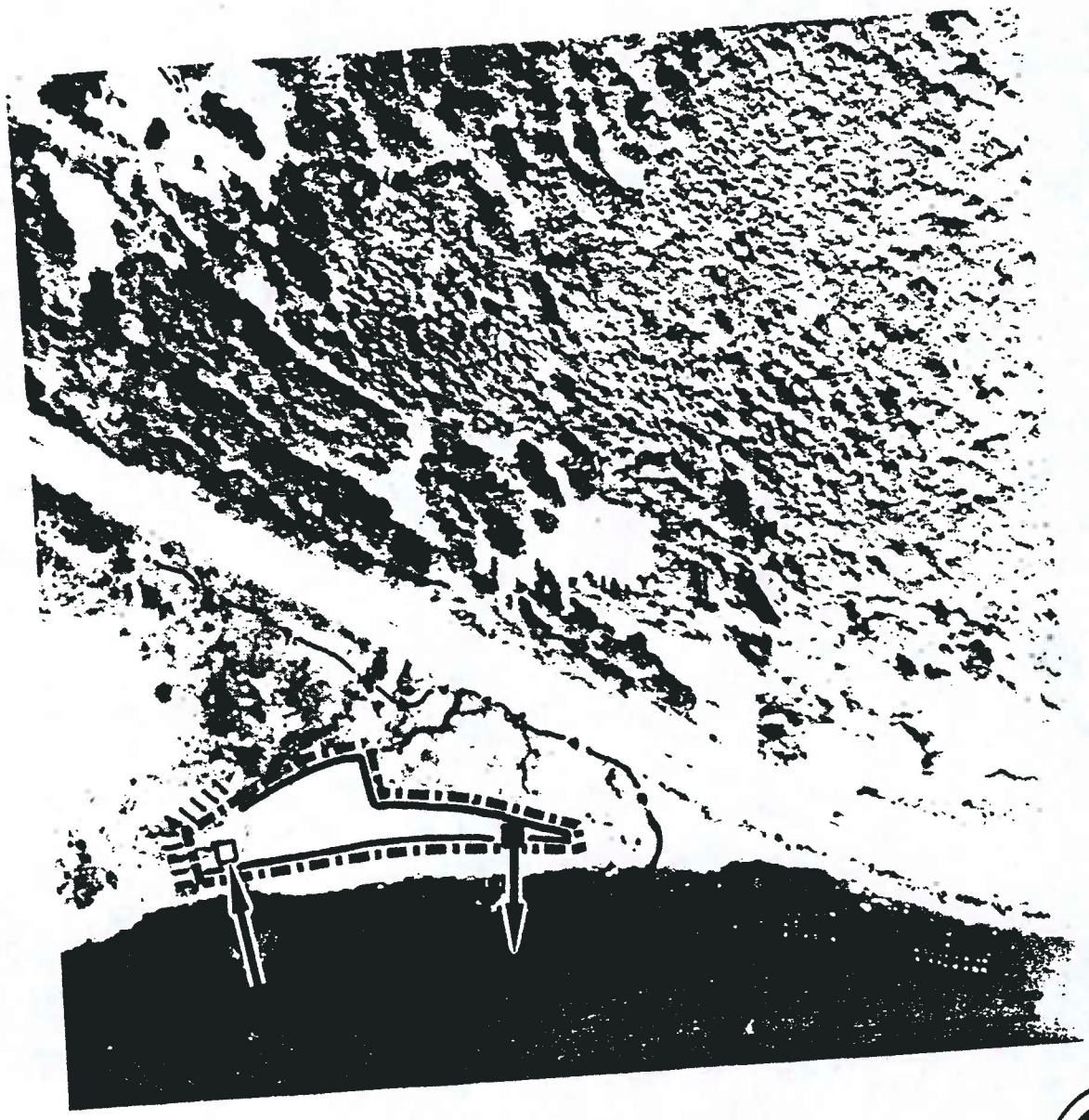
SIUSLAW RIVER DREDGED MATERIAL DISPOSAL PLAN

Exhibit E – Siuslaw River Dredged Material Disposal Plan – Site 22 (3 p[illegible]s).

Site 22

Legend

- Altered disposal site
- Peripheral diking
- Interior diking
- Natural barrier
- Outfall
- Discharge
- Pipe
- Overflow
- Surface drainage



Scale 1" = 200'

WILSEY & HAM

SITE 22

Site Description

Location: Johnson's Rock Products site (east of North Fork Bridge).

Size: 150' x 220'

Capacity: 10,000 C.Y. net, at 9' depth

Physical Characteristics: This is an old fill site, flat and riprapped on river side. Hard surface, some gravels.

Biological Characteristics: The actual site has no biological character. However, it is bordered by a small salt marsh, small fresh water marsh, and the river.

Comprehensive Plan: Industrial

Ownership: Johnson Rock Products (Sec. 25, Lot 2001, T18S, R12E)

Engineering Considerations

Method of Dredging: Pipeline 8 to 16 inch, or clamshell

Design Criteria: Temporary dikes constructed from local materials, sloped to prevent slumping into wetlands or river. Provide drop-type outlet with stop-log weir. Retention time must be adequate for settling of solids.

Site Preparation: Protect adjacent drainage channels with diking. Stockpiled materials to be hauled away. Outfall must go to deep water channel.

Site Unit Development Cost: $0.68/C.Y.

Future Use Constraints: If used for stockpile, site must be preserved as open space. Development of site, except for open storage and other temporary uses, would not be compatible.

Environmental Considerations

Effects of Disposal: Effects could only occur to either the wetlands or the river, if fill was allowed to spill into them. Wetland areas have been partially destroyed by surrounding land uses, and their future is questionable due to encroachment and refuse disposable.

Other Considerations

This is a small site that requires substantial berming to prevent slumpage. It has been recommended that the two small marshes existing on the site be filled, to allow for more fill space. If the marshes were to be filled, however, the site should be permanently preserved for dredged materials stockpiling exclusively. Thus, the site could significantly contribute to resolving the dredge disposal needs of the North Fork area. The filling of the marshes was met with negative reactions by the resource agency Task Force. Also, the property owner, Johnson's Rock Products, is not willing to commit the land to permanent stockpiling. The owner has offered the site for disposal use, but wishes to retain his right to develop the land when he so desires. Existing uses of the site appear to be encroaching on the two wetlands. This site is key to the maintenance of the North Fork channel area. Large pipeline work will be capable of pumping materials up river to Site 25. But "spot maintenance" with the 8-16" dredge, which may be required every 3 to 5 years, would require a disposal site within 3,000 - 4,000 feet. This site is the only viable location at this time.

At this time the filling of the wetland areas is unacceptable to the resource agency task force. It is felt that other alternatives must be more fully explored before productive habitat is committed to filling. The site must be retained as a viable stockpile site, with possible expansion in the future into surrounding areas. To the west of the outlined site lies old fill materials of no biological significance, which may be usable if compatible with the surrounding site uses.

Alternatives to this proposal include in-water disposal, or barging of materials to the ocean disposal site. Dredging with clamshell or bucket incur certain added costs and time considerations, but are an option.

EXHIBIT 1 – Assessor's Map 18S 12-25 with subject property depicted.

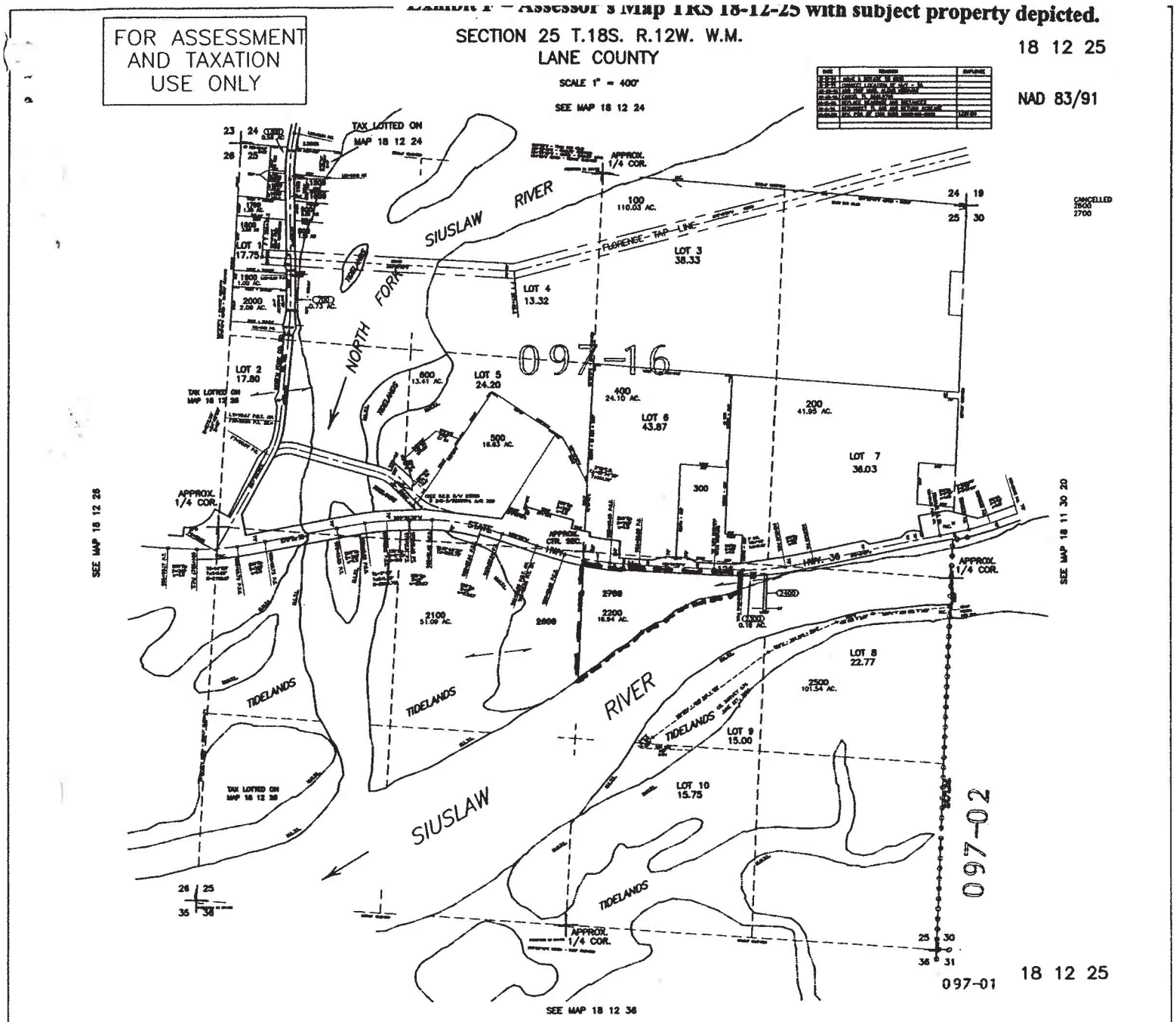


Exhibit D

Ordinance No. PA 1226
Supplemental Findings of Fact

Finding 1: The General Plan Policies – Goal Two of the Rural Comprehensive Plan articulate the policies on which the implementing land use regulations within adopted and acknowledged Developed & Committed Exception Areas and Unincorporated Communities of Lane County are based.

General Plan Policies - Goal 2, Policy 11 provides the guidelines for Lane Code 16.290 (Rural Residential RR), LC 16.291 (Rural Commercial RC), LC 16.292 (Rural Industrial RI) and LC 16.294 (Rural Public Facility RPF). When those policies and land use regulations implementing the policies were enacted, that action was designed to address both the Goal 2 Exception Process requirements and the Goal 11 and 14 issues raised by the previous industrial and commercial zoning regulations. Among other things, those actions were designed to establish zones that would assure maintenance of the rural character of land uses outside of urban growth boundaries and address issues of compatibility with any impacts on adjacent resource lands.

Goal 2, Policy 11 provides the policy guidelines for:

- Lane Code 16.290 (Rural Residential RR);
- LC 16.291 (Rural Commercial RC);
- LC 16.292 (Rural Industrial RI); and
- LC 16.294 (Rural Public Facility RPF).

(A) *Goal 2, Policy 11.a.*

a. A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:

i. existing development pattern and density;
ii. on-site sewage disposal suitability, or community sewerage;
iii. domestic water supply availability;
iv. access;
v. public services;
vi. lack of natural hazards, and
vii. effect on resource lands.

(B) *Goal 2, Policy 11.b.*

A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential designation. The Rural Commercial designation shall encompass all commercial activities in the rural area. The range of limited, medium and medium/heavy commercial zoning shall be applicable in areas with a Community designation until the RCP and zoning for the areas are updated to comply with OAR 660 Division 22, the UC Rule. A single rural commercial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

(C) *Goal 2, Policy 11.c.*

A Rural Industrial designation shall be applied to existing uses and to tracts presently zoned for industrial activities addressing the same criteria as listed for the rural residential designation. The range of limited, medium and medium/heavy industrial zoning shall be applicable in areas with a Community designation until the RCP and zoning for the areas are updated to comply with OAR 660 Division 22, the UC Rule. A single rural industrial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

(D) *Goal 2, Policy 11.e.*

A Public Facility designation shall be applied to publicly owned grounds and facilities (i.e., schools, etc.).

Finding 2. The Lane County Board of Commissioners enacted Ordinance No. 6-02 on April 17th , 2002, applying:

- Lane Code 16.290 Rural Residential Zone (RR) as the single rural residential zoning designation;
- Lane Code 16.291 Rural Commercial Zone (RC) as the single rural commercial zoning designation;
- Lane Code 16.292 Rural Industrial Zone (RI) as the single rural industrial zoning designation; and
- Lane Code 16.294 Rural Public Facility Zone (RPF) as the rural public facility zoning designation;

in compliance with OAR 660 – Division 22 inside unincorporated communities, and Goal 14 for developed and committed exception areas outside the unincorporated communities, as the completion of work tasks during the Periodic Review work program.

The four enacted zoning provisions were the result of an analysis of allowable uses in the previous zoning designations of Lane Code Chapter 16, which were itemized in "Attachment 12" to the agenda cover memo to the Board of Commissioners (April 3, 2002)for Ordinance No. 6-02. The analysis resulted in the elimination of old zone designations and implementing land use regulations described below. The four new designations and Lane Code provisions contained sufficient assurances, provided supportive evidence, and included development criteria or standards to ensure that the plan and zone designations changes would comply with OAR 660-004-0018(2) and OAR 660-022.

LC 16.290 (Rural Residential RR) was enacted to supercede the prior LC 16.299 (Suburban Residential Zone RA), LC 16.230 (Garden Apartment Residential Zone RG), and LC 16.231 (Rural Residential Zone RR) regulations. The LC 16.229, LC 16.230 and LC 16.231 regulations were not in compliance with Goal 14 (OAR 660-004-0040) minimum lot sizes or allowed land uses that could be construed as "urban" such as animal hospitals, tourist parks, nursing homes, community centers, sewage treatment plants, solid waste disposal facilities, amusement parks, jail or penal farm, sewage treatment plant, race track, townhouse, multiple dwelling, or a hospital.

LC 16.291 (Rural Commercial RC) was enacted to supercede the prior LC 16.220 (Limited Commercial Zone C-1), LC 16.221 (Neighborhood Commercial Zone C-2), LC 16.222 (Commercial Zone C-3), and LC 16.223 (Rural Commercial Zone CR) regulations. The LC

16.220, LC 16.221, LC 16.222 and LC 16.223 regulations were not in compliance with the floor area limitations for "small scale, low-impact" standards of the Unincorporated Community Rule (OAR 660-022) or Goal 14, and provided for land uses that could be construed as "urban" such as department store, professional playfields including baseball, football, etc., fumigation chambers, stadium, amusement park, carnival or circus.

LC 16.292 (Rural Industrial RI) was enacted to supercede the prior LC 16.224 (Limited Industrial Zone M-1), LC 16.225 (Light Industrial Zone M-2), and LC 16.226 (Heavy Industrial Zone M-3) regulations. The LC 16.224, LC 16.225 and LC 16.226 regulations were not in compliance with the floor area limitations for "small scale, low-impact" standards of the Unincorporated Community Rule (OAR 660-022) or Goal 14, allowed a mixture of commercial and industrial uses, and provided for land uses that could be construed as "urban" such as research and testing laboratories, sewage treatment plants, aggregate excavations with incidental processing, pubic and private parking areas and garages, and carnival or circus.

LC 16.294 (Rural Public Facility RPF) was enacted to supercede the prior LC 16.219 (Public Facility Zone PF) regulations. The LC 16.219 regulations provided for a mixture of uses that could be construed as "urban" such as fairgrounds which may include a race track, sports assembly such as a stadium, arenas or race tracks, hospital, or sanitarium.

On October 31, 2002, the Oregon Department of Land Conservation and Development (DLCD) notified Lane County in correspondence dated October 31, 2002, that DLCD:

> *" . . . approved the county's periodic review work task 2 (zoning of rural residential lands) and approved all but one amendment made in task 1 (McKenzie Watershed unincorporated communities) and continued review of the remainder of task (hotels and motels outside unincorporated communities). This letter constitutes the department's order approving these tasks (Oregon Administrative Rule (OAR) 660-025-150(1)(a))."*
>
> *"The department has conducted a review of the above work task pursuant to OAR -025-0140(6) and prepared the attached report. A large majority of the amendments comply with the statewide planning goals and are approved with the exception of Lane Code section 16.291(u)(3) as explained in the attached report. The Lane County Planning Director requested, and we agreed, to delay evaluation of this code section until the county concludes adoption of periodic review work task 3, which addresses unincorporated community issues in the Siuslaw watershed."*

On page 1 of the accompanying DLCD report (Partial Approval of Periodic Review Work Task 1 and Approval of Work Task 2 – Order No. 01431), DLCD stated:

> *"The actions of Lane County to address work tasks 1 and 2 on the approved work program are, with one exception, found to be in compliance with the statewide planning goals and rules, based on the findings contained in this report. The work tasks are approved with the exception the amended LC 16.291(u)(3) provision for motels and hotels outside unincorporated communities, for which DLCD review is continued."*

In the Background subsection on page 1 and 2 (Order No. 01431) DLCD further stated:

> *"Lane County has addressed statewide planning Goal 14 in its submittal. In work task 1, the county addressed the requirements of OAR 660, Division 22, the 'Unincorporated Communities Rule" (or 'UC Rule') and complete coordination agreements under ORS 195.020 and 195.025. Under work task 2, the county updated its comprehensive plan and*

zoning requirements to address the rural residential rule and statewide planning Goals 11 and 14 county wide for residential, commercial, industrial, and public lands outside communities."

"On July 10, 2001, The Lane County Board of Commissioners adopted Order No. 01-7-10-5 authorizing coordination agreements with each of the special service districts within the McKenzie River watershed. On April 17, 2002 the Board of Commissioners adopted two ordinances. First, Ordinance PA 1173 amended the county comprehensive plan by revising goals, policies, designation descriptions, and the plan map to comply with the UC rule and statewide planning Goal 14 for lands within and outside unincorporated communities. Second, Ordinance 6-02 amended the county zoning code to implement the plan updates in the former ordinance." Page 1 of the accompanying DLCD report (Partial Approval of Periodic Review Work Task 1 and Approval of Work Task 2 – Order No. 01431, October 31, 2002).

On February 4, 2003, DLCD issued Work Task Approval Order 02-WKTASK-01467. In the Findings of Fact section of the Order:

"*Finding 7. The commission upheld the department's decision in Order 01431. The commission adopts the report accompanying this order (attached) as the findings for the decision on appeal."*

On December 17, 2003, DLCD issued Periodic Review Task 1 Remand (Order 001582) to Lane County. In the order, DLCD states:

"On October 31, 2002, DLCD issued Order 001431 approving most of Lane County's Periodic Review Task 1. The only provision not approved was Lane Code (LC) section 16.291(u)(3) regarding rural motels and hotels, for which the department continue review pending completion of a subsequent task on your work program, which will correct the deficiency. However, the Oregon Legislature adopted Senate Bill 920 in 2003, Section 8 of the bill mandates that the Department of Land Conservation and Development make a decision on any task submitted by a local government before July 1, 2003 by December 31, 2003 or the task will become approved, unless there was an objection. Although there were objections to the county's adoption of this task, the objections did not address LC 291 (u)(3) and the appeal of Order 001431 has been concluded.

"In order to ensure that LC 16.291(u)(3) does not become approved, this order remands that portion of Task 1 relating to hotels and motels permitted in Rural Commercial zone, based on the findings contained in the report accompanying Order 001431 (relevant excerpt attached) pursuant to OAR 660-025-150(1)(b). The county shall amend the Lane Code in response to this remand by March 31, 2004."

On June 17, 2004, DLCD issued Periodic Review Task 1 Approval Order 001640 to Lane County. In the Order, DLCD states:

"On December 17, 2003, DLCD issued Order 001582 remanding Lane Code (LC) section 16,291(u)(3) regarding rural motels and hotels, On May 17, 2004, the department received amendments to LC 16.291 in response to the remand (Ordinance11-04). The revisions to LC 16.291 also included raising the floor limitations for rural commercial uses. The county also submitted Ordinance 12-04, which includes revisions

to LC 16.292(3)(o) and (p) and LC 16.400(10) to implement HB 2614 (the 'mill site' bill) and revise the floor area limitation for industrial uses within unincorporated communities (OAR 660-022-0030(3)) and rural industrial uses under Goal 14."

"I am pleased to inform you that the department has approved the county's submittal. There were no objections to the county's submittal, so this order is final and can not be appealed. This completes all work related to Task 1."

Pursuant Senate Bill 920 (2003) and the above cited DLCD orders, Lane Code 16.291 Rural Commercial (RC) and Lane Code 16.292 Rural Industrial (RI) are valid land use provisions under Goal 14 and the Rural Communities Rule throughout rural Lane County.

Finding 3. LC 16.290 (RR), LC 16.291 (RC), LC 16.292 (RI), and LC 16.294 (RPF) were applied to lands by Ordinance No. PA 1173 on April 17, 2002, in all developed & committed exception areas of rural Lane County that were located outside designated unincorporated community boundaries in the McKenzie, Siuslaw, Long Tom, Coast Fork Willamette and Middle Fork Willamette watersheds, and inside the eight unincorporated communities of the McKenzie Watershed (Marcola, Walterville, Leaburg, Vida, Nimrod, Blue River, Rainbow, and McKenzie Bridge).

LC 16.290 (RR), LC 16.291 (RC), LC 16.292 (RI), and LC 16.294 (RPF) were applied to lands by Ordinance No. PA 1194 on February 18, 2004, inside the unincorporated communities of the Siuslaw Watershed (Glenada, Cushman, Mapleton, Swisshome, Deadwood, Greenleaf, Triangle Lake, Blachly and Walton) and Long Tom Watershed (Noti, Elmira, Crow, Lorane, Franklin, Cheshire, Alvadore, and Lancaster).

LC 16.290 (RR), LC 16.291 (RC), LC 16.292 (RI), and LC 16.294 (RPF) were applied to lands by Ordinance No. PA 1222 on June 15, 2005, within the boundaries of unincorporated communities of the Coast Fork Willamette Watershed (Goshen, Saginaw, London, Dorena, and Culp Creek) and the Middle Fork Willamette Watershed (Pleasant Hill, Jasper, Trent, Fall Creek, and Dexter).

Lane County RCP, Goal 2, Policy 25 includes the notation: **Note: The "Community" Plan Designation is implemented by various zoning districts as indicated, zones which also implement specific Plan designations other than "Community". A suffix "/C" shall be used in combinations with these zoning abbreviations to denote the zoning inside unincorporated community plans adopted to comply with OAR 660 Division 22, the UC Rule: RR, RC, RI, RPF and RPR..*

Finding 4. Lane County's enactment of the LC 16.291 (Rural Commercial RC) and LC 16.292 (Rural Industrial RI) land use regulations per Ordinance No. 6-02 initially received partial acknowledgement from the Department of Land Conservation and Development for the specific Periodic Review Work Task 1 in Order No. 01431.

Lane County enacted Ordinance No. 11-04 on May 12, 2004, amending LC 16.291(3)(u) in the Rural Commercial Zone (RC) as part of Periodic Review Work Task 3. The final approval Order No. 01640 was granted by the Department of Land Conservation and Development (DLCD) on June 17, 2004, for LC 16.291 achieving compliance with OAR 660-Division 22 and OAR 660-Division 4.

On October 31, 2002, the Department of Land Conservation & Development (DLCD) approved the Ordinance No. 6-02 amendments to LC 16.292 and found them to be in compliance with OAR 660–Division 22 and OAR 660-04 (*Periodic Review Work Task 1 in Order No. 01431*). Lane County enacted Ordinance No. 12-04 on May 12, 2004, amending LC 16.292 Rural Industrial Zone (RI) and LC 16.400 (Comprehensive Plan Amendments) to comply with Land Conservation and Development Commission (LCDC) actions on August 3, 2003 to amend the Unincorporated Community Rule [OAR 660-022-30(3) and (11)]. The LCDC actions implemented House Bill 2691 and House Bill 2614-B pertaining to abandoned or diminished mill sites and extension of sewer services to such sites. Ordinance No. 12-04 amendments to LC 16.292 were acknowledged by Oregon Department of Land Conservation & Development on June 17, 2004, in *Periodic Review Work Task 1 in Order No. 01640.*

Finding 5. The Lane County Board of Commissioners has incorporated into the Periodic Review process an opportunity for the County and private citizens or public agencies to identify properties within each of the five watersheds that were developed with uses that were incompatible with the applied zoning designations dating back to the adoption of Lane Code Chapter 16. Based on Periodic Review work tasks including the compiling of detailed inventories of the uses found within the developed & committed exception areas and the unincorporated communities, the Board has exercised their authority to amend Plan and Zoning designations annually on a watershed basis through the follow-up, post-acknowledge plan amendment process.

On April 17, 2002, the Board of County Commissioners enacted Ordinance PA 1173 which included the *Lane County McKenzie Watershed Community Rule Compliance Issues Report* (May 14, 1999) for the eight unincorporated communities of the McKenzie Watershed in compliance with Periodic Review work tasks. On that same date, the Board of County Commissioners enacted Ordinance No. PA 1168 which adopted amendments to Plan and Zoning designations within the McKenzie Watershed including expansion of the unincorporated community boundaries of Rainbow, 29 additional actions for minor amendments to redesignate properties or portions of properties within developed & committed exception areas or unincorporated communities, and six actions to redesignate properties or portions of properties within resource zones with exceptions to Goal 3 and 4 where necessary. In total, 36 actions were taken that included 71 properties.

On February 18, 2004, the Board of County Commissioners enacted Ordinance No. PA 1194 which included the *Lane County OAR Compliance Report* (December 2003) with analysis and findings for the nine unincorporated communities within the Siuslaw Watershed and the eight unincorporated communities within the Long Tom Watershed in compliance with Periodic Review work tasks. On June 30, 2004, the Board of County Commissioners enacted Ordinance No. PA 1203 which adopted amendments to Plan and Zoning designations within the Siuslaw and Long Tom Watersheds including 52 actions for minor amendments to redesignate properties or portions of properties within developed & committed exception areas or unincorporated communities, and 13 actions to redesignate properties or portions of properties within resource zones with exceptions to Goal 3 and 4 where necessary. In total, the actions would include zone changes for 65 properties.

On June 15, 2005, the Board of County Commissioner enacted Ordinance No. PA 1222 which included the *Lane County Preliminary OAR Compliance Report* (April 2005) with analysis and findings for five unincorporated communities within the Coast Fork Willamette Watershed and five unincorporated communities within the Middle Fork Willamette Watershed in compliance with Periodic Review work tasks. On November 1, 2005, the Lane

County Planning Commission held the initial public hearing on Ordinance No. PA 1226 with proposed amendments to Plan and Zoning designations within the Coast Fork and Middle Fork Watersheds including 18 actions for minor amendments to redesignate properties or portions of properties within developed & committed exception areas or unincorporated communities, and three actions to redesignate properties or portions of properties within resource zones with exceptions to Goal 3 and 4 where necessary. In total, the 21 actions would include zone changes for 36 properties.

Finding 6. Lane Code 16.400(1) Purpose statement addresses the relationship between the citizens of Lane County and a dynamic plan amendment process.

> *Purpose. The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County, and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.*

Mindful of this policy statement and the benefits to private citizens and public agencies, the Board of County Commissioners enacted Ordinance No. PA 1192 on December 17, 2003 and amended the Rural Comprehensive Plan – General Plan Policies, Goal Two to include *Policy 27 -- Errors or Omissions.* Based on the County's previous Periodic Review experiences in the McKenzie, Siuslaw and Long Tom Watersheds, the Board enacted Policy 27 and established eight circumstances (*Policy 27.a.i-viii)* under which a private or public entity could initiate a plan amendment or zone change application for consideration by the Board of County Commissioners.

On January 19, 2005, the Board of County Commissioners enacted Ordinance No. PA 1219 revising Goal Two, Policy 27.a.ii., criteria.

The Board of County Commissioners has consistently enacted ordinances during the period of 2002 through 2005 to comply with the OAR 660-Division 22, OAR 660-004, and Periodic Review work tasks, and to ensure that the Rural Comprehensive Plan evolves as *a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights,* and *that the ability by individuals to propose amendments be free of restraint.*

Finding 7. *Oregon Administrative Rule 660 – Division 4 Interpretation of Goal 2 Exception Process* interprets the exception process as it applies to statewide Goals 3 to 19. Two sections of Division 4 are particularly pertinent to the actions proposed in Ordinance No. PA 1226. Those sections are 660-004-0018 and 660-004-0040.

OAR 660-004-0018 Planning and Zoning for Exception Areas applies to developed and committed exception areas outside unincorporated community boundaries.

> *OAR 660-04-018(2) For "physically developed" and irrevocably committed" exceptions to goals, plan and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:*
> *(a) Which are the same as the existing land uses on the exception site,*

(b) Which met the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the Goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to non resource use as defined in OAR 660-04-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; or

. . .

In 1984, Lane County enacted exceptions to Goals 3 (Agriculture) and 4 (Forest) for the developed & committed exception areas which includes the subject properties in Control No. 1-10, 12, 14-17, 19-21. After remand from the Oregon Supreme Court in 1988, Lane County enacted exceptions to the two Goals again for the subject properties in the eighteen developed & committed exception areas in compliance with state law. No additional exceptions are required to enact the zone changes for the 30 nonresource subject properties within the 18 exception areas of Control No. 1-10, 12, 14-17, 19-21.

Exceptions to Goals 3 and 4 are articulated in the findings of fact and conclusions for the six subject properties in Control No. 11, 13, and 18.

New development or expansion of the existing uses on the 36 subject properties will be subject to compliance with "Criteria" of the newly applied zoning designations.

Development in the Rural Commercial (RC) for allowable uses would occur pursuant to compliance with Lane Code 16.291(4) below:

LC 16.291(4)

(4) Criteria. New uses or development allowed by LC 16.291(3)(a) through (c-c) above, except for telecommunications facilities allowed by LC 16.291(3)(x) above, shall comply with the criteria in LC 16.291(4) below. Telecommunications facilities allowed by LC 16.291(3)(x) above shall comply with the requirements in LC 16.264.

(a) Floor Area and Lot or Parcel Coverage. If located in an area designated by the RCP as an unincorporated community, no one commercial building or combination of commercial buildings on a lot or parcel shall contain more than 4,000 square feet of floor area for the same commercial use unless the conditions in LC 16.291(4)(a) below are met. If not located in an area designated by the RCP as an unincorporated community, no commercial building or combination of commercial buildings on a lot or parcel shall contain more than 3,000 square feet of floor area for the same commercial use unless the commercial building is used as a country store (a building used primarily for the retail sale of groceries but containing at least 750 square feet of floor area used for other permitted commercial uses). A country store located outside an area designated by the RCP as an unincorporated community may contain a maximum of 3,750 square feet of floor area. An exception to the 4,000 or 3,000 commercial building square feet floor area requirement in LC 16.291(4)(a) above may be allowed if it complies with these requirements.

(i) The exception shall be adopted by ordinance as part of an amendment to the RCP for a specific lot or parcel.

(ii) The exception shall be for an expansion of up to 50% of the existing square feet building floor area used for commercial uses.

(iii) The existing and proposed commercial uses shall:

(aa) Provide goods and services to primarily rural residents or persons traveling through the area,

(bb) Notwithstanding the small-scale commercial building floor area limits in OAR 660-022-0030(10), comply with OAR 660-022 (for commercial uses located inside unincorporated communities) or with the Statewide Planning Goals (for commercial uses located outside unincorporated communities), and

(cc) Fit within the uses allowed by LC 16.291(2) and/or (3) above.

(iv) No more than one exception pursuant to LC 16.291(4)(a) shall be allowed for the same lot or parcel.

(b) The location, design, size, shape and arrangement of the uses and structures shall be sufficient for the proposed intent and compatible with the surrounding vicinity.

(c) The quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas shall serve their intended purpose and shall minimize any adverse effect on existing or contemplated abutting land use.

(d) Suitable planting of ground cover or other surfacing shall be provided to prevent erosion and reduce dust, and suitable methods shall be provided for the continued maintenance of the planting or surfacing.

(e) The location, design and size of the uses shall be such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intend uses.

(f) Based on anticipated traffic generation, adequate additional right-of-way and road improvements shall be provided by the development in order to address any traffic safety or congestion concerns created by the development. Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional requirements as lighting, sidewalks and turn and deceleration/acceleration lanes.

(g) There shall be a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, buildings and other related facilities.

(h) There shall be adequate off street parking and loading/unloading facilities provided in a safe and efficient manner. Consideration shall include the layout of the parking and loading/unloading facilities, and their surfacing, lighting and landscaping.

(i) Hazards and Impacts. The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(j) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.

Development in the Rural Industrial (RI) for allowable uses would occur pursuant to compliance with Lane Code 16.292(4) below:

LC 16.292(4)

(4) Criteria. New uses or development allowed by LC 16.292(3)(a) through (k) and (n) above, except for telecommunications facilities allowed by LC 16.292(3)(h) above, shall comply with the criteria in LC 16.292(4) below. Telecommunications facilities allowed by LC 16.292(3)(h) above shall comply with the requirements in LC 16.264.

(a) The location, design, size, shape and arrangement of the uses and structures shall be sufficient for the proposed intent and compatible with the surrounding vicinity.

(b) The quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas shall serve their intended purpose and shall minimize any adverse effect on existing or contemplated abutting land use.

(c) Suitable planting of ground cover or other surfacing shall be provided to prevent erosion and reduce dust, and suitable methods shall be provided for the continued maintenance of the planting or surfacing.

(d) The location, design and size of the uses shall be such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intend uses.

(e) Based on anticipated traffic generation, adequate additional right-of-way and road improvements shall be provided by the development in order to address any traffic safety or congestion concerns created by the development. Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional requirements as lighting, sidewalks and turn and deceleration/acceleration lanes.

(f) There shall be a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, buildings and other related facilities.

(g) There shall be adequate off street parking and loading/unloading facilities provided in a safe and efficient manner. Consideration shall include the layout of the parking and loading/unloading facilities, and their surfacing, lighting and landscaping.

(h) Hazards and Impacts. The proposed use shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(i) The proposed use and development shall not exceed the carrying capacity of the soil or existing water supply resources. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.

Development in the Rural Public Facility (RPF) for allowable uses would occur pursuant to compliance with Lane Code 16.294(4) below:

LC 16.294(4)

(4) Criteria. New uses or development allowed by LC 16.294(3)(a) through (u) above, except for telecommunications facilities allowed by LC 16.294(3)(s) above, shall

comply with the criteria in LC 16.294(4) below. Telecommunications facilities allowed by LC 16.294(3)(s) above shall comply with the requirements in LC 16.264.

(a) The location, design, size, shape and arrangement of the uses and structures shall be sufficient for the proposed intent and compatible with the surrounding vicinity.

(b) The quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas shall serve their intended purpose and shall minimize any adverse effect on existing or contemplated abutting land use.

(c) Suitable planting of ground cover or other surfacing shall be provided to prevent erosion and reduce dust, and suitable methods shall be provided for the continued maintenance of the planting or surfacing.

(d) The location, design and size of the uses shall be such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intend uses.

(e) Based on anticipated traffic generation, adequate additional right-of-way and road improvements shall be provided by the development in order to address any traffic safety or congestion concerns created by the development. Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional requirements as lighting, sidewalks and turn and deceleration/acceleration lanes.

(f) There shall be a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, buildings and other related facilities.

(g) There shall be adequate off street parking and loading/unloading facilities provided in a safe and efficient manner. Consideration shall include the layout of the parking and loading/unloading facilities, and their surfacing, lighting and landscaping.

(h) Hazards and Impacts. The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

(i) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.

When these development criteria were enacted, those actions were designed to address both the Goal 2 Exception requirements and the Goal 11 and 14 issues raised by the previous and now superceded C-1, C-2, C-3 and CR commercial land use codes, M1, M2, and M3 industrial and use codes, and PF public facility zoning regulations. Among other things, those actions were designed to establish zones that would assure maintenance of the rural character of land uses outside of urban growth boundaries and address issues of compatibility with any impacts on adjacent resource lands.

The proposed findings for the 36 proposed amendments and zone changes and the above cited zoning provisions contain sufficient assurances that the plan and zone designations changes will address the applicable criteria and comply with OAR 660-004-0018(2).

OAR 660-004-0040 *Application of Goal 14 (Urbanization) to Rural Residential Areas* applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3 (Agricultural Lands), Goal 4 (Forest Lands), or both has been taken. The purpose and applicability of OAR 660-004-0040 is reproduced below:

OAR 660-004-0040
(1) The purpose of this rule is to specify how Statewide Planning Goal 14, Urbanization, applies to rural lands in acknowledged exception areas planned for residential uses.
(2) (a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (Agricultural Lands), Goal 4 (Forest Lands), or both has been taken. Such lands are referred to in this rule as rural residential areas.
(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.
(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:
(A) land inside an acknowledged urban growth boundary;
(B) land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 022;

Per *OAR 660-004-0040(2)(c)(B)* above, this OAR does not apply with the acknowledged unincorporated communities of rural Lane County. Subsection *-0040* primarily addresses densities within the developed & committed exception areas outside the 35 unincorporated communities by fixing the minimum lot size to those densities applied by Lane County in 1984. Only one of the subject properties (Control No. 17) in Developed & Committed Exception Area Plot # 420-3 is proposed for a zone change to Rural Residential.

Finding 8. The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

A. None of the 36 subject properties proposed for zone changes in Control No. 1-21 are located within a UGB.
B. Three of the subject properties (Control No. 11, 13) were resource land (F2, E30) for which exceptions to both Goals 3 and 4 are being taken by the proposed actions and the rezoning to a nonresource designation will result in the three properties being designated within a developed & committed exception area.
C. Twenty-four of the subject properties (Control No. 1- 8, 10, 12, 14-15, 17, 19-21) being considered for amendments are within sixteen different developed & committed exception areas and outside unincorporated rural communities. All 24 subject properties are nonresource lands acknowledged by Oregon Land Conservation & Development Commission as qualifying for exceptions to Goal 3 and 4 in 1984 and again in 1988-1990.

D. Six of the subject properties (Control No. 6, 9, 16) being considered for amendments are within three designated unincorporated rural communities (Saginaw, Goshen and Culp Creek).
E. Three of the subject properties (Control No. 18) were unzoned and are being designated as Agriculture/E30.
F. The existing rural uses or activities which have prompted the requests for amendments to conform the uses with appropriate zoning designations are allowable uses provided for in the requested zoning designations of Lane Code Chapter 16;

Given these circumstances, the 36 properties should be "rural lands" under state definition and given the special use permit process in compliance with the criteria and standards of the applicable Lane Code 16 sections, they will remain "rural lands" unless one of the incorporated cities in the Coast Fork Watershed expands their UGB to include them.