



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

5/26/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment
DLCD File Number 002-10

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: Thursday, June 10, 2010

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

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

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Aisha Willits, Washington County
Jon Jinings, DLCD Community Services Specialist
Katherine Daniels, DLCD Farm/Forest Specialist
Gary Fish, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

MAY 21 2010

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

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

Jurisdiction: **Washington County**

Local file number: **10-062-PA**

Date of Adoption: **May 18, 2010**

Date Mailed: **May 19, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 3/5/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Comprehensive plan map amendment to remove the Exclusive Farm Use (EFU) District designation from approximately .5 acres of the subject property and designate that portion Rural Commercial (R-COM) District. The plan amendment is requested to accommodate a replacement septic drainfield for an adjacent R-COM property. This plan amendment includes a request for a Goal 3 Reasons exception.

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

Plan Map Changed from: **EFU**

to: **R-COM**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **Northwest of the intersection of Highways 210 and 219 in Hillsboro** Acres Involved: **0.50**

Specify Density: Previous: **1 d.u./80 acres**

New: **N/A**

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO **Goal 3**

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 002-10 (18161) [16145]

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

Washington County Department of Health and Human Services, Department of Environmental Quality

Local Contact: Anne Elvers

Phone: 503-846-3583

Address: 155 N. 1st Avenue, Suite 350-14

Fax Number: 503-846-4412

City: Hillsboro Zip: 97124

E-mail Address: anne_elvers@co.washington.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light **green paper if available**.
3. Send this Form 2 and **One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD** 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

1 IN THE BOARD OF COMMISSIONERS
2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of a Proposed Plan) RESOLUTION AND ORDER
4 Amendment Casefile 10-062-PA)
for Ralph Morgan & Debra Lee Thompson) No. 10-40

5
6 This matter having come before the Washington County Board of Commissioners (Board) at its
7 meeting of May 18, 2010; and

8 It appearing to the Board that the above-named applicants applied to Washington County for a
9 Plan Amendment to change the plan designation for certain real property described in the Notice of Public
10 Hearing (Exhibit "A"), attached hereto and by this reference made a part hereof, from Exclusive Farm Use
11 (EFU) to Rural Commercial (R-COM); and

12 It appearing to the Board from evidence and findings in the Application (Exhibit "B") and in the
13 Staff Reports (Exhibits "C" and "D") attached hereto and by this reference made a part hereof, that the
14 aforementioned application does meet the requirements of the Rural/Natural Resource Plan for such a
15 Plan Amendment; and therefore, that the aforesaid application should be approved; and

16 It appearing to the Board that the findings described in Exhibits "B", "C" and "D" constitute
17 appropriate findings and should be adopted by this Board; and

18 It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on
19 April 21, 2010, voted to recommend that the Board adopt 10-062-PA, it is therefore

20 RESOLVED AND ORDERED that Casefile No. 10-062-PA for a Plan Amendment for property
21 described in Exhibit "A" is hereby approved, based on the findings in Exhibits "B", "C" and "D", and is
22 subject to the conditions of approval set forth in the Summary of Decision (Exhibit "E").

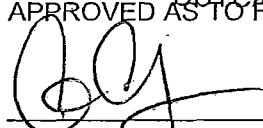
23 4 votes Aye, 0 votes Nay.

	AYE	NAY	ABSENT
24 BRIAN	✓	—	—
25 SCHOUTEN	✓	—	—
26 STRADER	✓	—	—
27 ROGERS	✓	—	✓
28 DUYCK	✓	—	—

APPROVED AS TO FORM:

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON


CHAIRMAN


Senior Assistant County Counsel
for Washington County, Oregon


RECORDING SECRETARY

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Land Use & Transportation (CPO 10)

Agenda Title: CONSIDER PLAN AMENDMENT 10-062-PA TO CHANGE THE PLAN DESIGNATION FROM EFU TO RURAL COMMERCIAL FOR AN APPROXIMATE 0.50 ACRE PORTION OF A 19.81 ACRE PROPERTY; REQUIRES AN EXCEPTION TO STATEWIDE PLANNING GOAL 3 (AGRICULTURAL LANDS)

Presented by: Brent Curtis, Planning Manager

SUMMARY:

The applicant is requesting a plan amendment to change the current land use designation of Exclusive Farm Use (EFU) District to Rural Commercial (R-COM) District for approximately 0.50 acre portion of a 19.81 acre property. The purpose of the plan amendment is to relocate the deteriorating drainfield of the South Store Café septic system. The subject site is described as a portion of tax lot number 100 on tax map number 2S2 16A, located at 16590 SW Hillsboro Highway, as shown on the attached public notice. The South Store Café is located at the northwest corner of the intersection of Scholls Ferry Road and Hwy. 219 as shown on the attached notice.

This request requires a "reasons" exception to Statewide Planning Goal 3 (Agriculture Land). Per State law, a "reasons" exception may be granted when the provisions of Oregon Administrative Rule (OAR) 660-004-0020 through 0022 have been met. This type of exception requires the applicant to demonstrate that there are no available and appropriate sites for the proposed use on non-resource land or inside the Urban Growth Boundary.

Because this request involves lands designated under Statewide Planning Goal 3, a Planning Commission hearing was held for the purpose of making a recommendation to the Board on this matter. It is the Board's responsibility to make a final decision on this application.

-Continued-

Attachments: Public Notice
Resolution and Order

DEPARTMENT'S REQUESTED ACTION:

Conduct the public hearing. Approve the proposed plan amendment based on evidence and findings in the staff report and the applicant's submittal. Authorize the Chair to sign the Resolution and Order approving Plan Amendment 10-062-PA.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

RO 10-40

Agenda Item No.	<u>4.b.</u>
Date:	05/18/10

On April 21, 2010, the Planning Commission conducted a public hearing on the plan amendment. The Commission voted 8-0 to forward a recommendation for approval to the Board of County Commissioners. There was no testimony in opposition of the request.

Although the Board does not have an expedited hearing process, the Board may wish to conduct the hearing similar to the Planning Commission's procedures. Under the Planning Commission's procedures, an expedited hearing process can be used under the following conditions:

- The staff report recommends approval
- The applicant has no objection
- No one in the audience wishes to testify
- There is no objection from any member of the Planning Commission

Under the expedited process, the Planning Commission relies on the written record, opens the hearing, dispenses with a verbal staff report and places on the record the fact that neither the applicant nor anyone in the audience wishes to testify.

If an expedited hearing process cannot be utilized, the Board's Rules of Procedure set the following time limits for testimony at quasi-judicial hearings. The Board may by motion grant different time limits.

1. Proponents of the action or applicant: 12 minutes
2. Supporter(s): 3 minutes per person or organizations in support
3. Opponent(s): 12 minutes total for recognized organizations (CPO, business or homeowner's associations) which shall be divided as directed by the Presiding Officer if more than one organization seeks to testify, and 3 minutes per person.
4. Rebuttal: 3 minutes by the proponent or applicant.



WASHINGTON COUNTY
 DEPARTMENT OF LAND USE AND TRANSPORTATION
 LONG RANGE PLANNING DIVISION
 ROOM 350-14
 155 NORTH FIRST AVENUE
 HILLSBORO, OREGON 97124
 (503) 846-3519 fax: (503) 846-4412
 www.co.washington.or.us

NOTICE OF PUBLIC HEARING

PROCEDURE TYPE III

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource Plan

EXISTING LAND USE DISTRICT(S):

Exclusive Farm Use (EFU)

PROPOSED PLAN AMENDMENT:

Remove existing EFU (Exclusive Farm Use) District designation on a portion of the property and designate that portion R-COM (Rural Commercial) in order to site a replacement septic drainfield; requires an exception to Statewide Planning Goal 3 (Agricultural Lands).

Notice is hereby given that the Planning Commission will review the request for the above stated proposed plan amendment at a meeting on **April 21, 2010 at 7:30 PM** in the auditorium of the Charles D. Cameron Public Services Building, 155 North First, Hillsboro, Oregon. After the hearing, the Planning Commission will decide on a recommendation to the Board of County Commissioners on this matter.

The Board of Commissioners will consider the request at a public hearing on **May 18, 2010 at 10:00 AM** in the auditorium of the Washington County Public Services Building, 155 North First, Hillsboro, Oregon. The decision of the Board is final unless appealed.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling 648-8611 (voice) or 693-4598 (TDD-Telecommunications Devices for the Deaf) no later than 5:00pm on the Monday prior to the meeting date(s). The county will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the county of your need by 5:00pm on the Monday preceding the meeting date.
 FOR FURTHER INFORMATION, PLEASE CONTACT:

Anne Elvers, Associate Planner

AT THE WASHINGTON COUNTY DEPARTMENT OF LAND USE AND TRANSPORTATION. (503) 846-3519.

CASE FILE NO. 10-062-PA

APPLICANT:

Ralph Morgan & Debra Lee Thompson
 17235 SW Swank Road
 Sherwood OR 97140

APPLICANT'S REPRESENTATIVE:

Dunn Carney Allen Higgins & Tongue LLP
 851 SW Sixth Avenue, Suite 1500
 Portland OR 97204

CONTACT PERSON: Ty Wyman

OWNER:

Don Haynes
 24425 SW Scholls Ferry Road
 Hillsboro OR 97123

PROPERTY DESCRIPTION:

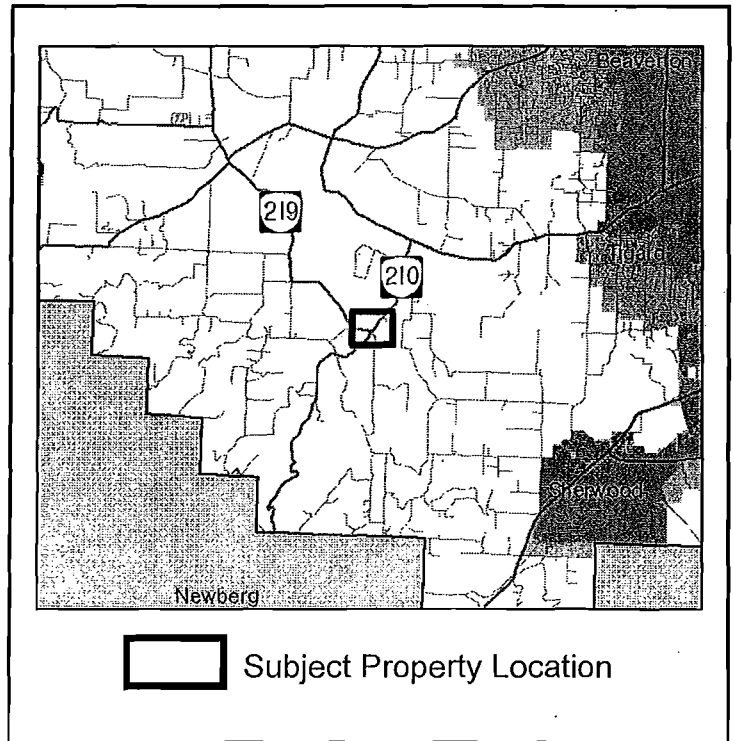
ASSESSOR TAX MAP: 2S2 16A

TAX LOT NUMBERS: 100 (portion)

SITE SIZE: Approximately 0.5 acres

ADDRESS: 16590 SW Hillsboro Highway

LOCATION: Northwest of the intersection of Hillsboro Highway 219 and Highway 210.



NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing). Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits may be imposed.

RULES OF PROCEDURE

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178.

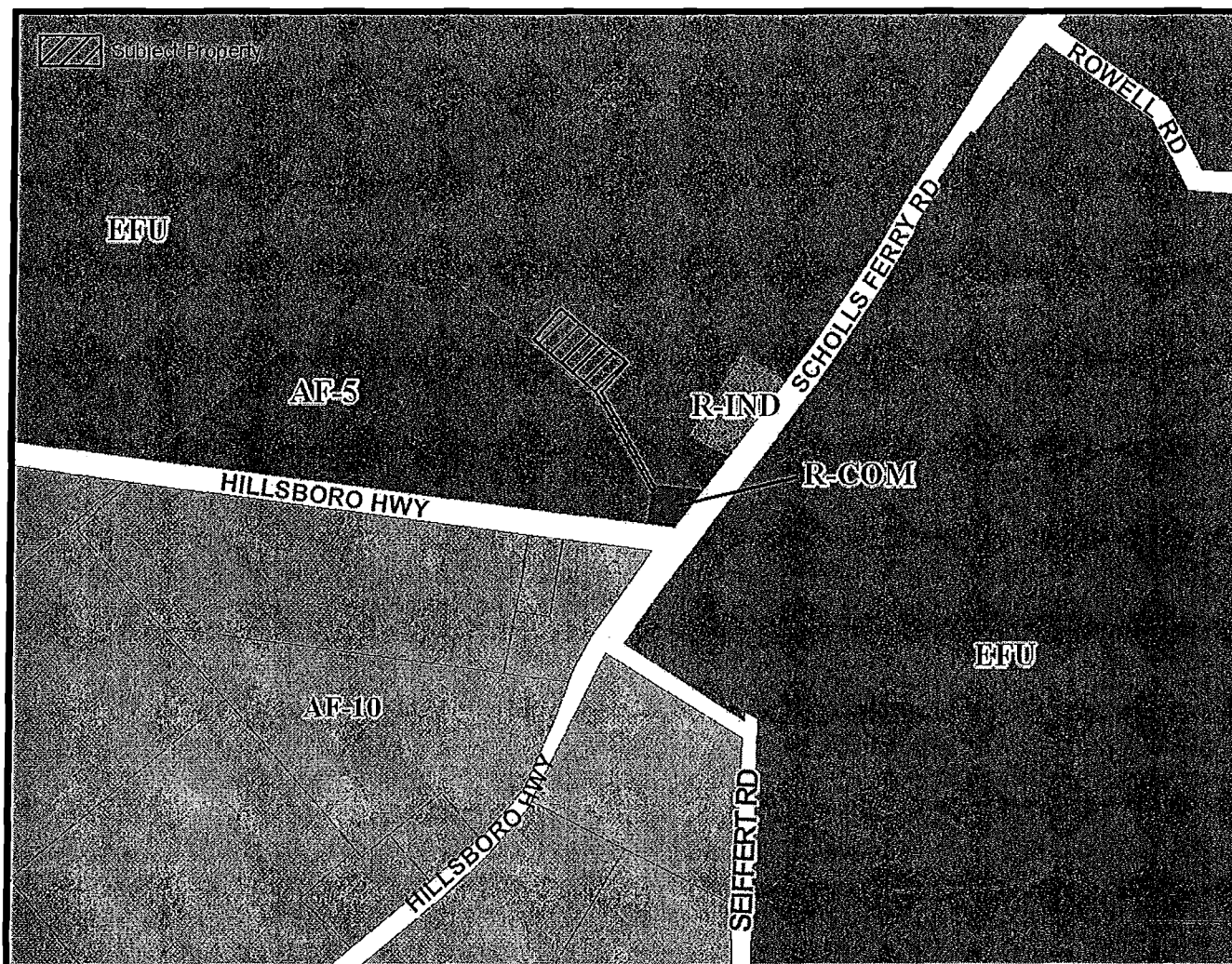
When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use and Transportation. A copy of this material will be provided at reasonable cost.

A copy of the staff report will be available for inspection at no cost at the Department of Land Use and Transportation at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

For further information, please contact **Anne Elvers, Associate Planner**, Department of Land Use and Transportation, at **503-846-3583**.

Tax Map/Lot Number: 2S2 16A, tax lot 100 (portion)
Case File Number: 10-062-PA



AF-5 (Agriculture and Forest Five Acre District)
AF-10 (Agriculture and Forest Ten Acre District)
EFU (Exclusive Farm Use)

R-COM (Rural Commercial)
R-IND (Rural Industrial)

Land Use Districts Applicable to this Request:

EFU and R-COM

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 3, 5, 7, 9, 11
- B. Washington County Rural/Natural Resource Plan Policies 1.p.7, 2, 6, 8, 10, 14, 15, 18 & 20
- C. Washington County Community Development Code: Article II; Article III, Sections 340, 352; Article IV Section 421, 422; Article V
- E. OAR 660-012-0060, OAR 660-004, OAR 660-033
- F. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19



WASHINGTON COUNTY
 DEPARTMENT OF LAND USE AND TRANSPORTATION
 LONG RANGE PLANNING DIVISION
 ROOM 350-14
 155 NORTH FIRST AVENUE
 HILLSBORO, OREGON 97124
 (503) 846-3519 fax: (503) 846-4412
 www.co.washington.or.us

NOTICE OF PUBLIC HEARING

PROCEDURE TYPE III

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource Plan

EXISTING LAND USE DISTRICT(S):

Exclusive Farm Use (EFU)

PROPOSED PLAN AMENDMENT:

Remove existing EFU (Exclusive Farm Use) District designation on a portion of the property and designate that portion R-COM (Rural Commercial) in order to site a replacement septic drainfield; requires an exception to Statewide Planning Goal 3 (Agricultural Lands).

Notice is hereby given that the Planning Commission will review the request for the above stated proposed plan amendment at a meeting on **April 21, 2010 at 7:30 PM** in the auditorium of the Charles D. Cameron Public Services Building, 155 North First, Hillsboro, Oregon. After the hearing, the Planning Commission will decide on a recommendation to the Board of County Commissioners on this matter.

The Board of Commissioners will consider the request at a public hearing on **May 18, 2010 at 10:00 AM** in the auditorium of the Washington County Public Services Building, 155 North First, Hillsboro, Oregon. The decision of the Board is final unless appealed.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling 648-8611 (voice) or 693-4598 (TDD-Telecommunications Devices for the Deaf) no later than 5:00pm on the Monday prior to the meeting date(s). The county will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the county of your need by 5:00pm on the Monday preceding the meeting date.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Anne Elvers, Associate Planner

AT THE WASHINGTON COUNTY DEPARTMENT OF LAND USE AND TRANSPORTATION. (503) 846-3519.

CASE FILE NO. 10-062-PA

APPLICANT:

Ralph Morgan & Debra Lee Thompson
 17235 SW Swank Road
 Sherwood OR 97140

APPLICANT'S REPRESENTATIVE:

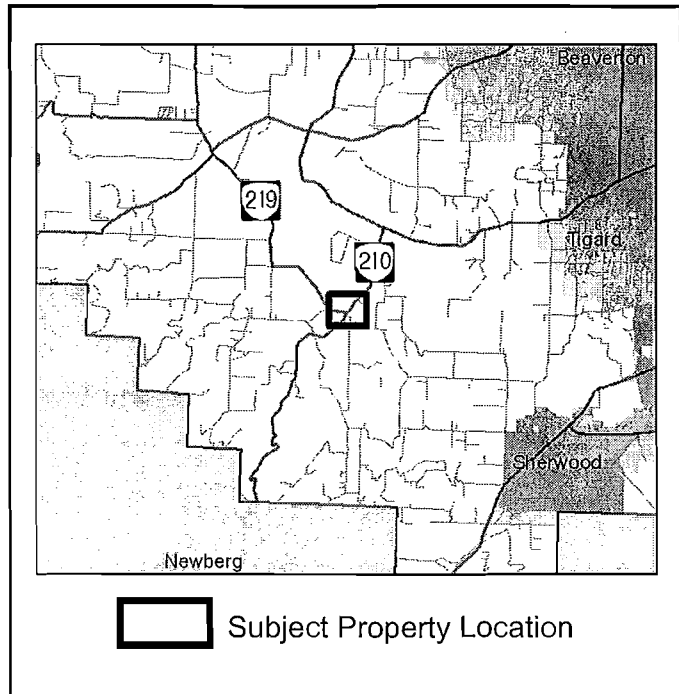
Dunn Carney Allen Higgins & Tongue LLP
 851 SW Sixth Avenue, Suite 1500
 Portland OR 97204
 CONTACT PERSON: Ty Wyman

OWNER:

Don Haynes
 24425 SW Scholls Ferry Road
 Hillsboro OR 97123

PROPERTY DESCRIPTION:

ASSESSOR TAX MAP: 2S2 16A
 TAX LOT NUMBERS: 100 (portion)
 SITE SIZE: Approximately 0.5 acres
 ADDRESS: 16590 SW Hillsboro Highway
 LOCATION: Northwest of the intersection of Hillsboro Highway 219 and Highway 210.



NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing). Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits may be imposed.

RULES OF PROCEDURE

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178.

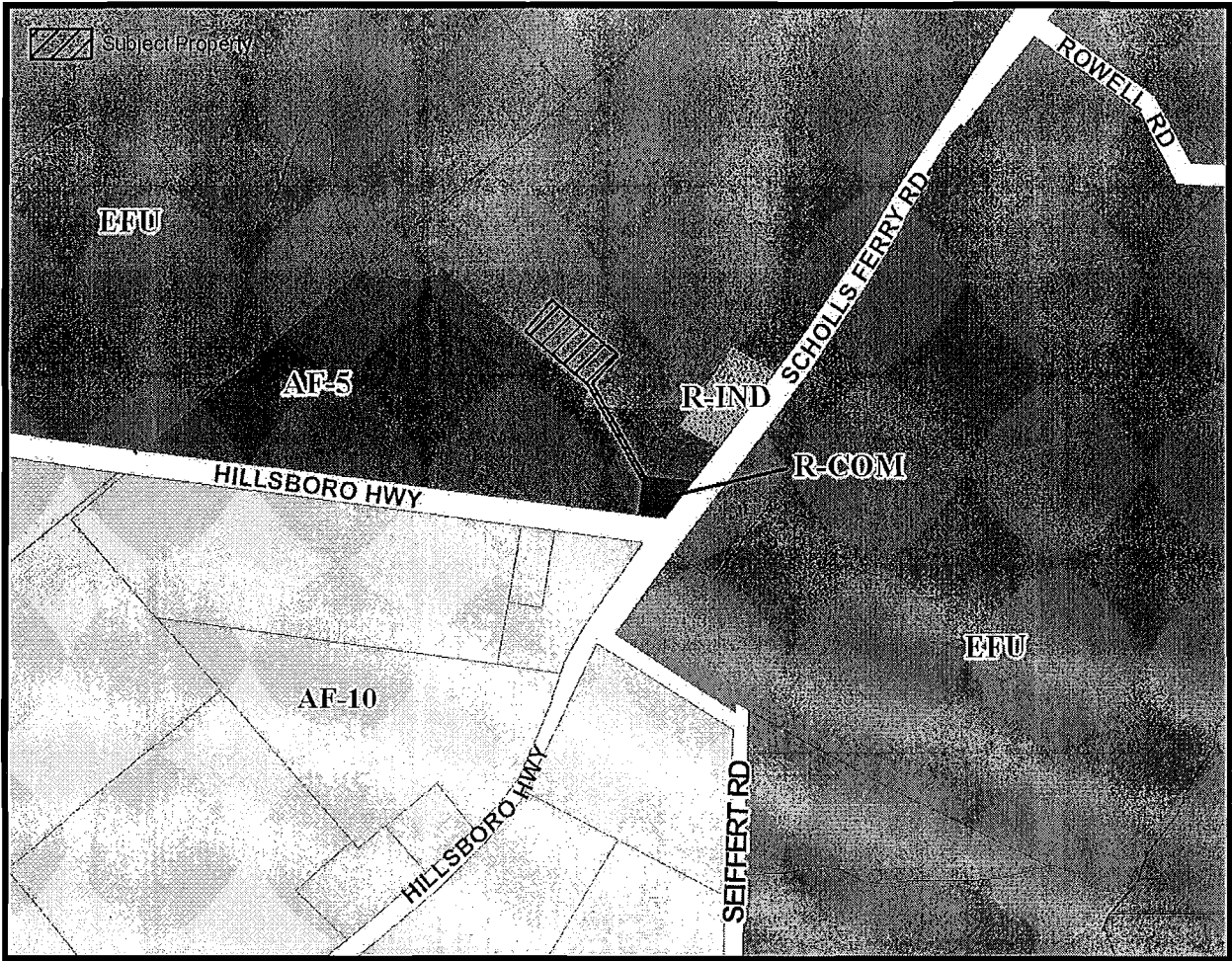
When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use and Transportation. A copy of this material will be provided at reasonable cost.

A copy of the staff report will be available for inspection at no cost at the Department of Land Use and Transportation at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

For further information, please contact **Anne Elvers, Associate Planner**, Department of Land Use and Transportation, at **503-846-3583**.

Tax Map/Lot Number: 2S2 16A, tax lot 100 (portion)
Case File Number: 10-062-PA



AF-5 (Agriculture and Forest Five Acre District)
AF-10 (Agriculture and Forest Ten Acre District)
EFU (Exclusive Farm Use)

R-COM (Rural Commercial)
R-IND (Rural Industrial)

Land Use Districts Applicable to this Request:
EFU and R-COM

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 3, 5, 7, 9, 11
- B. Washington County Rural/Natural Resource Plan Policies 1.p.7, 2, 6, 8, 10, 14, 15, 18 & 20
- C. Washington County Community Development Code: Article II; Article III, Sections 340, 352; Article IV Section 421, 422; Article V
- E. OAR 660-012-0060, OAR 660-004, OAR 660-033
- F. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19

S:\PLNGWPSHARE\Plan Amendments\Casefiles\2010\10-062-PA SouthStore\Notices\Public Hrg Notice_10062PA.doc



WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
PLANNING DIVISION
ROOM 350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124
(503) 846-3519

CASEFILE NO. _____

APPLICANT NAME AND ADDRESS:
Ralph Morgan & Debra Lee Thompson
17235 SW Swank Rd.
Sherwood, OR 97140

PLAN AMENDMENT APPLICATION

PROCEDURE TYPE III (QUASI-JUDICIAL PUBLIC HEARING)

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource

EXISTING LAND-USE DISTRICT(S): EFU

APPLICANT'S REPRESENTATIVE AND ADDRESS:
Ty Wyman
851 SW Sixth Ave, Suite 1500
Portland, OR 97204

OWNER'S NAME AND ADDRESS:
Don Haynes
24425 SW Hillsboro Hwy
Hillsboro, OR 97123

RECEIVED
FEB 12 2010

APPLICANT PHONE: 503 628 3641 Land Development Services
Land Use & Transportation

OWNER PHONE: 503 709 3752

ALSO NOTIFY: _____

PROPERTY DESCRIPTION
ASSESSOR MAP NO(S): 2S2 16A
TAX LOT NO(S): 100
SITE SIZE: 19.81 Ac.
ADDRESS: 16590 Hillsboro Hwy.
LOCATION: Northwest corner of the intersection
of Hwy 219 and Hwy 210

PROPOSED PLAN AMENDMENT: EFU to Commercial (R-COM) on a portion of TL 100 for a new septic system to support the South Store Cafe.

DATE OF PRE-APPLICATION CONFERENCE: 12/3/09 STAFF MEMBER: Aisha Willits & Anne Elvers

EXISTING USE OF THE SITE: TL 100 includes 12 residences, Christmas Tree Farm, and open pasture.

LIST ASSESSOR MAP AND TAX LOT NUMBERS OF ALL CONTIGUOUS LOTS OR PARCELS UNDER IDENTICAL OWNERSHIP:
2S2 16A TL 500 and TL 200.

LIST ALL PREVIOUS DEVELOPMENT REQUESTS, LAND USE ACTIONS AND DATES OR PREVIOUS ACTIONS RELATING TO THE SUBJECT PROPERTY: For the Cafe (TL 400) County File No. 78-154-D and 84-91-D.
For TL 100 Casefile L0400148 and L400524 (lot line adjustments)

WE, THE UNDERSIGNED HEREBY AUTHORIZE THE FILING OF THIS APPLICATION AND CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS COMPLETE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

Ralph Morgan 2/12/10
 OWNER CONTRACT PURCHASER DATE
Debra Lee Thompson 2/12/10
 OWNER CONTRACT PURCHASER DATE

Don Haynes
 OWNER CONTRACT PURCHASER DATE
 OWNER CONTRACT PURCHASER DATE

NOTES:

- ❖ THIS APPLICATION MUST BE SIGNED BY ALL THE OWNERS OR ALL THE CONTRACT PURCHASERS OF THE SUBJECT PROPERTY, AS DEFINED BY THE COMMUNITY DEVELOPMENT CODE, SECTION 108-149.
- ❖ IF THIS APPLICATION IS SIGNED BY THE CONTRACT PURCHASER(S), THE CONTRACT PURCHASER(S) IS (ARE) CERTIFYING THAT THE CONTRACT VENDOR HAS BEEN NOTIFIED OF THE APPLICATION.
- ❖ THE APPLICANT OR A REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC HEARINGS.
- ❖ NO APPROVAL WILL BE EFFECTIVE UNTIL THE APPEAL PERIOD HAS EXPIRED.
- ❖ AN APPROVAL OR DENIAL OF THIS REQUEST MAY BE OVERTURNED ON APPEAL.

S:\PLNGI\W\SHARE\Plan Amendments\Master Forms\Misc forms\APP.DOC 9/7/2007



WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
LONG RANGE PLANNING DIVISION
ROOM 350-14
166 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124
(503) 848-3519 fax: (503)848-4412

PLAN AMENDMENT PRE-APPLICATION CONFERENCE SUMMARY

PRE-APPLICANT:
Ralph Morgan

APPLICANT'S REPRESENTATIVE:
Ty Wyman
tkw@dunn-carney.com
503-417-5478

PROPERTY OWNER:
Amanda Stanaway
16103 SW 2nd Street
Sherwood, OR 97140

PROCEDURE TYPE III
CPO: 10

COMMUNITY PLAN: Rural/Natural Resource

EXISTING LAND USE DISTRICT(S): Exclusive Farm Use (EFU)

PROPERTY DESCRIPTION:

ASSESSOR MAP NO(S): 2S2 16A

TAX LOT NO(S): 100 (portion)

SITE SIZE: 19.81 ac

LOCATION: Northwest corner of the intersection of Highway 219 and Highway 210

PROPOSED PLAN AMENDMENT:

EFU to Rural Commercial (R-COM) on a portion of TL 100 for a new septic system to support the South Store; requires a Reasons exception to Statewide Planning Goal 3 (Agricultural Land)

DATE OF PRE-APPLICATION CONFERENCE: 12/03/09

PRE-APPLICANT PHONE:

STAFF MEMBER: Anne Elvers, Associate Planner & Aisha Willits, Senior Planner

APPLICATION SUBMITTAL DEADLINE AND OTHER APPLICABLE REQUIREMENTS:

FEBRUARY 15 (generally) for SPRING/SUMMER HEARINGS - AUGUST 15 (generally) for FALL/WINTER HEARINGS

(NOTE: AN APPLICATION WILL NOT BE SCHEDULED FOR A PUBLIC HEARING UNTIL IT IS ACCEPTED AS COMPLETE. A COMPLETE APPLICATION ADDRESSES ALL APPLICABLE PROVISIONS OF THE VARIOUS COMPREHENSIVE PLAN ELEMENTS AND OTHER APPLICABLE REQUIREMENTS, AND HAS ALL NECESSARY FORMS FILLED OUT COMPLETELY AND CORRECTLY, AND INCLUDES THE SPECIFIED FEE DEPOSIT AND THE CONTRACT SIGNED BY THE OWNER AGREEING TO PAYMENT OF ALL COSTS ASSOCIATED WITH APPLICATION PROCESSING.)

APPLICABLE POLICIES AND REGULATIONS

RURAL/NATURAL RESOURCE PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES UNDER THESE POLICIES: 1 p. 7, 2, 6, 8, 10, 14 a. 1, 15, 18 & 20

TRANSPORTATION PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES UNDER THESE POLICIES: Not applicable

COMMUNITY DEVELOPMENT CODE CONSIDERATIONS:

APPLICABLE LAND USE DISTRICT SECTIONS (PURPOSE AND PERMITTED USES): 340 (EFU) and 352 (R-COM)

PHYSICAL LIMITATIONS OF SITE (SECTIONS 421, 422): 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources)

OTHER CONSIDERATIONS:
OAR 660-004 (Goal 3 Exception)

REVIEW AUTHORITY: Planning Commission Board of County Commissioners

For plan amendments involving the three resource districts (EFU, EFC and AF-20) or for requests that require an exception to the Statewide Planning Goal, the Planning Commission will hold an initial hearing to provide the Board of County Commissioners with a recommendation for approval or denial of the request.

GENERAL INFORMATION

PREVIOUS CASE FILES: N/A

OUTSTANDING CONDITIONS AND VIOLATIONS: N/A

OTHER INTERESTED AGENCIES AND ORGANIZATIONS: N/A

HANDOUTS DISTRIBUTED

- PLAN AMENDMENT APPLICATION FORM
- PLAN AMENDMENT PROCEDURE SUMMARY
- AGREEMENT TO PAYMENT OF FEES FOR APPLICATION PROCESSING
- REQUEST FOR STATEMENT OF SERVICE AVAILABILITY FORMS
- TRAFFIC IMPACT STATEMENT FORM

DOCUMENTS TO BE SUBMITTED WITH APPLICATION

NUMBER OF COPIES

- 18 PRE-APPLICATION SUMMARY
- 18 PLAN AMENDMENT APPLICATION FORM
- 18 WRITTEN EXPLANATION, JUSTIFICATION (Submit one copy for initial completeness review)
- 1 FEE CONTRACT (SIGNED)
- 1 WASHINGTON COUNTY TAX MAP(S) (must be obtained from Assessment & Taxation Department and red-stamped) 2S2 16A
- N/A WELL REPORTS (LOGS) FOR ALL SECTIONS WITHIN ONE HALF-MILE OF THE SUBJECT PROPERTY N/A

SERVICE PROVIDER LETTERS**

- | | | | |
|-----|---------------|-----|---|
| N/A | SHERIFF | N/A | PARK |
| N/A | FIRE | N/A | TRANSPORTATION; Traffic Impact Statement (TIS) and/or Traffic Analysis (Contact the Current Planning Division to determine whether a TIS is necessary - 503-846-8761) |
| N/A | SCHOOL | N/A | TRI-MET |
| N/A | SEWER | N/A | ODOT - CONTACT _____ |
| N/A | PUBLIC WATER | N/A | CITY OF _____ |
| N/A | SURFACE WATER | N/A | OTHER _____ |

** Service Provider letters will not be required for this request because the plan amendment, if approved, will be subject to a condition of approval stating that the area changed to R-COM on tax lot 100 may only be used for a septic system.

FEE DEPOSIT OF \$3,500 (this is an initial deposit towards payment of the true cost of processing the application).

MAILING LIST AND MAP FOR PROPERTIES IN AN ADJACENT COUNTY

THESE NOTES ARE GENERAL IN NATURE AND ARE NOT INTENDED TO COVER ALL OF THE ISSUES THAT MAY SURFACE IN THE REVIEW OF AN APPLICATION. ADDITIONAL INFORMATION MAY BE REQUIRED AND IT IS THE APPLICANT'S RESPONSIBILITY TO PROVIDE THE NECESSARY INFORMATION TO PROCESS AN APPLICATION AS REQUIRED BY OREGON LAW AND WASHINGTON COUNTY ORDINANCES AND REGULATIONS.

C:\Documents and Settings\KwL\Local Settings\Temporary Internet Files\OLK1\SouthStore\preapp.doc - Revised 8/8/2009



Agreement for the Payment of Fees
Quasi-Judicial Plan Amendment Application

The parties to this Agreement are Ralph Morgan & Debra Lee Thompson (Applicant), who hereby certifies that said party is the owner of record, contract purchaser or duly authorized representative of the owner of the property listed below, and Washington County Department of Land Use and Transportation, Long Range Planning Division (County).

In 1987, the Board of County Commissioners adopted Resolution and Order No. 87-145, incorporated herein by reference, which established fees for all quasi-judicial plan amendment applications and mandated that the applicant pay the true cost of processing such an application. The Board subsequently revised the original resolution several times since 1987, most recently in 2004 by Resolution and Order No. 04-60, incorporated herein by reference.

Since the Applicant desires to submit an application for a quasi-judicial plan amendment and is required by Resolution and Order No. 87-145 to pay the true cost of processing such an application, this Agreement is needed to ensure that the Applicant makes full payment.

Now, therefore, the Parties agree as follows:

1. This agreement governs the proposed plan amendment for the property described as Assessor Map and Tax Lot Number(s) 2S2 16A 100 (Property) to change the Property's Comprehensive Plan designation from EFU to RCOM.
2. The Applicant certifies that if the Applicant is a corporation, the corporation is duly authorized to do business in Oregon and the Applicant's representative is duly authorized by the corporation to sign this Agreement.
3. The Applicant has or has not met with county staff for a pre-application conference.
4. The Applicant hereby deposits \$3,500 with the County as an initial deposit towards the payment of the true cost of processing the plan amendment application.
5. If the true cost of processing the request exceeds the initial \$3,500 deposit, an additional deposit of up to \$1,500 will be required. Additional deposits will be requested in increments of up to \$1,500. The Applicant will receive regular updates of the processing costs as they accrue.
6. If the true cost of processing the request and any appeals is more than the deposit on record, the Applicant shall pay the remaining cost within thirty (30) days of receipt of a statement from the County. If the request is withdrawn, the Applicant remains liable for all costs incurred and shall pay the balance due within thirty (30) days of receipt of a statement from the County.
7. If the true cost of processing the application is less than the initial deposit, the County hereby agrees to promptly refund without interest any remaining funds that may be due.
8. It is agreed that the County retains the following means to assure payment of any balance due to the County:

Department of Land Use & Transportation • Long Range Planning Division
155 N. First Avenue, Suite 350-14, Hillsboro, OR 97124-3072
phone: (503) 846-3519 • fax: (503) 846-4412

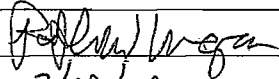
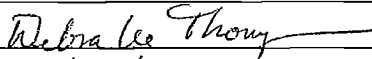
- A. If the application is approved or conditionally approved by the review authority, a condition of approval may be imposed requiring payment in full of such balance before the approval becomes effective.
- B. If the application is conditionally approved or denied by the review authority, and the Applicant appeals the decision, the County shall require that the balance due for processing the application be paid in full before the appeal is processed.
- C. If the application is denied by the review authority and the Applicant does not appeal the decision, the County shall require that the balance due for processing the application be paid in full within thirty (30) days of receipt of the statement.
- D. If payment is not received, the County may file a legal action to collect amounts due and be entitled to attorney fees.

9. The parties further agree that true costs to be charged to the Applicant shall be determined as set forth in Resolution and Order No. 87-145 and any subsequent Resolution and Orders adopted by the Board. Any dispute concerning the amounts due shall be resolved as follows:

- A. The Applicant agrees to first contact the Planning Division's designated staff member in charge of processing the application should a dispute arise.
- B. If the staff member is unable to resolve the dispute, the Applicant may request a review of the matter by the Planning Division Manager, and the Manager shall notify the Applicant in writing of any determination.
- C. The Applicant may request a determination by the Department of Land Use and Transportation Director only after making initial contact with the designated staff member and Planning Division Manager. Requests to the Director shall be made in writing and shall set forth the specific basis of objection. The decision of the Director concerning the amount due shall be final and shall not be appealable.

10. The parties agree that adjustments to the amount of refund or payment due may be made only on the basis of a clerical error in recording or computing actual time, material or service costs. The Applicant agrees that the selection of staff members to process an application, the activities of those staff members, and the time and materials necessary to process such application shall be within the sole discretion of the County, in accordance with the direction given in Resolution and Order No. 87-145.

11. In the event legal action is instituted by either party for enforcement of any provision herein or for collection of any amounts owing under this agreement, the prevailing party shall recover, in addition to costs and disbursements, such attorney fees as the court may judge reasonable to be allowed.

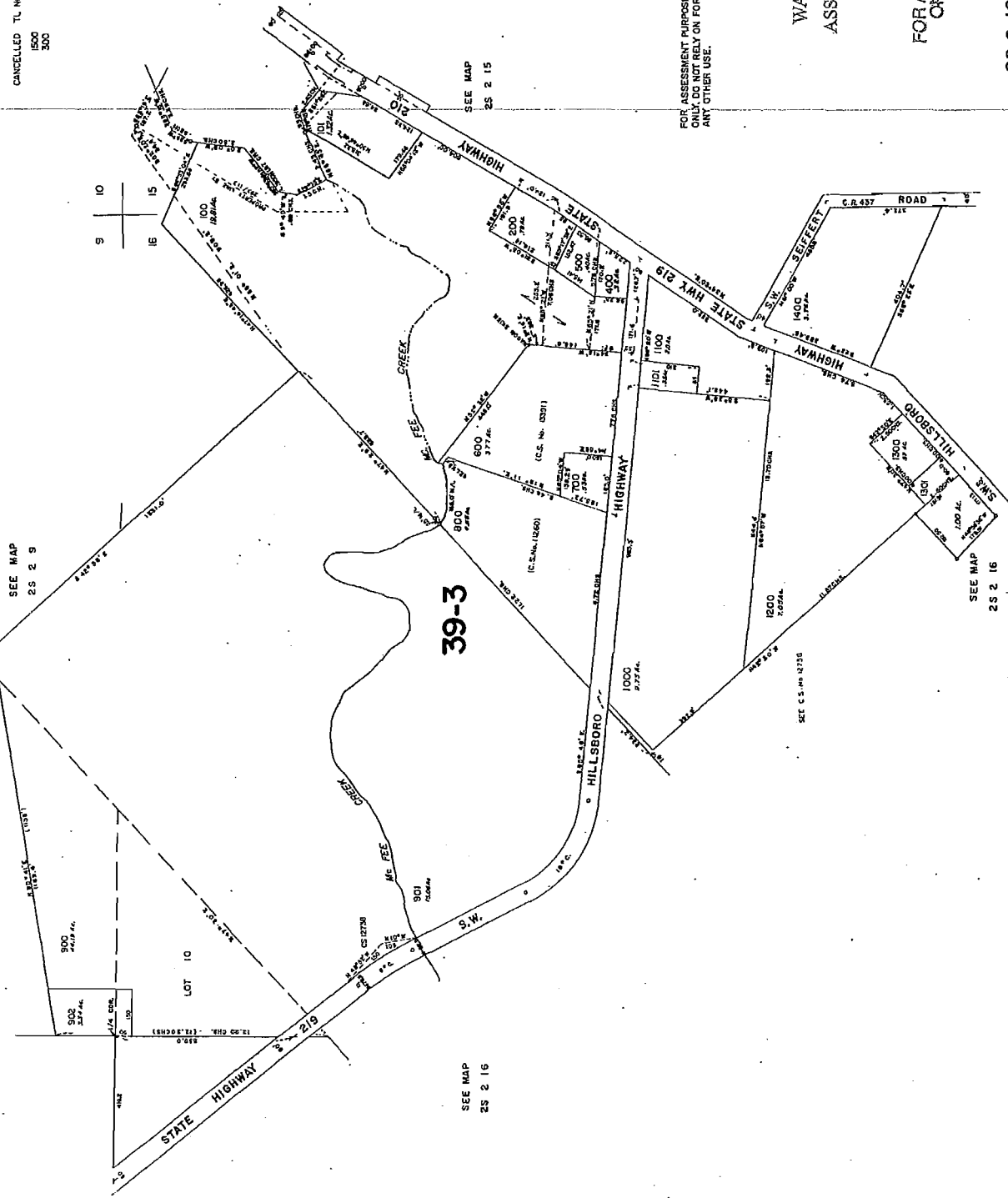
Applicant Name:	Ralph W. Morgan	Applicant Name:	Debra Lee Thompson
Title:		Title:	
Company:		Company:	
Address:	17235 SW Swank Rd. Sherwood, OR 97140	Address:	17235 SW Swank Rd. Sherwood, OR 97140
Signature:		Signature:	
Date:	2/12/10	Date:	2/12/10

S:\PLNG\WPSHARE\Plan Amendments\Master Forms\Fee Agreements\Payment Agreement_012710.doc
Revised January 27, 2010

2 S 2 16 A

CANCELLED TL NO'S
1500
300

NE 1/4 SECTION 16 T2S R2W W.M.
WASHINGTON COUNTY OREGON
SCALE 1" = 200'



SEE MAP
2 S 2 9

SEE MAP
2 S 2 16

39-3

SEE MAP
2 S 2 16

FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON FOR
ANY OTHER USE.

WASHINGTON COUNTY
DEPARTMENT OF
ASSESSMENT & TAXATION

FEB 12 2010

FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

2 S 2 16 A

**APPLICATION for GOAL EXCEPTION and PLAN AMENDMENT
To WASHINGTON COUNTY
By RALPH MORGAN & DEBRA LEE THOMPSON**

Applicants' Amended Narrative (March 4, 2010)

Introduction

The Applicants' Proposal. The Applicants own and operate the South Store Café. Their proposal is quite simple, to use the Site depicted on Attachment A as a wastewater drainfield to support the café (also depicted thereon). This drainfield would replace an existing one on the Café Site.

In broader context, this application poses the question of whether the County's longstanding rural eateries can survive in the era of comprehensive planning. The Applicants believe that County land use policy supports reasonable, limited expansion of rural commercial uses, such as that proposed here.

Early Site History. The original South Store was built on the Café Site in 1902 to house the Odd Fellows Lodge upstairs and a store downstairs. In the 20s gas pumps were added to the store and in the 30s a soda fountain was added. Various owners operated the store through the 40s and 50s and in 1960 a lunch counter was added for the first time.

The Comprehensive Planning Era. Merchants came and went from the South Store for many years without leaving much trace in official records. This changed with the introduction of statewide comprehensive planning. When new owners took over the restaurant in 1978, they requested (and the County approved) a "delicatessen restaurant use." County File No. 78-154-D. Five years later it approved operation of gas pumps there. County File No. 84-91-D. The conditions on those approvals were fairly simple, mostly about parking.

Current owner Amanda Stanaway purchased the café in 1999. She remodeled the building, and restored the café as a coffee shop/lunch counter. In early 2004 Brian Spangler purchased the business and opened Scholls Public House, a pizza restaurant. The pizza proved wildly popular, to the point where by June of 2004 parking capacity was being regularly exceeded and the establishment drew complaints from County staff for vehicle parking along the highway.

Quickly exceeding the capacity of the site, the Scholls Public House relocated to downtown Portland under the new name, Apizza Scholls. Ms. Stanaway reopened The South Store Café in Jan. 2005, restoring the business to its original focus as a community asset rather than a regional draw. The applicants purchased the business in Nov. 2007 and continue to operate it as a coffee shop and restaurant oriented to the needs of local residents.

The Future. The Applicants approached County staff in July, 2007 with a desire to lay the café's checkered recent history to rest and set the foundation for long term operation in a manner that suits the needs of both County and community. County staff made it clear that the main barrier to long term viability of the use of the site as a café was parking; the source of complaints against the Scholls Public House in 2004. This proposal seeks to provide a long-term solution to the parking issues and to secondary issues of waste-water disposal with little to no practical impact to resource lands.

The Criteria that Govern the Proposal and How It Complies with Them

OAR 660-004-0020(2)(a)

Reasons justify why the state policy embodied in the applicable goals should not apply: The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

The balance of this narrative describes how the Application meets the Reasons Exception criteria.

OAR 660-004-0020(2)(b)

Areas which do not require a new exception cannot reasonably accommodate the use.

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

Long-term viability of the café in its historic role as a local gathering place and eatery depends upon finding a solution to two current issues. As mentioned in the introduction the current parking needs to be expanded to accommodate peak traffic on busy summer weekends without patrons parking along the highway. The second issue is capacity of the waste water disposal system. The current septic system, while functioning, is marginal. Two consultants who have been retained by the applicants have both concluded that under current load the existing system will have a reduced life and that the system should be replaced by an updated system with higher capacity.

The Applicants explored three options to expand parking for the café onto adjacent properties. Sharing parking with the Smith Berry Barn (situated just east of the intersection) was rejected after discussions with County staff because of concerns over safety of pedestrians crossing the highway and because the site is zoned EFU. Acquisition of either of the two AF zoned adjacent properties for use as parking was rejected because the owner does not wish to sell.

Alternatives have also been explored for updating the current on-site waste disposal system with a new system that could be entirely contained on the café property (tax lot 400). Consultants were retained to develop two different waste water treatment system designs, one passive gravity flow and one advanced active system. Both of these proposals require a drainfield area of up to 8000 sq. ft. which cannot be accommodated on the café property. Applicants also confirmed with Health and Human Services that it would be allowable to simply use a holding tank and pump waste water for disposal off site but this option was rejected due to cost of disposal estimated at greater than \$25,000 annually.

The option that is currently being pursued is to obtain a drainfield easement so that the café's drainfield can be moved to an adjacent property. This will allow installation of a waste water disposal system with adequate capacity to ensure long-term viability of the current café operation. It will also free up the area of the café's current seepage pit for expanded parking. This would allow doubling the current available parking within the café

property boundaries thus improving safety and eliminating concerns of parking overflow without impacting non-RCOM zoned properties

Having concluded that the only available, practical solution to the current limitations on the café's parking and waste water disposal was to locate the drainfield off site, the applicants then evaluated sites on all properties within a practical distance of the cafe. The sites evaluated are depicted on Attachment B. The Applicants contacted owners of the properties and discussed the tradeoffs between the sites with County staffers.

The subject site is the only site that the applicants have been able to get owner's agreement for and is one of the only sites for which a standard waste disposal system is possible.

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

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

Attachment B outlines the 7 potential drainfield sites evaluated by the applicants. These evaluations are preliminary in that use of any of these sites is subject to final approval from the Dept. of Health and Human Services after a soil survey. Preliminary evaluation is based on applicants' consultation with three different registered environmental health specialists, Washington County Dept. of Health and Human Services, land owners, waste water treatment contractors, and a public utility contractor.

Criteria considered in the evaluation included: suitability of the site for drainfield use, whether the property is zoned resource land or exception land, availability of the site (willingness of the owner to provide an easement), and difficulty of constructing and maintaining a waste water disposal system that is able to use the site. A summary of the applicants' findings for each site follows:

- Site 1 – Smith Berry Barn
 - This site was rejected primarily because it is on EFU land. It is also non-optimal for several other reasons:
 - Suitability
 - Drainage at the site is good and there is adequate area to accommodate a drainfield.
 - Zoning
 - The site is zoned EFU
 - Availability
 - The property owners were consulted and declined to consider granting an easement.
 - Feasibility of construction
 - The site is situated so that a standard, gravity feed waste water disposal system would be possible. Boring under Hwy. 210 would be necessary.

- Sites 2 and 3 – AF zoned land on the opposite side of Hwy. 219
 These sites were considered because they are zoned AF and so would avoid the need to use resource land. They were rejected primarily due to the expense of boring under the Hwy and the additional installation and maintenance cost that would be incurred because both of these sites would require a mechanized waste disposal system with a dosing tank and pump.
 - Suitability
 Both of these sites has good drainage and adequate area.
 - Zoning
 These sites are zoned AF.
 - Availability
 Owners of these properties were contacted. The owner of site 2 is not willing to grant an easement. The owner of site 3 will not currently grant an easement but will consider the possibility if they are convinced that all other options have been exhausted.
 - Feasibility of construction
 Neither of these sites would accommodate a gravity feed system, they would require an additional 3000 gal dosing tank and a pumping system. Estimated installation cost is an extra \$10K-\$15K. The pump and controller would also require annual maintenance. Both sites would require boring under the highway to install the supply line. Estimates to install a line to site 3 were obtained and range from \$7K to \$15K.
- Sites 4 and 5 - Adjacent tax lots zoned AF
 These sites were evaluated and rejected because there is inadequate area available for a drainfield.
 - Suitability
 These sites are not suitable because there is inadequate area available due to existing drainfields and water wells.
 - Zoning
 These sites are zoned AF.
 - Availability
 The owner is unwilling to grant an easement for either of these properties.
 - Feasibility of construction
 Sites 4-7 all accommodate a standard, gravity fed system with no need for boring under roads, pumping, etc.
- Site 6 – Touches the NW corner of the café property
 This site is part of the same tax lot, number 100, as site 7 but the zoning is AF rather than EFU. Suitability of this site depends upon final evaluation by Health and Human Services and determination of the size of the required drainfield. There is a water well on the site and if the required drainfield size is too large there is inadequate area for setbacks. This site was rejected because the owner is not willing to grant an easement.
 - Suitability
 This site has good drainage and probably has adequate area pending final review by Health and Human Services.
 - Zoning
 This site is zoned AF.
 - Availability
 The owner, who also owns sites 4, 5, and 7, is unwilling to grant an easement on this site.

- o Feasibility of construction
Sites 4-7 all accommodate a standard, gravity fed system with no need for boring under roads, pumping, etc.
- Site 7 – The proposed site on property that touches the NW corner of the café property
This site is part of the same tax lot, number 100, as site 6 but this portion of the land is zoned EFU rather than AF.
 - o This site has good drainage and adequate area.
 - o Zoning
This site is zoned EFU
 - o Availability
The owner has agreed to grant a drainfield easement on this site subject to the condition that his current farm practices (mowing the field) are not impacted and that the drainfield is to be removed within a year of public sewer becoming available to the café.
 - o Feasibility of construction
Sites 4-7 all accommodate a standard, gravity fed system with no need for boring under roads, pumping, etc.

In summary the applicants have explored numerous options and are proposing to locate the drainfield at the indicated site because it is suitable for a drainfield, an easement for a drainfield on this site is obtainable by the applicants, and the site permits installation of a standard, passive, gravity fed waste water disposal system.

The only downside to the proposed site is that it is currently zoned EFU. The proposed use will require an exception but will have virtually no impact on current farm practices on the drainfield site and will have no impact on farm practices on surrounding properties.

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

The applicants are aware of no resource sites in the area that are irrevocably committed to nonresource uses.

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

The closest urban growth boundary is several miles away.

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

The proposed use is being accommodated without the provision of a proposed public facility or service.

OAR 660-004-0020(2)(c)

The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not

*significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. * * **

The ESEE analysis requires the County to compare the impacts of the proposed drainfield at the chosen location against the impacts that it would have at another resource location.

As an initial matter, we note that the ESEE consequences of the proposed use are very attenuated. The Applicants do not suggest that the proposed use will substantially enhance the County's employment base. Nor is there any apparent consequence to the County supply or use of energy.

The proposed will likely have a perceptibly positive social impact. As described in the *Introduction*, above, the proposed use would support a parent use that has existed as a community meeting place for more than a century. In addition to its obvious roll as a nearby coffee shop and eatery, the café is one of a small number of gathering places available to local residents taking its place among the Groner Elementary School, Petrich's General Store, the Grange hall, and local churches. The café is regularly used for formal meetings and informal gatherings by local groups including The Groner PTA, The Hillsboro School Foundation, The Scholls Women's Club, several local church groups, etc. It is also the venue of choice for many local individuals simply seeking a comfortable place to get together with friends to catch up on events.

The greatest potential ESEE consequence of the drainfield is to the environment. For reasons described in response to Plan Policies 6, 8, and 10, below, the Applicants believe that such potential is remote.

To summarize, the proposed drainfield site is near or partially within the 100 year flood plain and the use does impact ground water drainage. Washington County Health and Human Services staff was consulted and there are no restrictions on locating a drainfield within the 100 year flood plain. Suitability of the site is determined directly by a soil survey conducted by Health and Human Services prior to approval of the drainfield site and this approval process addresses any potential impact on drainage and flood plain.

OAR 660-004-0020(2)(d)

*'The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts'. * * *'*

As shown on Attachment C, uses adjacent to the Drainfield Site include 4 residences, a Christmas tree farm, filbert orchard, and open land. The drainfield would have no adverse impact on any of these uses. (Just for reference, we also map the zoning of surrounding properties on Attachment D.)

OAR 660-004-0022(1)

For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

"(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

“(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.”

Among the various technical criteria, subsections (b)&(c) may be most relevant to the requested exception. Specifically, an exception is, at its core, an alternative sites analysis. If an alternative, nonresource site can accommodate the proposed use, then there can be no exception.

For most proposed uses, this analysis is extremely rigorous simply because the number of possible alternative sites is so large. An Exception requested to site a stormwater treatment plant, for example, would have to analyze sites throughout the watershed.

Subsections (b)&(c) recognize that some proposed exceptions, by their very nature, are feasible only on a small range of alternative sites. The requested exception – to place a drainfield on EFU land – is directly tied to an ongoing use on a nearby property.

(We further note that, augmenting this argument, the Applicants set forth a “demonstrated need” for the proposed use immediately below in response to Plan Policy 1(p)(7).)

Plan Policy 1(p)(7)

(B) Amendments to Rural Commercial shall be based upon . . . a demonstration that there is a need for the proposed use to serve the existing Rural/Natural Resource area population.

The existence of a public eatery at this location without substantial interruption for over 50 years attests to the community's need for the parent use. Indeed, a quick look at the map reveals Scholls as roughly in the middle between Midway, Groners Corner, and Mountain Home. Neither Mountain Home nor Groners Corners feature any commercial zoning. The Midway Tavern recently closed.

(B.I) Amendments to Rural Commercial shall be based upon . . . a demonstration that an alternative site within Urban Growth Boundaries would be inappropriate and no other site properly designated is in the area.

The Applicants address this issue in response to OAR 660-004-0020(B)(iii), above.

(B.II) Amendments to Rural Commercial shall be based upon . . . an Exception to the applicable LCDC Goals through the LCDC Goal 2 Exception Process (OAR Chapter 660, Division 04).

We address the Goal 2 exception criteria above.

(B.III) Amendments to Rural Commercial shall be based upon . . . demonstration that the use(s) is (are) compatible with surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential farm or forest uses.

The proposed use adds no above ground structures that could cause visual impact or act as physical barriers. Any impact to drainage will be addressed by Washington County Health and Human services as part of the approval process for the site. Farm and forest uses surrounding the site are a filbert orchard, Christmas tree farm, and open land. The proposed use will have no impact on any of these uses.

Use of the site as a drainfield does put some restrictions on the type of farm practices that are suitable for the drainfield site itself (e.g. heavy equipment cannot be used and deep plowing is not possible) but is compatible with many agricultural uses e.g. pastureland, berries, orchard use, etc. The current use as open pasture land requires use of only light tractors and is compatible with use of the site for a drainfield.

In summary the proposed use of the site as a drainfield for the café has no practical impact on current agricultural use of the site itself and has no impact on surrounding farm and forest practices.

(B.IV) Amendments to Rural Commercial shall be based upon . . . demonstration that adequate rural services are available and that the use will not require extension of any urban services into the area.

The Applicants neither propose nor anticipate that this Application will add any development *per se*, to either the Drainfield Site or the parent use. To the contrary, this proposal would facilitate adequacy of services to a long established rural commercial use (which has struggled at times to maintain such adequacy). The use will not require extension of urban facilities.

(C) For all amendments there shall be a requirement that the applicant will record in the deed records a restrictive covenant that the occupant of the property will not object to commonly accepted farm or forest practices which may occur on adjacent lands.

The Applicants support a condition of approval requiring recordation of such a covenant.

Plan Policy 2 – Citizen Involvement

Through the forthcoming public notice and hearing process, the County will comply with this policy.

Plan Policy 6 – Water Resources

Given the proximity of the Drainfield Site to the floodplain, the Applicants consulted Washington County Health and Human Services staff about possible impact to groundwater. HHS does not prohibit locating a drainfield within the 100 year flood plain. Rather, suitability of the site is determined directly by a soil survey conducted by Health and Human Services prior to approval of drainfield construction. That approval process will address any potential impact on groundwater.

Plan Policy 8 – Natural Hazards

As described above in response to OAR 660-004-0020(2)(c), the proposed drainfield site is close to if not partially within the 100 year flood plain as mapped in the Significant Natural Resource section of the Rural/Natural Resource Plan Element. As noted above, there are no restrictions on placement of a drainfield in or near the 100 year flood plain. Any potential impact is directly assessed and addressed in the approval process by the Washington County Department of Health and Human Services.

Plan Policy 10 – Fish & Wildlife Habitat

The Drainfield Site lies a few hundred feet upland of riverine habitat mapped in the Significant Natural Resource section of the Rural/Natural Resource Plan Element. Given that it is not development per se and will not affect either groundwater or the floodplain, the Applicants see no effect on this habitat.

Plan Policy 14(A)(1)

The County will (a) Designate Natural Resource lands in the following manner:

1. Lands which meet the definitions and criteria for agricultural lands contained in LCDC Goal 3 and OAR Chapter 660, Division 05 shall be designated Exclusive Farm Use (EFU) and lands which meet the LCDC Goal 4 definition of forest land shall be designated Exclusive Forest and Conservation (EFC). In determining which Plan Designation shall apply (EFU or EFC) when land meets criteria for both the EFU and EFC District, the following factors shall be utilized to determine the appropriate designation:

- A. Soil types as related to Goal 3 and forest classifications as related to Goal 4.*
- B. The predominant use of the property.*
- C. The predominant use of the surrounding properties (must be contiguous or be a sufficiently large block of land).*
- D. What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses.*
- E. Physical characteristics of the site.*
- F. Whether the site is or has been on a farm or forest deferral.*

The applicants recognize, and do not dispute, the bases on which the County first designated the Drainfield Site as EFU. They simply request an exception to that designation for the reasons set forth herein.

Plan Policy 15 – Exclusive Farm Lands

It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.

This policy and its implementing strategies simply recognize the state's rural lands policy, i.e., that lands are presumed restricted to resource uses, subject to an exception process. That process is the subject of this application.

Plan Policy 18 – Rural Lands

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

As discussed in the introduction the proposal is made to support an existing rural development which itself supports the rural character of the area.

Plan Policy 20 – Rural Commercial Development.

The County will recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.

Not surprisingly, the Applicants believe that this policy fully recognizes and supports their proposal.

CDC Chap. 340 – EFU Zone

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County. The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm use and related supportive uses which are deemed appropriate. This EFU District is provided to meet the Oregon statutory and administrative rule requirements.

This chapter of the CDC implements the counties agricultural land policy. The purpose of the application is to take an exception from that policy for a limited area of land to support an existing Rural Commercial use.

CDC Chap. 352 – Rural Commercial Zone

The intent and purpose of the Rural Commercial District is to implement the rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forestry character of the area. Rural Commercial centers shall be designed to be compatible with the surrounding environment and generally not to exceed five (5) acres.

Again, the Applicants believe that this provision fully supports the proposal. We note that the Café Site is .3 acre in size. Combined with the Drainfield Site, the café will use less than .8 acres of land, which is well under the general limitation set forth here.

CDC Chap. - 421 Flood Plain And Drainage Hazard Area Development

The maps entitled "Flood Plain Series, Washington County, Oregon" Revision 5/01/74, 1/03/78, 1/81 and 5/25/83 and 12/12/83 based upon data from the U.S. Army Corps of Engineers; U.S.G.S.; U.S.B.; S.C.S.; and Washington County, together with the Flood

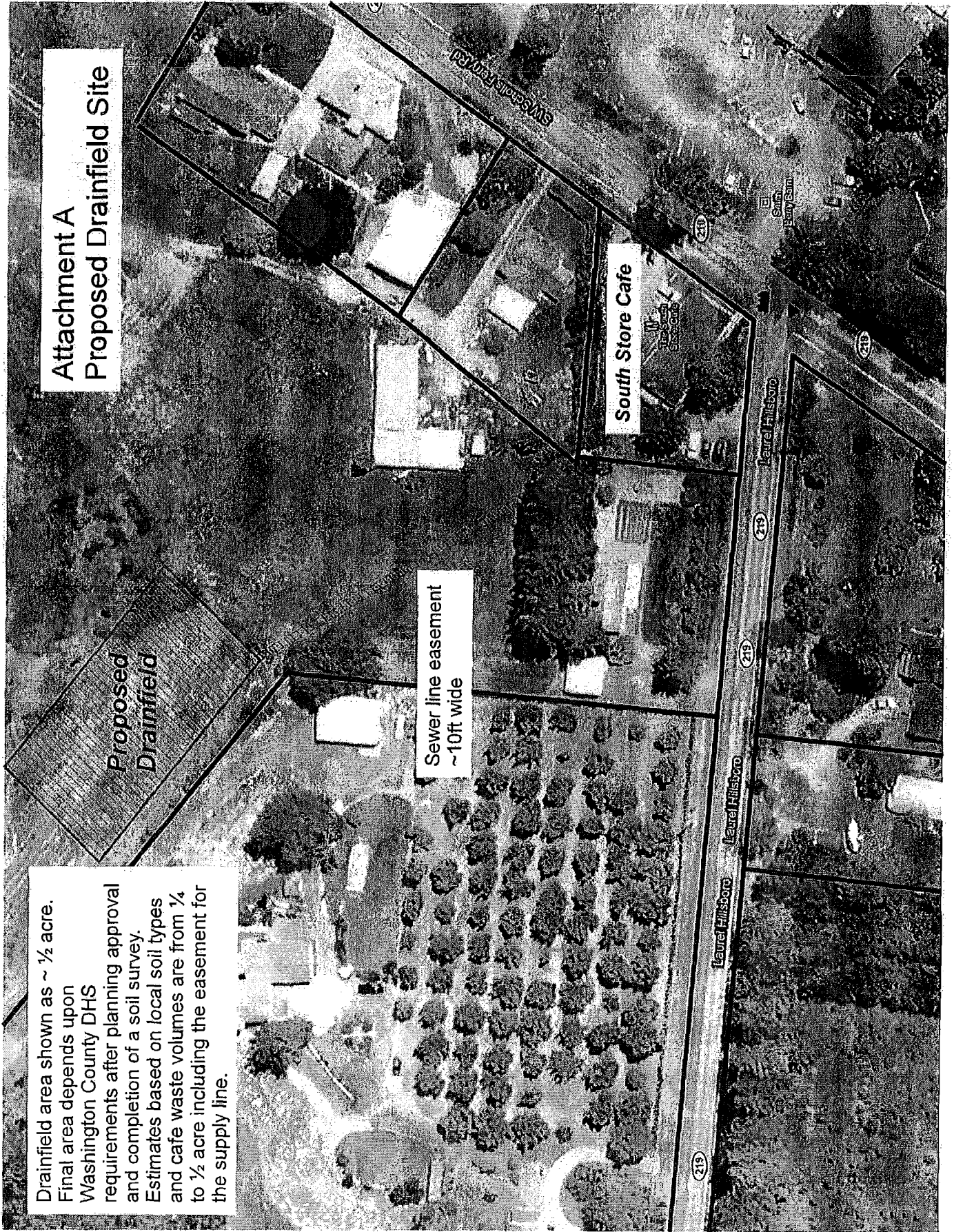
Insurance Rate Maps and the "Flood Insurance Study for Washington County" maps, as may be amended from time to time, including the Flood Boundary and Floodway Map, as provided for in the regulations of the Federal Emergency Management Agency (FEMA) (44 CFR part 5960) hereby are adopted by reference as setting forth the flood plain, floodway and drainage hazard areas of Washington County. But where the maps are not available, the Director may use any base flood elevation and floodway data available from a federal or state source, or any other authoritative source, to determine the boundaries of the flood plain, floodway and drainage hazard areas of Washington County.

This is addressed in the comments to OAR 660-004-0020(2)(c) and Plan Policy 8. In summary, there are no limitations on placing a drainfield in or near the flood plain. Any potential impact is addressed by Washington County Department of Health and Human Services as part of the drainfield site approval process.

CDC Chap. 422 – Significant Natural Resources

The intent and purpose of these standards is to permit limited and safe development in areas with significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the County, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role. Development within riparian areas, Water Areas and Wetlands, or Water Areas and Wetlands and Fish and Wildlife Habitat shall comply with applicable state and federal regulatory guidelines.

With reference to the County's adopted SNRA map, the Drainfield Site is not within an SNRA.



Drainfield area shown as ~ 1/2 acre.
Final area depends upon
Washington County DHS
requirements after planning approval
and completion of a soil survey.
Estimates based on local soil types
and cafe waste volumes are from 1/4
to 1/2 acre including the easement for
the supply line.

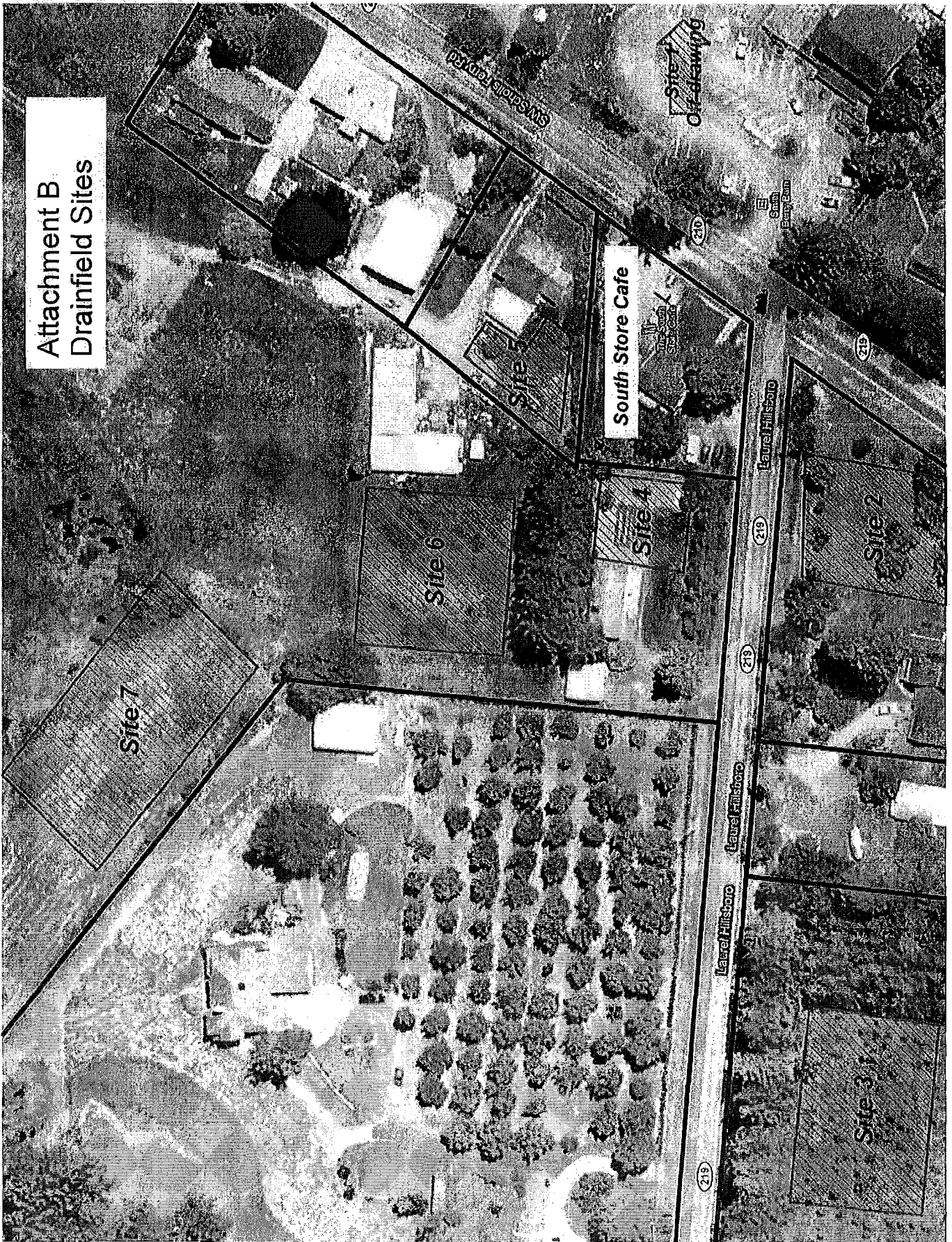
Attachment A
Proposed Drainfield Site

Proposed
Drainfield

Sewer line easement
~10ft wide

South Store Cafe

Laurel Hillstone
Laurel Hillstone
Laurel Hillstone
Laurel Hillstone



Attachment B
Drainfield Sites

South Store Cafe

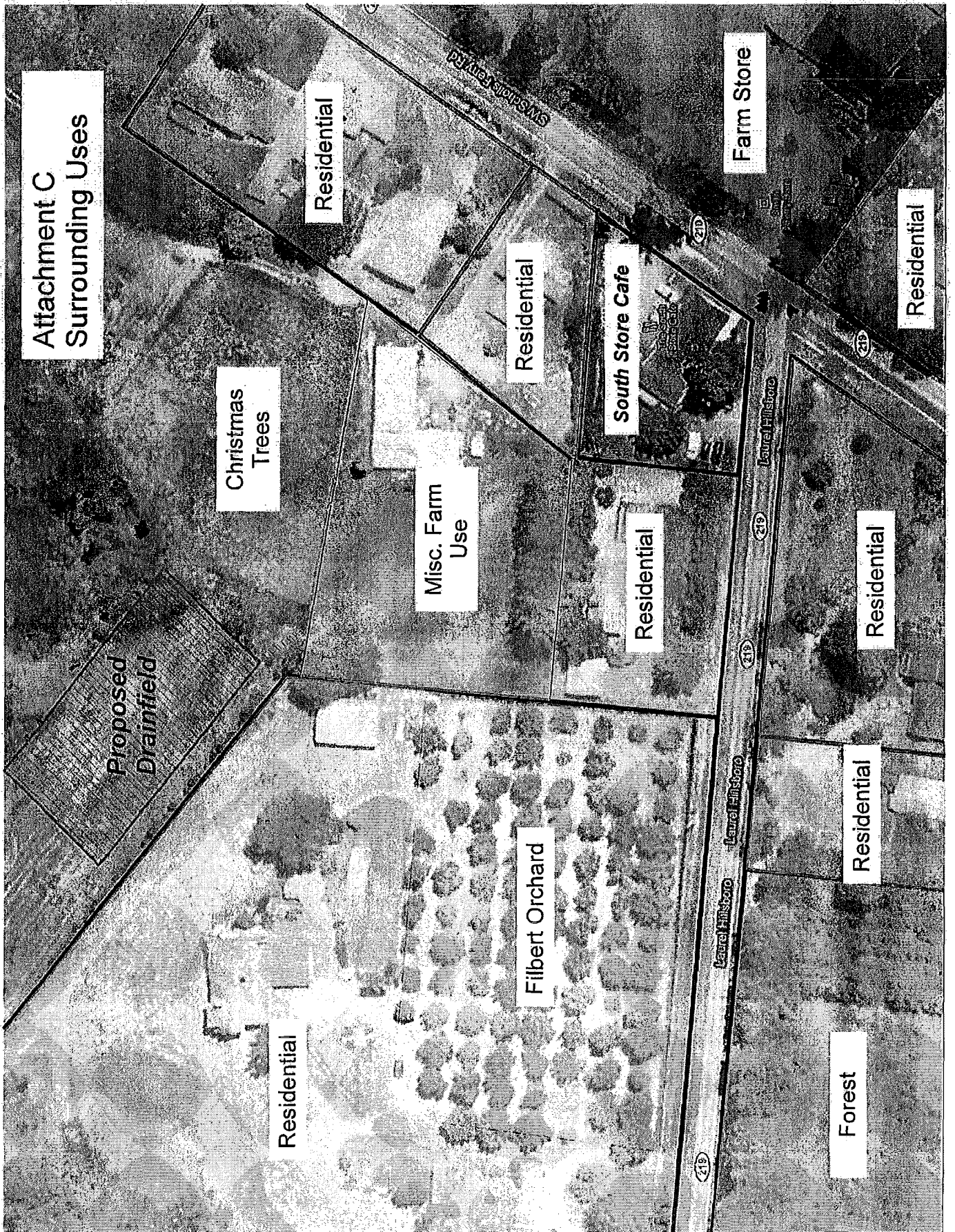
Site 7

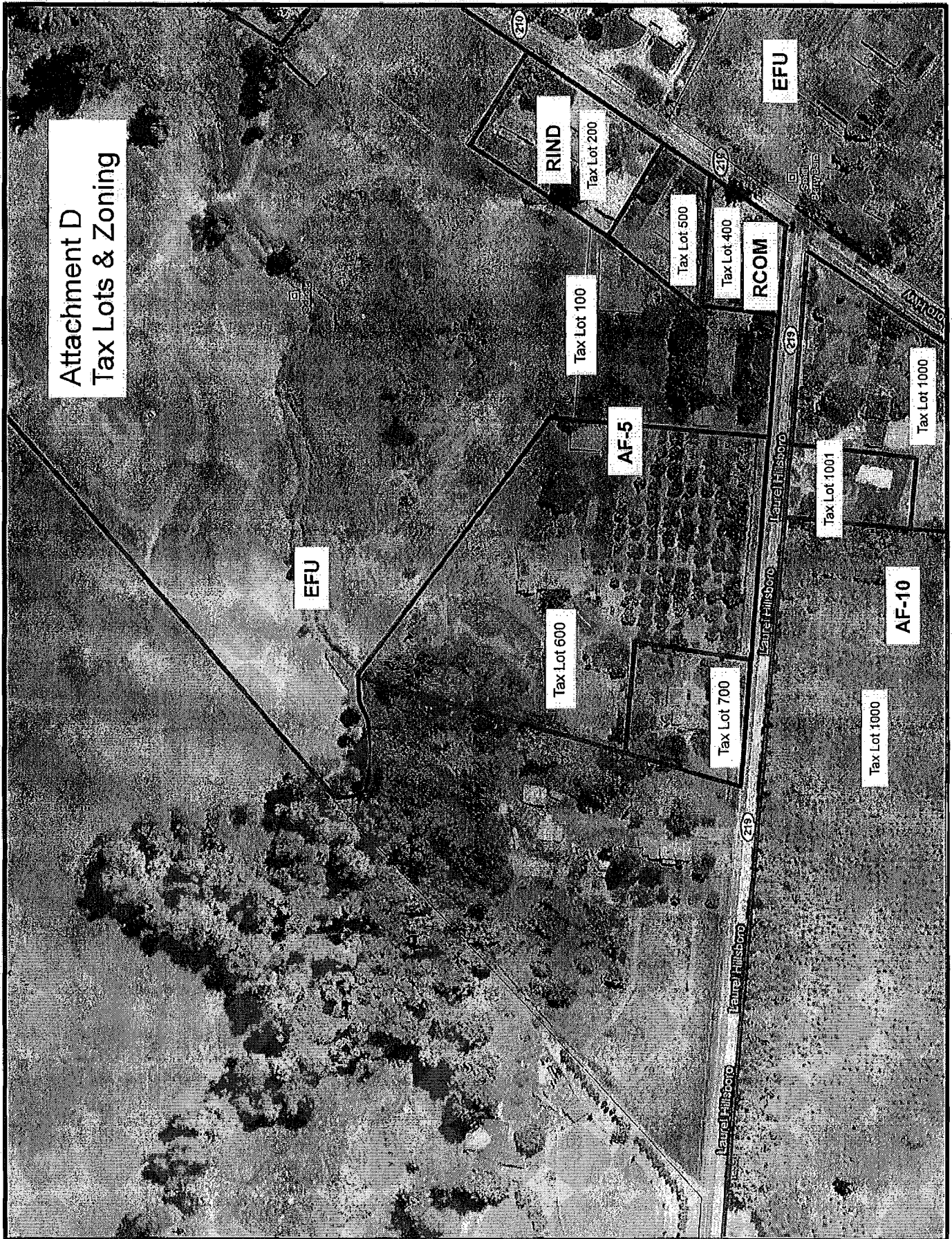
Site 6

Site 4

Site 2

Site 3





FORM

1 DLCD Notice of Proposed Amendment

DATE STAMP	in person <input type="checkbox"/>	electronic <input type="checkbox"/>	mailed <input type="checkbox"/>
	For DLCD Use Only		

**THIS FORM 1 MUST BE RECEIVED BY DLCD AT LEAST
45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING**
PER ORS 197.610, OAR 660-018-000

Jurisdiction: **Washington County**

Date of First Evidentiary Hearing: **April 21, 2010**

Local File Number: **10-062-PA**

Date of Final Hearing: **May 18, 2010**

Is this a **REVISION** to a previously submitted proposal? Yes No Date submitted: **N/A**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Urban Growth Boundary Amendment

Transportation System Plan Amendment

Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached"(limit 500 characters):
Comprehensive plan map amendment to remove the Exclusive Farm Use (EFU) District designation from approximately .5 acres of the subject property and designate that portion Rural Commercial (R-COM) District. The plan amendment is requested to accommodate a replacement septic drainfield for an adjacent R-COM property. This plan amendment includes a request for a Goal 3 Reasons exception.

Has sufficient information been included to advise DLCD of the effect of proposal? Yes, text is included

For Map Changes: Include 8½"x11" maps of Current and Proposed designation. Yes, Maps included

Plan map changed from: **EFU**

To: **R-COM**

Zone map changed from: **N/A**

To: **N/A**

Location of property (do not use Tax Lot): **Northwest of the intersection of Highways 210 and 219 in Hillsboro**

Previous density: **1 d.u./80 acres** New density: **N/A**

Acres involved: **.50**

Applicable statewide planning goals:

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

Is an exception to a statewide planning goal proposed? YES NO Goals: **3**

Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only records this information):

Washington County Department of Health and Human Services, Department of Environmental Quality

Local Contact: **Aisha Willits, Senior Planner**
 Address: **155 N. 1st Avenue, Suite 350-14**
 Fax Number: **503-846-4412**

Phone: **503-846-3961** Extension: **n/a**
 City: **Hillsboro** Zip: **97124**
 E-mail Address: **Aisha_Willits@co.washington.or.us**

DLCD file No. _____

SUBMITTAL REQUIREMENTS

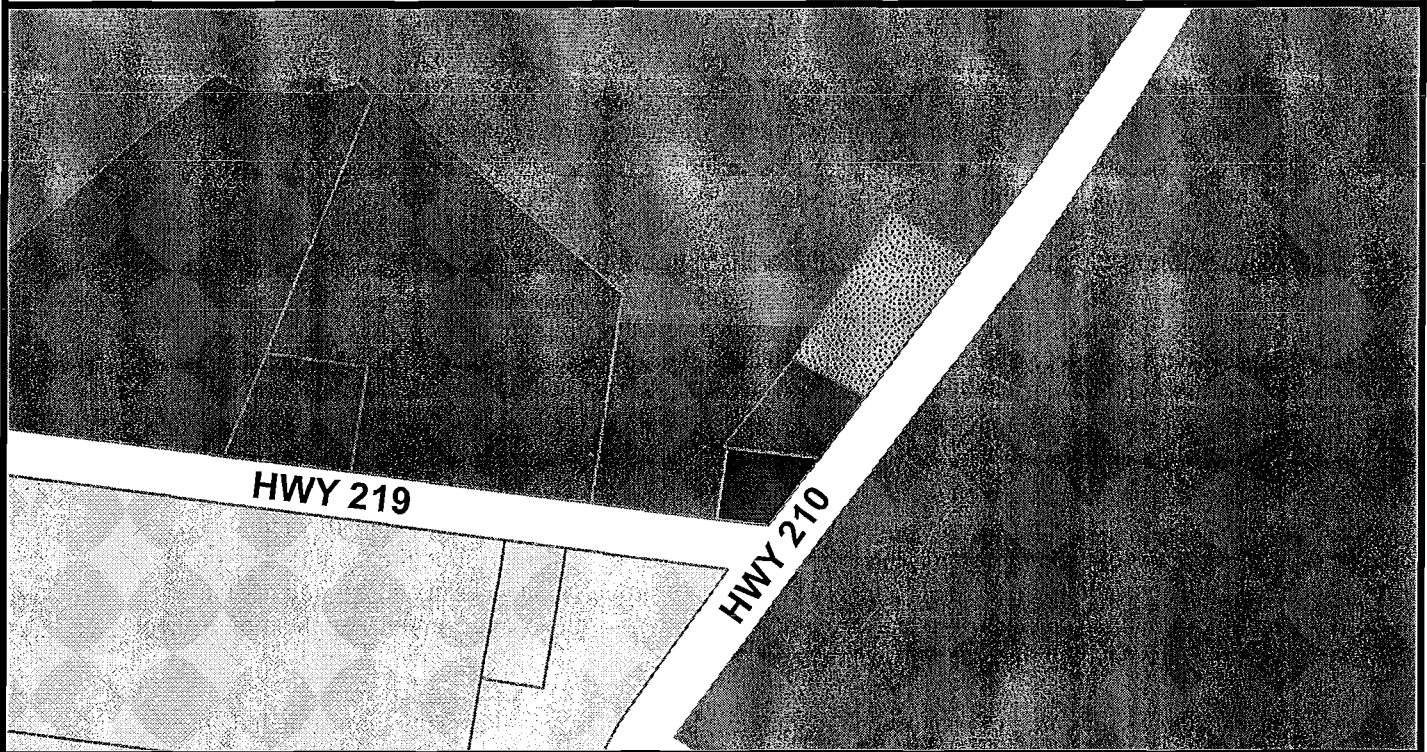
This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS 197.610 and OAR Chapter 660, Division 18

1. This Form 1 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 1** on light green paper if available.
3. **Text:** Submittal of a proposed amendment to the text of a comprehensive plan or land use regulation must **include the text** of the amendment and any other information the local government believes is necessary to advise DLCD of the effect of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate. **Do Not Submit Form 1 Without Supporting Documentation.**
4. **Maps:** Submittal of a proposed map amendment must also include a map of the affected area showing existing and proposed plan and zone designations. The map should be legible and on 8½ x 11 inch paper. Please provide the specific location of property, such as an address and tax lot number. Include text regarding background, justification for the change, and the application if there was one accepted by the local government.
5. **Exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.
6. Unless exempt by ORS 197.610(2), proposed amendments must be received at the DLCD's Salem office at least 45-days before the first evidentiary hearing on the proposal. (The clock begins on the day **DLCD Receives** your proposal in the Salem Office.) The first evidentiary hearing is usually the first public hearing held by the jurisdiction's planning commission on the proposal.
7. DLCD would like you to submit **ONE PAPER COPY** and **ONE (1) Electronic Digital CD including any maps** (for submittal instructions, also see # 4)] **MAIL the PAPER COPY and CD** of the proposed amendment to:

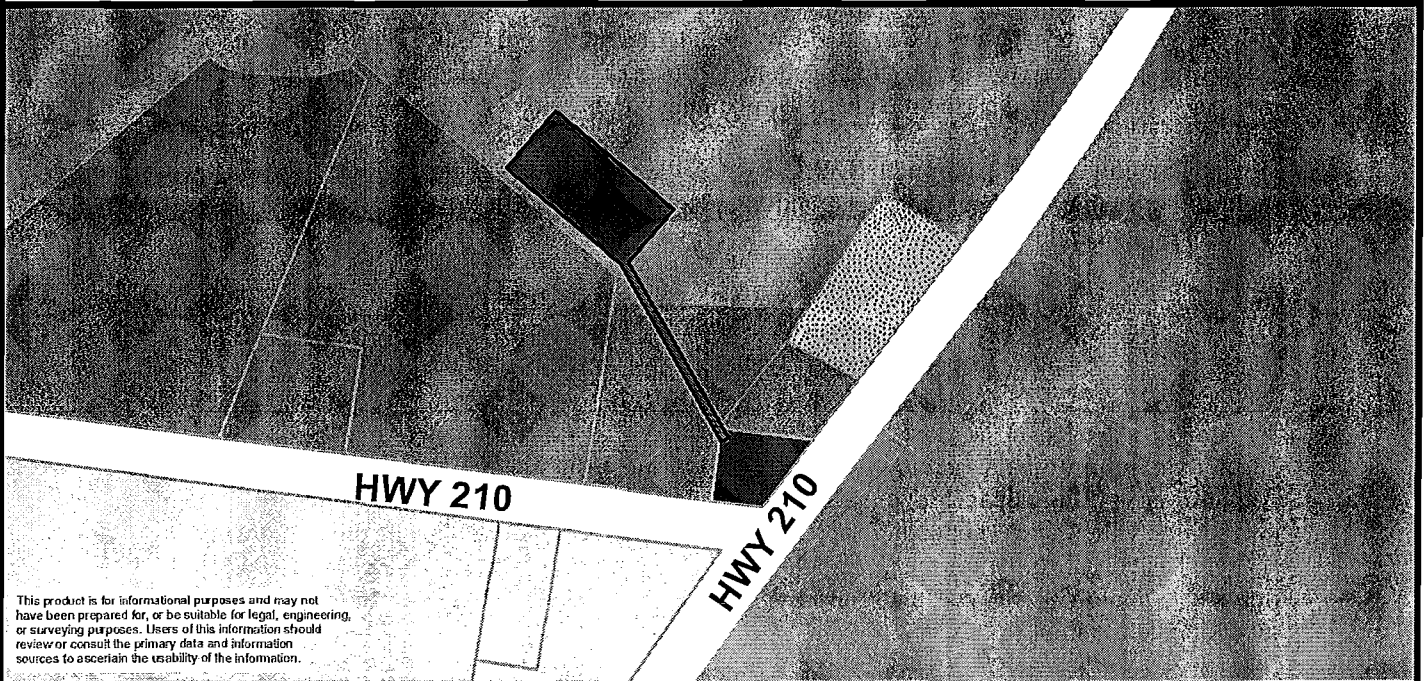
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

8. **Electronic Submittals:** **Must be pre-authorized to meet the Form 1 Notice of Proposed Amendment (45-day deadline) only by a phone call to the Plan Amendment Specialist**, email notification will not be acceptable for pre-authorization. After authorization an email copy maybe accepted as the substitute for the CD, and one hard copy must be sent via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
9. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print forms on **8-1/2x11 green paper only if available**. You may also call the DLCD Office at (503) 373-0050 x283; or Fax your request to: (503) 378-5518; or Email your request to larry.french@state.or.us .

Existing Plan Designations





Proposed Plan Designations








This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

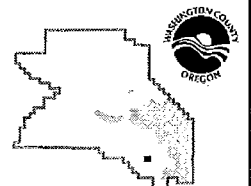
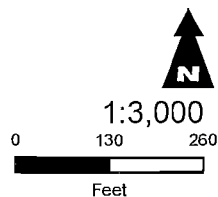
WASHINGTON COUNTY- GEOGRAPHIC INFORMATION SYSTEM

10-062-PA
 South Store
 Plan Amendment
 EFU to R-COM

 Proposed Drainfield
 Other Lots

Land Use Designations
 AF-5
 AF-10

 EFU
 R-COM
 R-IND





WASHINGTON COUNTY
Department of Land Use and Transportation
PLANNING DIVISION, SUITE #350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124-3072
tel (503) 846-3519 fax (503) 846-4412

CASEFILE NO.: 10-062-PA

APPLICANT:
Ralph Morgan & Debra Lee Thompson
17235 SW Swank Road
Sherwood, OR 97140

STAFF REPORT

APPLICANT'S REPRESENTATIVE:
Ty Wyman
851 SW Sixth Ave
Suite 1500
Portland, OR 97204

PROCEDURE TYPE: III
COMPREHENSIVE PLAN ELEMENT:
Rural/Natural Resource
CPO: 10

OWNER:
Don Haynes
24425 SW Hillsboro Highway
Hillsboro, OR 97123

ASSESSOR MAP NO.: 2S2 16A
TAX LOT NO(S): 100 (portion)
SITE SIZE: 19.81 acres
LOCATION: Northwest corner of the intersection of
State Highway 219 and SW Scholls Ferry Road

SITE ADDRESS
16590 SW Hillsboro Highway

EXISTING LAND USE DISTRICT: Exclusive Farm
Use (EFU)

REQUEST: Comprehensive Plan Amendment to change the current land use designation of Exclusive Farm Use (EFU) District to Rural Commercial (R-COM); requires a Reasons exception to Statewide Planning Goal 3 (Agricultural Land).

Casefile No. 10-062-PA Staff Report for the April 21, 2010 Planning Commission Hearing

I. APPLICABLE REGULATIONS

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 11, 12 & 14
- B. OAR 660-012-0060, OAR 660-004 & OAR 660-014
- C. Rural / Natural Resource Plan Policies: 1p.7, 2, 6, 8, 10, 14, 15, 18 & 20
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
 - 1. Article II, Procedures
 - 2. Article III, Land Use Districts
 - Section 340-1 EFU District (Intent and Purpose)
 - Section 352-1 R-COM District (Intent and Purpose)

3. Article IV, Development Standards

Section 421	Flood Plain and Drainage Hazard Area Development
Section 422	Significant Natural Resources

II. AFFECTED JURISDICTIONS

Washington County Department of Land Use and Transportation
Washington County Health and Human Services Division
Oregon Department of Transportation

III. RECOMMENDATION

Based on staff's findings in Section III of this report and Attachment A, and as summarized above under Section V, staff recommends **APPROVAL** of the plan amendment as requested by the applicant. Staff recommends that the Planning Commission forward to the Board of County Commissioners a recommendation for approval of the applicant's plan amendment request subject to the following conditions:

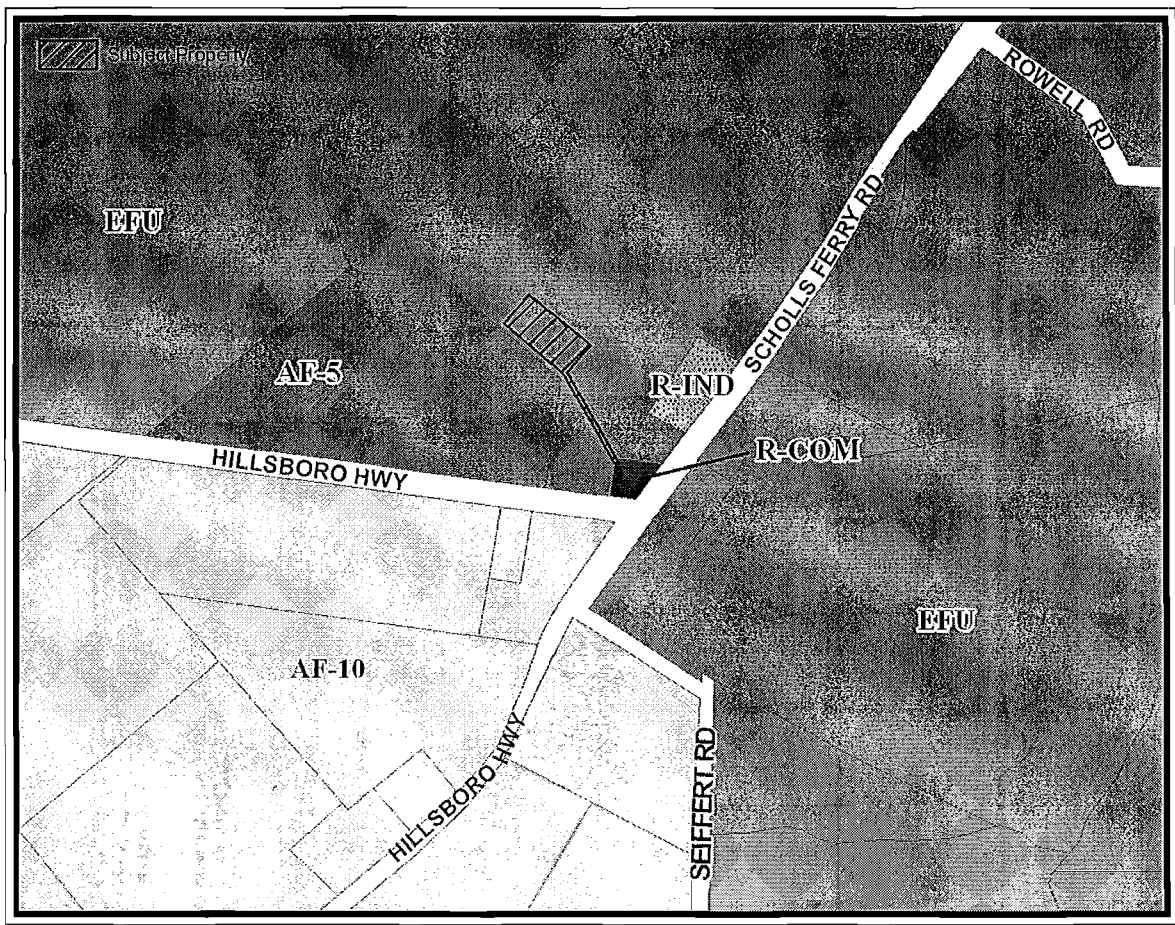
1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owing the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The applicant shall submit a legal description prepared by a registered surveyor of the area to be used for the proposed drainfield (to be the R-COM designation) within ninety (90) days of approval of the request. The drainfield area shall be no more than the minimum area required by the Washington County Health and Human Services Division.
3. The Rural Commercial area approved by this plan amendment shall only be used for septic system components for the commercial use on tax map and lot number 2S2 16A 400. Rural commercial uses set forth by Community Development Code Section 352 shall not be allowed.
4. Approval of this plan amendment does not preclude the need to comply with Washington County Department of Health and Human Services requirements regarding septic systems and obtain necessary permits and approvals. The requirements of the Community Development Code will also apply to specific development applications on each parcel, depending upon the development. Other regulations may also apply, including requirements for wells.
5. Record a restrictive covenant in the Washington County Deed Records for the "subject property" and the site of the South Store Café (tax lot 400 on tax map 2S2 16A) that:
 - a. states the required drainfield for the South Store Café site is located on the subject property;
 - b. limits the use of the subject property to the drainfield for the South Store Café, with all other commercial uses being prohibited; and
 - c. the subject property and the South Store Café are subject to all conditions of approval of Casefile No. 10-062-PA.

The restrictive covenant shall run with each parcel. The restrictive covenant shall be approved by County Counsel and the Long Range Planning Division prior to recording. The Director shall authorize the removal of the restrictive covenant if the subject site is no longer needed as a drainfield for the South Store Café site.

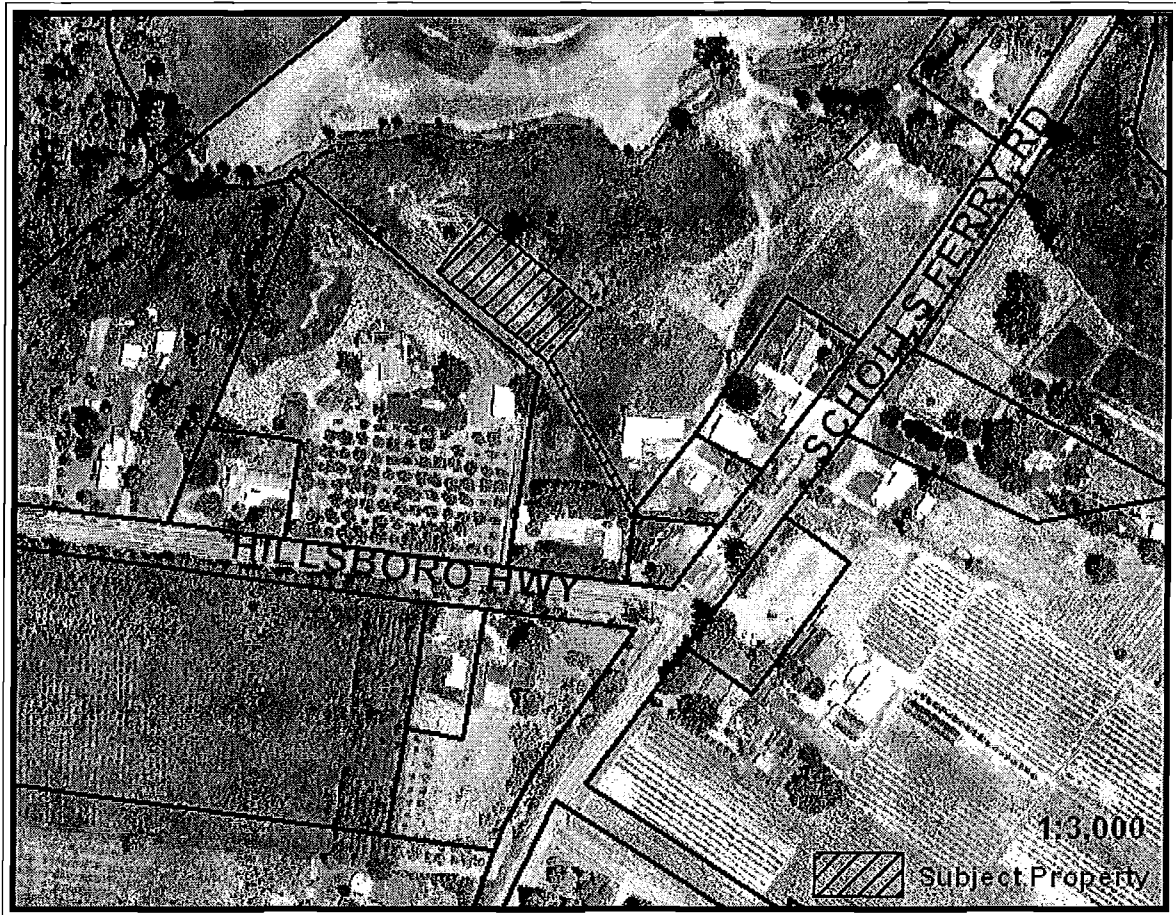
6. Prior to the issuance of any permits, including Washington County Department of Health and Human Services permits, to construct the new drainfield on tax lot 2S2 16A 100, conditions 1 through 5 above must be satisfied.

IV. BACKGROUND

A. Area Map



B. Aerial Map



C. General

Applicant: See page 1 of the application.

Staff: The applicant for this plan amendment request is the operator of the South Store Cafe, located on tax map 2S2 16A, lot 400. It is located on the northwest corner of the intersection of Highway 219 and Scholls Ferry Road. The South Store Cafe's building was built in 1903 and was originally known as the Scholls Public House. It is currently a restaurant and designated Rural Commercial (R-COM).

The South Store property is 0.32 acre (approximately 14,000 square feet) and contains the restaurant, parking area, a well, and septic system, including its drainfield. The purpose of the

proposed plan amendment is to relocate the deteriorating drainfield of the South Store Café septic system. The existing drainfield is over 35 years old and is in need of replacement.

Staff consulted with Washington County Health and Human Services Department (HHS) staff regarding the status of the existing drainfield and general requirements for installing a new one. Larry Fenster, Senior Environmental Health Specialist for HHS, submitted written comments regarding current site conditions and the status of the existing drainfield (see Attachment A). Based upon his comments, the existing drainfield is 50 feet from the South Store's well, which was acceptable when it was permitted in 1971. Mr. Fenster confirmed that new drainfields must now maintain a 100' setback from all wells. Due to the size and development configuration of the South Store Café property, there isn't enough area on the site to place a new drainfield and meet the required well setback. He also stated that the existing system is likely to fail in the near future due to the heavy demand commercial uses place on septic systems.

The applicant has investigated surrounding properties to determine if any would be suitable for the new drainfield. As documented in the applicant's submittal and the findings of this staff report, the most appropriate site is approximately 0.50 acre of the property adjacent to the South Store Café's northern property line (2S2 16A 100). For the purposes of this report, this 0.50 acre portion will be referred to as the "subject property". The subject property is part of a 19.81 acre property owned by Mr. Don Haynes, is designated as Exclusive Farm Use (EFU) and is currently in farm use.

The Oregon State Land Use Board of Appeals (LUBA) has ruled that an accessory use (i.e., a drainfield) may only be allowed on property whose designation would allow for the primary use (i.e., the South Store Café)¹. The only site available for the future drainfield, the subject property, is currently designated EFU. The EFU designation does not allow for rural commercial uses; therefore, locating a rural commercial accessory use on EFU designated land is not allowed. It is for this reason the applicant has applied for an exception to Statewide Planning Goal 3 *Agricultural Land* to change the subject property's EFU designation to R-COM.

Mr. Haynes has agreed to allow the new drainfield on the subject property pursuant to certain conditions by granting an easement for the drainfield if this request is approved. The easement has not yet been recorded because it would be of no value if this request is not approved. The specific location and configuration of the drainfield easement has not been finalized. If this plan amendment is approved, staff has proposed conditions of approval to require that the R-COM area be no larger than what is required for the drainfield, and it shall only be used for septic system purposes for the South Store Café property.

The findings in this report focus on the establishment of a future drainfield on the subject property. The application narrative mentions the need for additional parking at the South Store Café due to the site's limited size. In 1978, the county approved a land use application for a restaurant on the property (case file 78-154-D) with thirteen parking spaces, satisfying the parking requirement at that time. The 1978 staff report states the site "*in its present state has a myriad of traffic difficulties*" due to not having established and/or adequate parking spaces. While parking is not the focus of this request, staff agrees with the applicant that the use of what is now the drainfield for future parking would benefit the South Store Café and its patrons. HHS staff confirmed that drainfields are suitable for parking immediately upon discontinuing their use for wastewater treatment. The provision of additional parking would be reviewed through a separate development application.

¹ Roth v. Jackson County, LUBA No. 2000-083

Although evidence of the suitability of the subject property's soils for use as a drainfield has not been included with this application, HHS staff does not foresee difficulty establishing a drainfield on the site based upon their knowledge of this area. Staff findings supporting this request address only the applicable Oregon Administrative Rules (OARs) and Rural/Natural Resource Plan Policies required for a reasons exception. The specific location, size and configuration of the septic system and drainfield will be determined if this request is approved.

Generally, to satisfy the requirements for a reasons exception, an applicant must prove that the area for which an exception is taken is the most appropriate site for the proposed use. An applicant must also provide findings for why this use must occur on resource land, such as EFU, as opposed to locating it on their own property or on exception lands, such as those designated as AF-5 and AF-10. OAR 660-04 provides the requirements for reasons exceptions in detail. Staff has addressed these requirements in this report.

No written comments about the application were submitted when the staff report was prepared.

State law requires the Board of County Commissioners to make the final decision for plan amendments on resource lands or when an exception is proposed. The purpose of the Planning Commission hearing is to provide a recommendation to the Board for consideration of this plan amendment request at their hearing on May 18, 2010.

V. FINDINGS

A. Compliance with LCDC Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide planning goals and guidelines. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment A, the Transportation Report.

B. Rural / Natural Resource Plan

1. Policy 1, the Planning Process, states:

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:

p. **Require that plan map amendments meet the following criteria:**

As used in the following sections a mistake means a clerical error, or a mistake in the current designation such that it probably would not have been placed on the property had the error been brought to the attention of the Board during the adoption process.

7. Amendments to Rural Commercial shall be based upon:

- A. A mistake (clerical error) in this 1983 plan; or
- B. A demonstration that there is a need for the proposed uses(s) to serve the existing Rural/Natural Resource area population; and
 - I. Demonstration that an alternative site within Urban Growth Boundaries would be inappropriate and no other site properly designated is available within the area.

Applicant: See pages 2 - 5 of the application.

Staff: The applicant requested this plan amendment in order to relocate the septic drain field. Therefore, the applicant has submitted a feasibility study for adjacent and nearby properties only. The applicant provided evidence that only the subject property is suitable for the new drainfield. The Urban Growth Boundary (UGB) is several miles from the property, so the location of a drainfield or connection to public sewer within the UGB is not feasible.

II. An Exception to the applicable LCDC Goals through the LCDC Goal 2 Exception process (OAR Chapter 660, Division 04);

Goal 2 Exceptions - Planning and Zoning for Exception Areas:

(4) "Reasons" Exceptions:

(4)(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(4)(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

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

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

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(1)(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(1)(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(1)(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Applicant: See pages 6 & 7 of the application.

Staff: Staff concurs with the applicant's assertion that there will be a need for a new drainfield in the near future due to its deteriorating condition. Approval of this plan amendment request coincides with the purposes of Goal 6 *Air, Water and Land Resources Quality* and Goal 9 *Economic Development*.

The purpose of Goal 6 is to maintain and improve the quality of the air, water and land resources of the state. This includes ensuring that waste from development does not threaten or violate applicable state or federal environmental quality statutes, rules and standards. Designating the subject property as R-COM would allow for ample room to meet the state and county 100' required setback between all wells and drainfields. This setback was established to prevent contamination of groundwater, which is one focus of Goal 6.

The purpose of Goal 9 is to provide adequate opportunities throughout the state for variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens. This property has offered services to area residents since its construction in 1903. Enabling the South Store Café to replace its drainfield is necessary to ensure the ongoing use of this rural commercial site.

As previously mentioned, the relocation of the drainfield requires the use of adjacent or nearby properties and the relocation would allow for additional parking on the property. The applicant analyzed seven properties for drain field suitability. Attachment B of the application is a map that shows the locations of these properties.

Site 1 (2S2 15 lot 2500)

Site 1 is the location of the Smith Berry Barn parking lot and store. This property is designated as Exclusive Farm Use (EFU). Because the property is located on the east side of SW Scholls Ferry Road, boring under the right-of-way would be required for wastewater to flow from the South Store Café to this site. The applicant states that the owner of Smith Berry Barn would not consent to granting an easement for the septic system.

Site 2 (2S2 16A lot 1100) and Site 3 (2S2 16A lot 1000)

Sites 2 and 3 are designated as Agriculture and Forest (AF-5), and are located near the southwest corner of the intersection of State Highway 219 and SW Scholls Ferry Road. As with Site 1, boring under the right-of-way would be required to install a drainfield on either one of

these sites. The applicant states that the owner of Site 2 is not willing to grant an easement, and the owner of Site 3 may be willing only if all other options are exhausted. If it were possible to locate the drainfield on either of these sites, a more complex and costlier septic system than is currently on the South Store Café's property would be required, in addition to the cost of boring under the right-of-way.

Site 4 (2S2 16A lot 100) and Site 5 (2S2 16A lot 500)

Site 4 is adjacent to the South Store Café at its west property line and is designated as AF-5. Site 5 is adjacent to the South Store Café's north property line and is also AF-5. The applicant states these properties are not an option because of lack of available area due to existing drain fields and wells. Also, the owner of both sites, Donald Haynes is not willing to grant an easement for these properties.

Site 6 (2S2 16A lot 100)

This site is northwest of the South Store Café and is designated AF-5. The applicant states that there is a well on the site, and it has not been determined whether the proposed drain field would have ample room to meet setbacks from the well. Also, the owner, Donald Haynes, will not grant an easement for this portion of the property.

Site 7 (2S2 16A lot 100), the subject property

This is the property the applicant is proposing to use for the future location of the South Store Café drainfield. The applicant must satisfy OAR requirements for a reasons exception because the area is currently designated as EFU. According to the applicant, Donald Haynes, the property owner, has agreed to provide an easement to allow the drainfield on the site pursuant to the condition that his current farm practices, such as mowing, are not impacted. Mr. Haynes has also conditioned removal of the drainfield from the site within one year of public sewer becoming available to the South Store Café. A legal easement document memorializing these conditions has not been recorded. Staff is not aware of plans for installing a public sewer system in this area.

Staff finds the proposal of Site 7 for the drainfield satisfies the requirements of OAR 660-004-0022(1). The applicant has shown that Site 7 is most appropriate because a drainfield must be located within relatively close proximity to the site it is serving and no other viable options are available.

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

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(2)(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Applicant: See page 2 of the application.

Staff: The applicant has provided evidence that the proposed exception area is the only viable option for the drainfield. The purpose of Goal 3 (Agricultural Land) is to preserve and maintain agricultural lands. Granting a reasons exception to allow a drainfield will not prohibit the property from being used for agricultural purposes. According to the Washington County Health and Human Services Department, agricultural uses can occur over drainfields. Certain uses such as the growing of root vegetables is not advised. Also, frequent use of heavy equipment (i.e. tractors) is also not advised. The continued use of the property for pasture is acceptable, provided animals are not confined to the area. This could result in soil compaction and negatively affect the septic system. Crops that require limited soil manipulation such as berries and orchards are acceptable as well.

Approval of this request will include a condition that the exception area may only be used for a drainfield, no R-COM uses will be allowed. In addition, only the minimum amount of land required for the drainfield will be designated R-COM if this request is approved. For these reasons, staff finds that although a reasons exception must be granted for this request, farmland will still be preserved and maintained; therefore OAR 660-004-0020(2)(a) has been satisfied.

(2)(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(2)(b)(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

Applicant: See pages 3 - 5 and Attachment B of the application.

Staff: The application includes a narrative detailing the feasibility of seven sites near the South Store Café, as well as a map showing their locations (see Attachment B of the application). This feasibility study includes an analysis of nearby lands which would not require a new exception, such as AF-5 and AF-10 designated properties. As noted in previous findings, existing exception lands cannot accommodate the new drainfield.

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

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

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

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

Applicant: See page 5 of the application.

Staff: The applicant has provided evidence to address items (i), (ii), and (iii) within the submittal. In summary, this request is to allow for the expansion of an established rural commercial use only for the purpose of installing a new septic drainfield. Therefore, only adjacent areas are reasonable to consider. Staff concurs with the applicant that the subject property is the most practical location for the future drainfield based upon the application narrative, comments from HHS and that an alternative site which does not require an exception is not feasible.

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

Applicant: See pages 16 and 17 of the application.

Staff: The applicant provided a description of surrounding properties and the present uses adjacent to the South Store Café. Although non-resource (exception) lands are present in the vicinity of the café, staff agrees with the applicant's finding that the subject property can best provide the area needed for a new drainfield.

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

least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

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

Applicant: See page 6 of the application.

Staff: Staff agrees with the applicant's assertion that approval of this reasons exception would be advantageous for the South Store Café while having a limited impact on the subject property and surrounding properties. As stated in the background portion of this report, the existing South Store Café drainfield was constructed in 1971. It will need to be replaced in the near future based upon the heavy demands commercial uses such as restaurants place on their septic systems. Approving this reasons exception allows adequate area for a new drainfield, will ensure it is compliant with the 100 foot minimum setback from all wells and will allow the old drainfield to be used for additional parking for the business. Also, the septic system and drainfield components are housed underground. Staff does not anticipate there will be negative impacts to properties in the area if this request is approved with the recommended conditions of approval.

The subject property will be able to continue to be used for farm use (currently used as a pasture) after the new drainfield is installed. While there would be limitations on what could occur on top of the drainfield, the impacts of the underground septic system and drainfield would be no different if it was constructed on a different adjacent property. The limitations for what can occur on the drainfield would not vary. Staff finds that use of the subject property for a drainfield will be compatible with adjacent uses because the septic systems are located below ground, and no R-COM uses would be permitted.

The drainfield will not have long term negative economic impacts on the subject property because many resource uses would still be possible despite its presence. Also, the R-COM designation would be approved only for a drainfield and would be required to be removed within a year of public sewer being available for the South Store Café, upon cessation of using the drainfield and/or upon the drainfield easement becoming void. Approval of this request would have a long term positive economic impact for the South Store Café for reasons discussed previously in this report.

Staff finds that OAR 660-004-0020(2) requirements have been satisfied.

III. Demonstration that the use(s) is (are) compatible with the surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses; and

Applicant: See page 7 of the application.

Staff: The conditions for approval of the reasons exception request include limiting the use of the subject property for a drainfield only. No R-COM uses would be permitted; therefore, surrounding existing and/or potential agricultural or forestry uses will not be limited or adversely affected should this request be approved.

IV. Demonstration that adequate rural services are available and that the use(s) will not require extension of any urban services into the area.

Applicant: See page 8 of the application.

Staff: The applicant's submittal states that the use of the subject property is limited to a drainfield and related septic system components. As such, the property does not require urban services. Existing rural services are adequate for the subject property. Service provider letters were not required for this application because of the condition that, if the request is approved, the subject property could only be used for septic system purposes. No other development is proposed, nor would be permitted.

Staff concurs with the applicant and finds that the proposed plan change from EFU to R-COM is consistent with the criteria outlined under Policy 1.p.7.

These findings for Policy 1 also pertain to Statewide Planning Goal 2, Land Use Planning, Statewide Planning Goal 14, Urbanization.

2. Policy 2, Citizen Involvement, states:

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

Applicant: See page 8 of the application.

Staff: A quasi-judicial plan amendment such as this must be considered through a Type III review procedure (public hearing). In accordance with Section 204-4 of the Community Development Code (CDC), notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 2, 2010). Additionally, the County placed a legal notice of the hearing in a newspaper of general circulation (*The Hillsboro Argus*) at least ten days prior to the first hearing date (published April 9, 2010). As required by CDC Section 204-1.4, the applicant posted a sign (posted March 19, 2010) on the subject property within 21 days of acceptance of the application (March 5, 2010).

A copy of the plan amendment application was mailed to the representative for the local Citizen Participation Organization (CPO 10) on March 9, 2010. Finally, the staff report was available to all interested parties seven days prior to the hearing as required by Code Section 203-6.2. Staff finds these efforts satisfy the requirements of Policy 2.

These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.

3. Policy 6, Water Resources, states:

It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.

Applicant: See page 8 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

The only readily available evidence relating to groundwater conditions in specific areas is contained in water well reports (well logs) filed with the regional Watermaster's Office by well drillers at the time they drill a well. If enough wells are drilled in an area over an extended period of time, and if some of the well reports are recent, then well reports can be an indicator of any trends concerning the quantity of water being yielded by wells in the area. They do not, however, provide information concerning trends with regard to individual wells.

Policy 6 allows an applicant to use the well reports as evidence of groundwater quantity conditions in the area around a plan amendment site. If, however, opponents of an application allege, based on their experience with the production of their wells, that groundwater quantities in the area are declining, then it is the applicant's responsibility to provide evidence and/or testimony to rebut the opposition's assertion.

Opposition testimony can be rebutted by an applicant in the above-described situation by having an "expert" such as a professional geologist or hydrologist review the well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports.

Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

The County will:

- a. **Strive to ensure adequate water supplies for all uses by:**
 1. **Encouraging water conservation programs by water users and purveyors;**
 2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
 3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**

4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.**

Applicant: See page 8 of the application.

Staff: The primary intent of this implementing strategy is to ensure, to the extent practicable, that ground water supplies are adequate to accommodate new development and that new wells will not seriously interfere with existing wells in the area. This request will not affect water levels or wells in the area because the area would only be used for a septic system. No other development would be allowed.

The subject property is located within the Chehalem Mountain Limited Ground Water Area. This request is not expected to trigger additional water usage by the South Store Café, and it will not affect water levels in the area.

No new wells are proposed and the property will have no measurable impact on the quality or quantity of water resources in the area. Therefore, the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation.

- b. **Ensure adequate quality of surface water and groundwater by:**
 1. **Promoting compliance with Department of Environmental Quality water quality standards;**
 2. **Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
 3. **Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
 4. **Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Applicant: See page 8 of the application.

Staff: The county's Department of Health and Human Services must issue a septic system permit prior to construction of the septic system. A permit will not be issued if soils are not adequate for the system. The standards for such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Compliance with these standards ensures adequate quality of surface water.

According to HHS staff, any activity that compacts the soil within a drainfield is prohibited because this would compromise the effectiveness of the septic system. As previously mentioned, the use of the subject property for the drainfield will allow for at least a 100 foot setback from nearby wells. This setback was established to help prevent groundwater contamination from drainfields. Staff therefore finds the criteria of implementing strategy 6.b. can be satisfied.

- c. **Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modification are necessary.**
- d. **Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**
- e. **Encourage property owners with land which qualifies as "designated riparian land" and defined by the 1981 Riparian Habitat Act to apply for exemption of that land from *ad valorem* taxation.**

Applicant: See page 6 of the application.

Staff: According to the Significant Natural Resources map in the Rural/Natural Resource Plan, the subject property is located near the 100-year floodplain for McKee Creek and the Tualatin River. HHS staff confirmed that drainfields are not prohibited in floodplains. The subject property may only be used for the South Store Café drainfield, and no R-COM uses will be allowed. Staff therefore finds these strategies can be satisfied.

- f. **Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. **Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- h. **Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is not located within a drainage basin watershed.

- i. **Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property does not contain water areas and wetlands recognized by the Division of State Lands.

- j. **Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and the Unified Sewerage Agency [now Clean Water Services], support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with Community Development Code sections that implement the above strategies—Sections 410 (Grading and Drainage) and 426 (Erosion Control). Staff therefore finds this strategy can be satisfied.

These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.

4. Policy 14, Plan Designations, states:

It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.

Applicant: See page 9 of the application.

Staff: In accordance with Policy 14.c(7), the South Store Café property was designated as Rural Commercial at the time of the adoption of the Rural/Natural Resource Plan in order to recognize the existing, lawfully created commercial use. The plan amendment request, if approved, would allow for continued use of a long-established rural business. Staff therefore finds the subject request is consistent with Policy 14.

5. Policy 15, Exclusive Farm Lands

It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 600 Division 04 and the applicable plan amendment criteria in Policy 1.

Applicant: See page 9 of the application.

Staff: The subject property is currently designated EFU and in farm use (pasture). Findings for LCDC Goal 2, OAR Chapter 660 Division 04 and the Policy 1 plan amendment criteria are included in this report.

6. Policy 18, Rural Lands, states:

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

Applicant: See page 10 of the application.

Staff: As previously discussed, this request is to provide an area for a future drainfield for the South Store, an established rural business. The subject property is the most appropriate location for the drainfield; therefore, staff finds this criteria can be met.

7. Policy 20, Rural Commercial Development, states:

It is the policy of Washington County to provide rural commercial lands for support of rural residential, agricultural and forest activities.

Applicable Implementing Strategies:

- a. Allow commercial uses which support the needs of rural residents and agricultural and forest uses.

- b. Evaluate proposed rural commercial uses to determine if they are needed to support the Rural and Natural Resource area.
- c. Recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.

Applicant: See page 10 of the application.

Staff: The South Store Café is a long-standing rural commercial use recognized as an appropriate rural use on land designated R-COM. Implementing Strategy c. of Policy 20 states that expansion of lawfully created commercial uses may be allowed where urban services are not required and where conflicts with surrounding uses can be minimized. Expansion of the R-COM District for the South Store drainfield does not require urban services and is highly unlikely to cause conflict to surrounding uses. Staff finds the request is consistent with Policy 20.

8. Policy 23, Transportation, states:

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan.

Staff: See Attachment B, the Transportation Staff Report for this plan amendment.

C. Washington County Transportation Plan

Staff: Attachment B, which is by this reference incorporated into this staff report and made a part of it, contains discussions of whether the plan amendment complies with the Transportation Plan and the Transportation Planning Rule. Based on the applicant's written materials and the findings in this report, staff concludes that this proposed plan amendment will not "significantly affect" a transportation facility as defined in OAR 660-012-0060. Staff finds the plan amendment is consistent with the Transportation Planning Rule and the Transportation Plan.

These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation.

D. Washington County Community Development Code

1. Article III, Land Use Districts:

Section 340 Exclusive Farm Use District (EFU)

340-1 Intent and Purpose

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County.

The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm use and related supportive uses which are deemed appropriate.

This EFU District is provided to meet the Oregon statutory and administrative rule requirements.

Section 352 Rural Commercial District (R-COM)

352-1 Intent and Purpose

The intent and purpose of the Rural Commercial District is to implement the rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forest character of the area.

Rural Commercial centers shall be designed to be compatible with the surrounding environment and generally not to exceed five (5) acres.

Applicant: See page 10 of the application.

Staff: Placing an R-COM designation on the property and granting a reasons exception would allow for the additional area needed for the future drainfield. The conditions recommended for this approval will ensure compatibility with surrounding uses and serve the needs of the South Store Café. Staff finds that the subject request meets the intent and purpose of the R-COM District.

These findings for the Community Development Code also pertain to Statewide Planning Goal 3.

VI. SUMMARY AND CONCLUSIONS

1. The plan amendment request is consistent with the intent and purpose of the Rural Commercial land use district and to meets the applicable criteria for a plan amendment from EFU to R-COM.
2. The change in land use designation will not "significantly affect" the surrounding planned transportation system and is therefore consistent with Policy 10 of the Transportation Plan and OAR 660-012-0060.
3. No urban services will be needed to support the subject property.

Casefile No. 10-062-PA
Staff Report for the May 21, 2010 Planning Commission Hearing
April 13, 2010
Page 20 of 24

S:\PLNGWPSHARE\Plan Amendments\Casefiles\2010\10-062-PA SouthStore\Reports\10062Staffreport.doc



MEMORANDUM

DATE: April 13, 2010

TO: Anne Elvers, Associate Planner
Long Range Planning

FROM: Larry Fenster, REHS *LF*
Senior Environmental Health Specialist

RE: South Store Café Onsite Wastewater Treatment System Issues.

The existing onsite wastewater treatment system (i.e. septic system) serving the South Store Café consists of a 1,500 gallon 2-compartment septic tank followed by a seepage bed drainfield system. The current septic tank was installed in 1996 and connected to the existing seepage bed drainfield system which was installed in 1971. Both were permitted by this office at the time of installation.

The existing septic tank and seepage bed drainfield system are located within 100 feet of the well serving this facility. The water system serving the South Store Café is a public water system. The drainfield is currently located approximately 60 feet from the well. Current Oregon DEQ Onsite Wastewater Treatment System Rules (OAR 340-071-0220) and Oregon DHS Drinking Water Program Rules (OAR 331-061-0050 (2)(E)) require a minimum 100 foot separation between the well and drainfield and 50 foot separation between the well and septic tank.

The existing septic tank appears to be in good condition, is 50 feet from the well and is adequate for its current use. The existing drainfield is almost 40 years old, is located too close to the well, may be partially located under a parking area and is nearing the end of its useful life (i.e. beginning to show signs of failure.) Also, there is no room on the existing lot to locate a replacement drainfield that will meet the 100 foot setback from the well.

There are two options for a replacement system for the South Store Café. One would be a holding tank which requires the tank to be pumped out each time it fills. This would require the tank to be pumped out from two to four times per month at a cost of \$400 to \$600 per pumping (An estimated cost of \$10,000 to \$30,000 per year.) In my opinion, this is cost prohibitive.

The second option would be to locate a new drainfield site outside the 100 foot zone of the well. For this facility, that means acquiring an easement on neighboring property. (There is no room on this existing lot that is outside the 100 foot zone of the well.) The first step in identifying a suitable location for the replacement drainfield is to complete a site evaluation. This process determines the suitability of the soils and the proposed location. Once the site evaluation is completed then the type of system required and permitting requirements can be determined.

It is my opinion that a new drainfield located on a neighboring property outside the 100 foot zone from the well is the only feasible option for replacement of the South Store Café's drainfield.

Department of Health & Human Services
155 N First Avenue, MS 5, Hillsboro, OR 97124-3072
Administration & Planning: (503) 846-4402
Fax: Clinic (503) 846-4522 / Administration (503) 846-4490

WIC Nutrition Plan: (503) 846-3555
Health Services: (503) 846-8881

TTY: (503) 846-8601
Environmental Health: (503) 846-8722

March 26, 2010

**TRANSPORTATION REPORT
FOR
CASEFILE NO. 10-062-PA**

Applicant: Ralph Morgan/Debra Lee Thompson by Ty Wyman for the South Store Café
Location: At the northwest corner of the intersection of Oregon Highway 219 and Scholls Ferry Road
Tax Map/Lot: 2S2 16A Tax Lot 100 (portion)
Site Size: An approximately 0.50 acre portion of tax lot 100, which totals 19.81 acres

Staff has reviewed this request for compliance with the applicable Washington County 2020 Transportation Plan policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:

1. The proposed plan amendment involves an approximately 0.50 acre area of a 19.81 acre parcel (tax lot 100, Map 2S2 16A) that is designated as Exclusive Farm Use (EFU). The proposed plan amendment would designate the subject 0.50 acre of tax lot 100 as Rural Commercial (R-COM).
2. The purpose of the plan amendment is to provide area to relocate a septic drainfield from tax lot 400 to tax lot 100. Tax lot 400 is located to the southeast of the subject property (at the northwest corner of SW Scholls Ferry Road and Highway 219) and is within the R-COM land use district. Tax lot 400 supports an existing rural commercial use, The South Store Cafe.
3. Moving the drainfield to tax lot 100 is intended only to support the continued use of tax lot 400 as currently developed with the South Store Café; no expansion of use on tax lot 400 is proposed and no additional trip generation is expected as a result of this plan amendment.
4. Tax lot 400 has frontage on and access to both Highway 219 and SW Scholls Ferry Road. Highway 219 is under the jurisdiction of ODOT; SW Scholls Ferry Road is a county rural arterial roadway. Because no changes in use or expansions are proposed as a result of this plan amendment, no impacts to the transportation system are anticipated. Any future expansion would be subject to development review and approval under the applicable provisions of CDC Section 352 (R-COM).
5. The proposed plan amendment, from EFU to R-COM, is necessary in order to obtain approval for use of the 0.50 acre area as a drainfield to support the rural commercial use on nearby tax lot 400.

6. The following standards are applicable to this request and are addressed in this staff report:
 - a. OAR 660, Division 12, Oregon Transportation Planning Rule:
Section 0060 - Plan and Land Use Regulation Amendments
 - b. Washington County 2020 Transportation Plan Policies:
 - 1.0 Travel Needs Policy
 - 2.0 System Safety Policy
 - 4.0 System Funding Policy
 - 5.0 System Implementation and Plan Management Policy
 - 6.0 Roadway System Policy
 - 10.0 Functional Classification Policy
 - 19.0 Transportation Planning Coordination and Public Involvement Policy

B. Oregon Transportation Planning Rule

1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will 'significantly affect' the planned transportation system in the area. Pursuant to the OAR, the proposed plan amendment would 'significantly affect' the nearby transportation system if it does any of the following:
 - Changes the functional classification of an existing or planned transportation facility;
 - Changes standards implementing a functional classification system;
 - Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
 - Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.
2. Considering the criteria above, in order to determine if a plan amendment will result in a 'significant impact' on transportation facilities, the County generally requires a comparative analysis of a 'reasonable worst-case development' of a site under current and proposed land use designations. Plan amendment requests may be for designations that permit more intensive land uses with greater trip generation potential. In such cases, applicants are typically required to submit traffic analyses that have been prepared by licensed traffic engineers in order to help evaluate the potential affects of proposed plan amendments on transportation facilities.
3. In this instance, the proposed expansion of the R-COM designation on a portion of tax lot 100 is intended to allow relocation of the existing drainfield from tax lot 400. Due to limited parking area on tax lot 400, it is unlikely that the existing commercial use would be able to expand even with the proposed plan amendment. Based on these circumstances, no impacts to the transportation system are anticipated if this plan amendment is approved.
5. No changes in functional classification for Highway 219 or SW Scholls Ferry Road are proposed or required in order to accommodate the proposed plan amendment. Furthermore, the plan amendment will not affect the standards implementing the

functional classification system as set forth in Policy 10.0 of the County's 2020 Transportation Plan. Based upon the facts outlined above, staff concludes that the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 0060 of the Oregon Transportation Planning Rule.

C. Washington County 2020 Transportation Plan

The proposed plan amendment is subject to 7 policies from the County's 2020 Transportation Plan, which are listed and addressed below.

1.0 TRAVEL NEEDS POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A MULTI-MODAL TRANSPORTATION SYSTEM THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF WASHINGTON COUNTY RESIDENTS AND BUSINESSES.

STAFF: As previously stated in this report, the proposed plan amendment is not anticipated to have a detrimental impact on the capacity or level of service on transportation facilities. The proposal therefore does not conflict with Policy 1.0.

2.0 SYSTEM SAFETY POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A TRANSPORTATION SYSTEM THAT IS SAFE.

STAFF: Any traffic safety impacts associated with future development on the subject property (tax lot 100) or on related tax lot 400 will be subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Policy 2.0. Compliance with Policy 2.0 will therefore be maintained.

4.0 SYSTEM FUNDING POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO AGGRESSIVELY SEEK ADEQUATE AND RELIABLE FUNDING FOR TRANSPORTATION FACILITIES AND SERVICES, AND TO ENSURE THAT FUNDING IS EQUITABLY RAISED AND ALLOCATED.

STAFF: No detrimental impacts to system capacity are anticipated as a result of the proposed plan amendment because the no additional trip generation is anticipated. Any future development is subject to payment of the appropriate Transportation Development Tax (TDT) toward future capacity improvements. Payment of the TDT is consistent with the strategies included under Policy 4.0.

5.0 SYSTEM IMPLEMENTATION AND MANAGEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO EFFICIENTLY IMPLEMENT THE TRANSPORTATION PLAN AND TO EFFICIENTLY MANAGE THE TRANSPORTATION SYSTEM

STAFF: As found elsewhere in this report, no impacts on capacity or roadway safety are anticipated under the proposed plan designation. The proposal is therefore consistent with Policy 5.0 since there will be no appreciable change in travel demand as a result of the plan amendment.

6.0 ROADWAY SYSTEM POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THAT THE ROADWAY SYSTEM IS DESIGNED IN A MANNER THAT ACCOMMODATES

THE DIVERSE TRAVEL NEEDS OF ALL USERS OF THE TRANSPORTATION SYSTEM.

STAFF: Since the proposed plan amendment will not result in an increase in trips or travel demand, it will not degrade the planned motor vehicle performance measures set forth in the strategies for implementation of Policy 6.0. The proposal is therefore consistent with Policy 6.0.

10.0 FUNCTIONAL CLASSIFICATION POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THE ROADWAY SYSTEM IS DESIGNED AND OPERATES EFFICIENTLY THROUGH USE OF A ROADWAY FUNCTIONAL CLASSIFICATION SYSTEM.

STAFF: The proposed plan amendment will not affect the Functional Classification of either Highway 219 or SW Scholls Ferry Road nor result in land uses that are inconsistent with those identified in the Transportation Plan. Although none are associated with this proposal, any new access or changes in access are required to comply with the applicable access requirements found in CDC Article V; such compliance ensures that the functional integrity and roadway safety are maintained.

19.0 TRANSPORTATION PLANNING COORDINATION AND PUBLIC INVOLVEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO COORDINATE ITS TRANSPORTATION PLANNING WITH LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND TO PROVIDE OPPORTUNITIES FOR CITIZENS TO PARTICIPATE IN PLANNING PROCESSES.

STAFF: Policy 19 provides that all plan amendments be reviewed for consistency with the applicable provisions of the Transportation Planning Rule (OAR 660-012-0060). This request has been reviewed and determined to be consistent with the applicable provisions of the Transportation Planning Rule (see findings in Section B., above). It is therefore consistent with Policy 19.0.

CONCLUSION

Based on the findings in this report, staff concludes that this plan amendment proposal (EFU to R-COM) will not "significantly affect" a transportation facility as defined in OAR 660, Division 12. Under the proposed R-COM plan designation, no additional development of the subject site (tax lot 100) or associated rural commercial site (tax lot 400) is anticipated. The proposal is also consistent with all of the applicable Washington County 2020 Transportation Plan policies as discussed in Section C. of this report.



WASHINGTON COUNTY
Department of Land Use and Transportation
PLANNING DIVISION, SUITE #350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124-3072
tel (503) 846-3519 fax (503) 846-4412

STAFF REPORT

CASEFILE NO.: 10-062-PA

APPLICANT:
Ralph Morgan & Debra Lee Thompson
17235 SW Swank Road
Sherwood, OR 97140

APPLICANT'S REPRESENTATIVE:
Ty Wyman
851 SW Sixth Ave
Suite 1500
Portland, OR 97204

PROCEDURE TYPE: III
COMPREHENSIVE PLAN ELEMENT:
Rural/Natural Resource
CPO: 10

OWNER:
Don Haynes
24425 SW Hillsboro Highway
Hillsboro, OR 97123

ASSESSOR MAP NO.: 2S2 16A
TAX LOT NO(S): 100 (portion)
SITE SIZE: 19.81 acres
LOCATION: Northwest corner of the intersection of
State Highway 219 and SW Scholls Ferry Road

SITE ADDRESS
16590 SW Hillsboro Highway

EXISTING LAND USE DISTRICT: Exclusive Farm
Use (EFU)

REQUEST: Comprehensive Plan Amendment to change the current land use designation of Exclusive Farm Use (EFU) District to Rural Commercial (R-COM); requires a Reasons exception to Statewide Planning Goal 3 (Agricultural Land).

Casefile No. 10-062-PA Staff Report for the May 18, 2010 Board of County Commissioners Hearing

I. APPLICABLE REGULATIONS

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 11, 12 & 14
- B. OAR 660-012-0060, OAR 660-004 & OAR 660-014
- C. Rural / Natural Resource Plan Policies: 1p.7, 2, 6, 8, 10, 14, 15, 18 & 20
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
 - 1. Article II, Procedures
 - 2. Article III, Land Use Districts
 - Section 340-1 EFU District (Intent and Purpose)
 - Section 352-1 R-COM District (Intent and Purpose)

3. Article IV, Development Standards

Section 421	Flood Plain and Drainage Hazard Area Development
Section 422	Significant Natural Resources

II. AFFECTED JURISDICTIONS

Washington County Department of Land Use and Transportation
Washington County Health and Human Services Division
Oregon Department of Transportation

III. PLANNING COMMISSION RECOMMENDATION

At the April 21, 2010 hearing, the Planning Commission voted unanimously (8-0) to recommend **approval** of the request to the Board of County Commissioners (the Board). One person testified and written testimony from the Scholls Women's Club was submitted, both in favor of the proposal. State law requires the Board to make the final decision for plan amendments on resource lands or when an exception is proposed.

IV. STAFF RECOMMENDATION

Based on staff's findings in Section VI of this report and Attachments A and B, and as summarized under Section VII, staff recommends **APPROVAL** of the plan amendment as requested by the applicant. Therefore, staff requests that the Board of County Commissioners approve the applicant's plan amendment request subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owing the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The applicant shall submit a legal description of the area prepared by a registered surveyor to be used for the proposed drainfield (to be the R-COM designation) within one-hundred eighty (180) days of approval of the request. The drainfield area shall be no more than the minimum area required by the Washington County Health and Human Services Division.
3. The Rural Commercial area approved by this plan amendment shall only be used for septic system components for the commercial use(s) on tax map and lot number 2S2 16A 400. Rural commercial uses set forth by Community Development Code Section 352 shall not be allowed. The applicant and/or property owners of the subject property and tax map and lot number 2S2 16A 400 shall submit a quasi-judicial plan amendment application to change the Rural Commercial District plan designation to the underlying plan designation of tax map and lot number 2S2 16A 100 when the subject property is no longer needed as a drainfield for tax map and lot number 2S2 16A 400.
4. Approval of this plan amendment does not preclude the need to comply with Washington County Department of Health and Human Services requirements regarding septic systems and obtain necessary permits and approvals. The requirements of the Community Development Code will also apply to specific development applications on each parcel, depending upon the development. Other regulations may also apply, including requirements for wells.

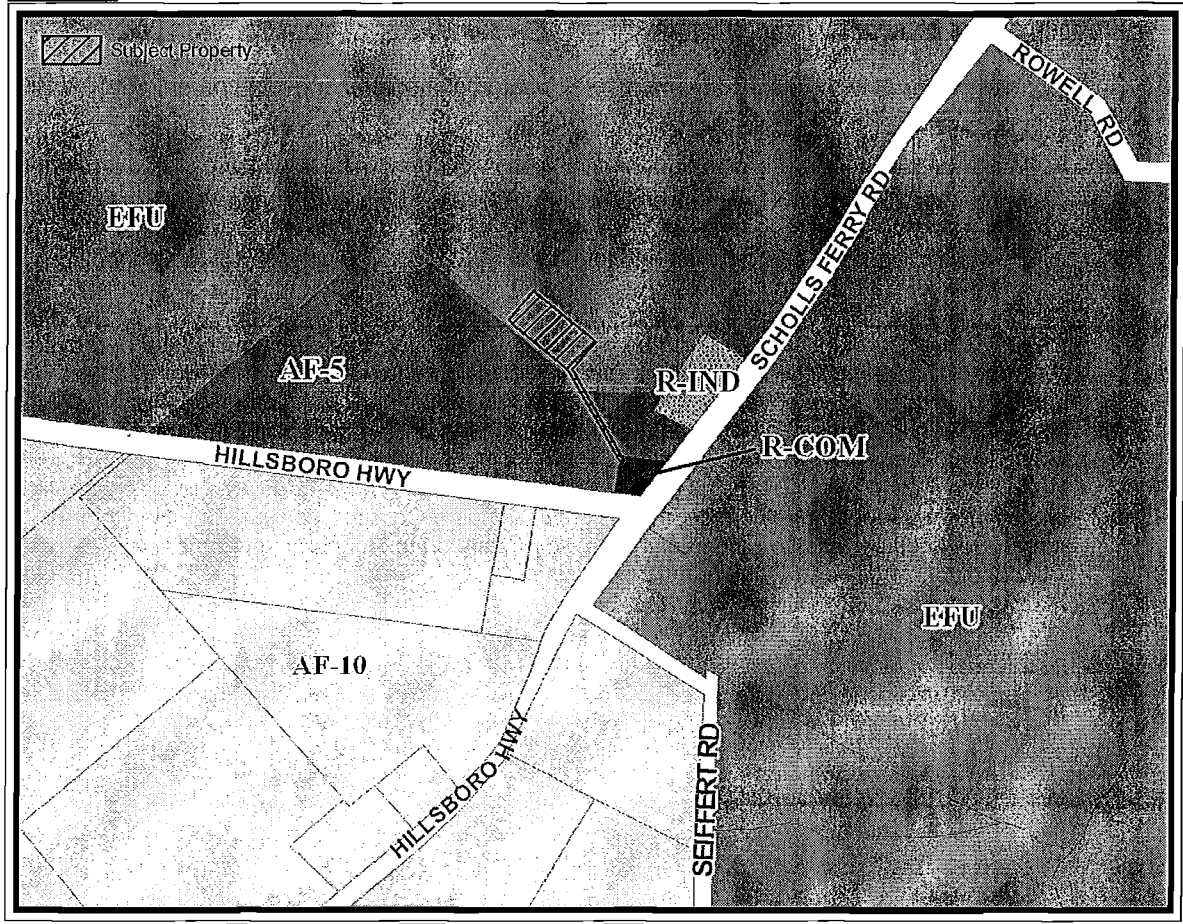
5. Record a restrictive covenant in the Washington County Deed Records for the subject property (a portion of tax map and lot number 2S2 16A 100 as described in the required land survey) and tax map and lot number 2S2 16A 400 that:
 - a. states the required drainfield for the use(s) located on tax map and lot number 2S2 16A 400 is located on the subject property;
 - b. limits the use of the subject property to the drainfield for the use(s) located on tax map and lot number 2S2 16A 400, with all other commercial uses being prohibited; and
 - c. the subject property and tax map and lot number 2S2 16A 400 are subject to all conditions of approval of Casefile No. 10-062-PA.

The restrictive covenant shall run with both parcels. The restrictive covenant shall be approved by County Counsel and the Long Range Planning Division prior to recording. Prior to the removal of the restrictive covenant, an application to change the Rural Commercial District plan designation on the subject property to the underlying plan designation of tax map and lot number 2S2 16A 100 must be approved.

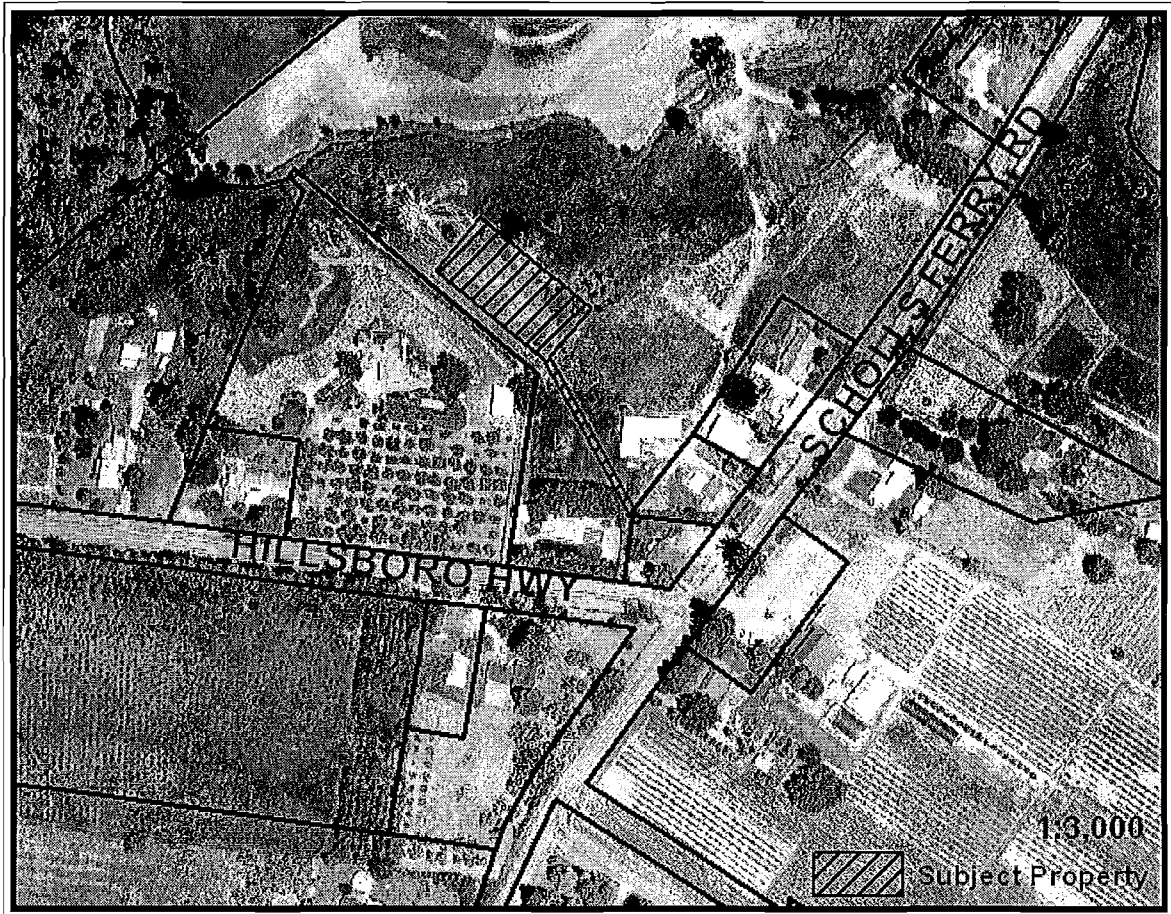
6. Prior to the issuance of any permits, including Washington County Department of Health and Human Services permits, to construct the new drainfield on tax map and lot number 2S2 16A 100, conditions 1 through 5 above must be satisfied.

V. BACKGROUND

A. Area Map



B. Aerial Map



C. General

Applicant: See page 1 of the application.

Staff: The applicant for this plan amendment request is the operator of the South Store Cafe, located on tax map 2S2 16A, lot 400. It is located on the northwest corner of the intersection of Highway 219 and Scholls Ferry Road. The South Store Cafe's building was built in 1903 and was originally known as the Scholls Public House. It is currently a restaurant and designated Rural Commercial (R-COM).

The South Store property is 0.32 acre (approximately 14,000 square feet) and contains the restaurant, parking area, a well, and septic system, including its drainfield. The purpose of the proposed plan amendment is to relocate the deteriorating drainfield of the South Store Café septic system. The existing drainfield is over 35 years old and is in need of replacement.

Staff consulted with Washington County Health and Human Services Department (HHS) staff regarding the status of the existing drainfield and general requirements for installing a new one. Larry Fenster, Senior Environmental Health Specialist for HHS, submitted written comments regarding current site conditions and the status of the existing drainfield (see Attachment A). Based upon his comments, the existing drainfield is 50 feet from the South Store's well, which was acceptable when it was permitted in 1971. Mr. Fenster confirmed that new drainfields must now maintain a 100' setback from all wells. Due to the size and development configuration of the South Store Café property, there isn't enough area on the site to place a new drainfield and meet the required well setback. He also stated that the existing system is likely to fail in the near future due to the heavy demand commercial uses place on septic systems.

The applicant has investigated surrounding properties to determine if any would be suitable for the new drainfield. As documented in the applicant's submittal and the findings of this staff report, the most appropriate site is approximately 0.50 acre of the property adjacent to the South Store Café's northern property line (2S2 16A 100). For the purposes of this report, this 0.50 acre portion will be referred to as the "subject property". The subject property is part of a 19.81 acre property owned by Mr. Don Haynes, is designated as Exclusive Farm Use (EFU) and is currently in farm use.

The Oregon State Land Use Board of Appeals (LUBA) has ruled that an accessory use (i.e., a drainfield) may only be allowed on property whose designation would allow for the primary use (i.e., the South Store Café)¹. The only site available for the future drainfield, the subject property, is currently designated EFU. The EFU designation does not allow for rural commercial uses; therefore, locating a rural commercial accessory use on EFU designated land is not allowed. It is for this reason the applicant has applied for an exception to Statewide Planning Goal 3 *Agricultural Land* to change the subject property's EFU designation to R-COM.

Mr. Haynes has agreed to allow the new drainfield on the subject property pursuant to certain conditions by granting an easement for the drainfield if this request is approved. The easement has not yet been recorded because it would be of no value if this request is not approved. The specific location and configuration of the drainfield easement has not been finalized. If this plan amendment is approved, staff has proposed conditions of approval to require that the R-COM area be no larger than what is required for the drainfield, and it shall only be used for septic system purposes for the South Store Café property.

The findings in this report focus on the establishment of a future drainfield on the subject property. The application narrative mentions the need for additional parking at the South Store Café due to the site's limited size. In 1978, the county approved a land use application for a restaurant on the property (case file 78-154-D) with thirteen parking spaces, satisfying the parking requirement at that time. The 1978 staff report states the site "*in its present state has a myriad of traffic difficulties*" due to not having established and/or adequate parking spaces. While parking is not the focus of this request, staff agrees with the applicant that the use of what is now the drainfield for future parking would benefit the South Store Café and its patrons. HHS staff confirmed that drainfields are suitable for parking immediately upon discontinuing their use for wastewater treatment. The provision of additional parking would be reviewed through a separate development application.

Although evidence of the suitability of the subject property's soils for use as a drainfield has not been included with this application, HHS staff does not foresee difficulty establishing a drainfield on the site based upon their knowledge of this area. Staff findings supporting this request

¹ Roth v. Jackson County, LUBA No. 2000-083

address only the applicable Oregon Administrative Rules (OARs) and Rural/Natural Resource Plan Policies required for a reasons exception. The specific location, size and configuration of the septic system and drainfield will be determined if this request is approved.

Generally, to satisfy the requirements for a reasons exception, an applicant must prove that the area for which an exception is taken is the most appropriate site for the proposed use. An applicant must also provide findings for why this use must occur on resource land, such as EFU, as opposed to locating it on their own property or on exception lands, such as those designated as AF-5 and AF-10. OAR 660-04 provides the requirements for reasons exceptions in detail. Staff has addressed these requirements in this report.

VI. FINDINGS

A. Compliance with LCDDC Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide planning goals and guidelines. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment A, the Transportation Report.

B. Rural / Natural Resource Plan

1. Policy 1, the Planning Process, states:

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:

p. **Require that plan map amendments meet the following criteria:**

As used in the following sections a mistake means a clerical error, or a mistake in the current designation such that it probably would not have been placed on the property had the error been brought to the attention of the Board during the adoption process.

7. **Ameridments to Rural Commercial shall be based upon:**

- A. **A mistake (clerical error) in this 1983 plan; or**
- B. **A demonstration that there is a need for the proposed uses(s) to serve the existing Rural/Natural Resource area population; and**

I. Demonstration that an alternative site within Urban Growth Boundaries would be inappropriate and no other site properly designated is available within the area.

Applicant: See pages 2 - 5 of the application.

Staff: The applicant requested this plan amendment in order to relocate the septic drain field. Therefore, the applicant has submitted a feasibility study for adjacent and nearby properties only. The applicant provided evidence that only the subject property is suitable for the new drainfield. The Urban Growth Boundary (UGB) is several miles from the property, so the location of a drainfield or connection to public sewer within the UGB is not feasible.

II. An Exception to the applicable LCDC Goals through the LCDC Goal 2 Exception process (OAR Chapter 660, Division 04);

Goal 2 Exceptions - Planning and Zoning for Exception Areas:

(4) "Reasons" Exceptions:

(4)(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(4)(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

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

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

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(1)(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(1)(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must

demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(1)(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Applicant: See pages 6 & 7 of the application.

Staff: Staff concurs with the applicant's assertion that there will be a need for a new drainfield in the near future due to its deteriorating condition. Approval of this plan amendment request coincides with the purposes of Goal 6 *Air, Water and Land Resources Quality* and Goal 9 *Economic Development*.

The purpose of Goal 6 is to maintain and improve the quality of the air, water and land resources of the state. This includes ensuring that waste from development does not threaten or violate applicable state or federal environmental quality statutes, rules and standards. Designating the subject property as R-COM would allow for ample room to meet the state and county 100' required setback between all wells and drainfields. This setback was established to prevent contamination of groundwater, which is one focus of Goal 6.

The purpose of Goal 9 is to provide adequate opportunities throughout the state for variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens. This property has offered services to area residents since its construction in 1903. Enabling the South Store Café to replace its drainfield is necessary to ensure the ongoing use of this rural commercial site.

As previously mentioned, the relocation of the drainfield requires the use of adjacent or nearby properties and the relocation would allow for additional parking on the property. The applicant analyzed seven properties for drain field suitability. Attachment B of the application is a map that shows the locations of these properties.

Site 1 (2S2 15 lot 2500)

Site 1 is the location of the Smith Berry Barn parking lot and store. This property is designated as Exclusive Farm Use (EFU). Because the property is located on the east side of SW Scholls Ferry Road, boring under the right-of-way would be required for wastewater to flow from the South Store Café to this site. The applicant states that the owner of Smith Berry Barn would not consent to granting an easement for the septic system.

Site 2 (2S2 16A lot 1100) and Site 3 (2S2 16A lot 1000)

Sites 2 and 3 are designated as Agriculture and Forest (AF-5), and are located near the southwest corner of the intersection of State Highway 219 and SW Scholls Ferry Road. As with Site 1, boring under the right-of-way would be required to install a drainfield on either one of these sites. The applicant states that the owner of Site 2 is not willing to grant an easement, and the owner of Site 3 may be willing only if all other options are exhausted. If it were possible to locate the drainfield on either of these sites, a more complex and costlier septic system than is currently on the South Store Café's property would be required, in addition to the cost of boring under the right-of-way.

Site 4 (2S2 16A lot 100) and Site 5 (2S2 16A lot 500)

Site 4 is adjacent to the South Store Café at its west property line and is designated as AF-5. Site 5 is adjacent to the South Store Café's north property line and is also AF-5. The applicant states these properties are not an option because of lack of available area due to existing drain fields and wells. Also, the owner of both sites, Donald Haynes is not willing to grant an easement for these properties.

Site 6 (2S2 16A lot 100)

This site is northwest of the South Store Café and is designated AF-5. The applicant states that there is a well on the site, and it has not been determined whether the proposed drain field would have ample room to meet setbacks from the well. Also, the owner, Donald Haynes, will not grant an easement for this portion of the property.

Site 7 (2S2 16A lot 100), the subject property

This is the property the applicant is proposing to use for the future location of the South Store Café drainfield. The applicant must satisfy OAR requirements for a reasons exception because the area is currently designated as EFU. According to the applicant, Donald Haynes, the property owner, has agreed to provide an easement to allow the drainfield on the site pursuant to the condition that his current farm practices, such as mowing, are not impacted. Mr. Haynes has also conditioned removal of the drainfield from the site within one year of public sewer becoming available to the South Store Café. A legal easement document memorializing these conditions has not been recorded. Staff is not aware of plans for installing a public sewer system in this area.

Staff finds the proposal of Site 7 for the drainfield satisfies the requirements of OAR 660-004-0022(1). The applicant has shown that Site 7 is most appropriate because a drainfield must be located within relatively close proximity to the site it is serving and no other viable options are available.

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

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(2)(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Applicant: See page 2 of the application.

Staff: The applicant has provided evidence that the proposed exception area is the only viable option for the drainfield. The purpose of Goal 3 (Agricultural Land) is to preserve and maintain agricultural lands. Granting a reasons exception to allow a drainfield will not prohibit the property from being used for agricultural purposes. According to the Washington County Health and Human Services Department, agricultural uses can occur over drainfields. Certain uses such as the growing of root vegetables is not advised. Also, frequent use of heavy equipment (i.e. tractors) is also not advised. The continued use of the property for pasture is acceptable,

provided animals are not confined to the area. This could result in soil compaction and negatively affect the septic system. Crops that require limited soil manipulation such as berries and orchards are acceptable as well.

Approval of this request will include a condition that the exception area may only be used for a drainfield, no R-COM uses will be allowed. In addition, only the minimum amount of land required for the drainfield will be designated R-COM if this request is approved. For these reasons, staff finds that although a reasons exception must be granted for this request, farmland will still be preserved and maintained; therefore OAR 660-004-0020(2)(a) has been satisfied.

(2)(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(2)(b)(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

Applicant: See pages 3 - 5 and Attachment B of the application.

Staff: The application includes a narrative detailing the feasibility of seven sites near the South Store Café, as well as a map showing their locations (see Attachment B of the application). This feasibility study includes an analysis of nearby lands which would not require a new exception, such as AF-5 and AF-10 designated properties. As noted in previous findings, existing exception lands cannot accommodate the new drainfield.

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

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

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

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

Applicant: See page 5 of the application.

Staff: The applicant has provided evidence to address items (i), (ii), and (iii) within the submittal. In summary, this request is to allow for the expansion of an established rural commercial use

only for the purpose of installing a new septic drainfield. Therefore, only adjacent areas are reasonable to consider. Staff concurs with the applicant that the subject property is the most practical location for the future drainfield based upon the application narrative, comments from HHS and that an alternative site which does not require an exception is not feasible.

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

Applicant: See pages 16 and 17 of the application.

Staff: The applicant provided a description of surrounding properties and the present uses adjacent to the South Store Café. Although non-resource (exception) lands are present in the vicinity of the café, staff agrees with the applicant's finding that the subject property can best provide the area needed for a new drainfield.

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

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

Applicant: See page 6 of the application.

Staff: Staff agrees with the applicant's assertion that approval of this reasons exception would be advantageous for the South Store Café while having a limited impact on the subject property and surrounding properties. As stated in the background portion of this report, the existing South Store Café drainfield was constructed in 1971. It will need to be replaced in the near future based upon the heavy demands commercial uses such as restaurants place on their septic systems. Approving this reasons exception allows adequate area for a new drainfield, will ensure it is compliant with the 100 foot minimum setback from all wells and will allow the old drainfield to be used for additional parking for the business. Also, the septic system and drainfield components are housed underground. Staff does not anticipate there will be negative impacts to properties in the area if this request is approved with the recommended conditions of approval.

The subject property will be able to continue to be used for farm use (currently used as a pasture) after the new drainfield is installed. While there would be limitations on what could occur on top of the drainfield, the impacts of the underground septic system and drainfield would be no different if it was constructed on a different adjacent property. The limitations for what can occur on the drainfield would not vary. Staff finds that use of the subject property for a drainfield will be compatible with adjacent uses because the septic systems are located below ground, and no R-COM uses would be permitted.

The drainfield will not have long term negative economic impacts on the subject property because many resource uses would still be possible despite its presence. Also, the R-COM designation would be approved only for a drainfield and would be required to be removed within a year of public sewer being available for the South Store Café, upon cessation of using the drainfield and/or upon the drainfield easement becoming void. Approval of this request would have a long term positive economic impact for the South Store Café for reasons discussed previously in this report.

Staff finds that OAR 660-004-0020(2) requirements have been satisfied.

III. Demonstration that the use(s) is (are) compatible with the surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses; and

Applicant: See page 7 of the application.

Staff: The conditions for approval of the reasons exception request include limiting the use of the subject property for a drainfield only. No R-COM uses would be permitted; therefore, surrounding existing and/or potential agricultural or forestry uses will not be limited or adversely affected should this request be approved.

IV. Demonstration that adequate rural services are available and that the use(s) will not require extension of any urban services into the area.

Applicant: See page 8 of the application.

Staff: The applicant's submittal states that the use of the subject property is limited to a drainfield and related septic system components. As such, the property does not require urban services. Existing rural services are adequate for the subject property. Service provider letters were not required for this application because of the condition that, if the request is approved, the subject property could only be used for septic system purposes. No other development is proposed, nor would be permitted.

Staff concurs with the applicant and finds that the proposed plan change from EFU to R-COM is consistent with the criteria outlined under Policy 1.p.7.

These findings for Policy 1 also pertain to Statewide Planning Goal 2, Land Use Planning, Statewide Planning Goal 14, Urbanization.

2. Policy 2, Citizen Involvement, states:

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

Applicant: See page 8 of the application.

Staff: A quasi-judicial plan amendment such as this must be considered through a Type III review procedure (public hearing). In accordance with Section 204-4 of the Community Development Code (CDC), notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 2, 2010). Additionally, the County placed a legal notice of the hearing in a newspaper of general circulation (*The Hillsboro Argus*) at least ten days prior to the first hearing date (published April 9, 2010). As required by CDC Section 204-1.4, the applicant posted a sign (posted March 19, 2010) on the subject property within 21 days of acceptance of the application (March 5, 2010).

A copy of the plan amendment application was mailed to the representative for the local Citizen Participation Organization (CPO 10) on March 9, 2010. Finally, the staff report was available to all interested parties seven days prior to the hearing as required by Code Section 203-6.2. Staff finds these efforts satisfy the requirements of Policy 2.

These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.

3. Policy 6, Water Resources, states:

It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.

Applicant: See page 8 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a

positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

The only readily available evidence relating to groundwater conditions in specific areas is contained in water well reports (well logs) filed with the regional Watermaster's Office by well drillers at the time they drill a well. If enough wells are drilled in an area over an extended period of time, and if some of the well reports are recent, then well reports can be an indicator of any trends concerning the quantity of water being yielded by wells in the area. They do not, however, provide information concerning trends with regard to individual wells.

Policy 6 allows an applicant to use the well reports as evidence of groundwater quantity conditions in the area around a plan amendment site. If, however, opponents of an application allege, based on their experience with the production of their wells, that groundwater quantities in the area are declining, then it is the applicant's responsibility to provide evidence and/or testimony to rebut the opposition's assertion.

Opposition testimony can be rebutted by an applicant in the above-described situation by having an "expert" such as a professional geologist or hydrologist review the well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports.

Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

The County will:

- a. **Strive to ensure adequate water supplies for all uses by:**
 1. **Encouraging water conservation programs by water users and purveyors;**
 2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
 3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**
 4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
 5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the**

area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.

Applicant: See page 8 of the application.

Staff: The primary intent of this implementing strategy is to ensure, to the extent practicable, that ground water supplies are adequate to accommodate new development and that new wells will not seriously interfere with existing wells in the area. This request will not affect water levels or wells in the area because the area would only be used for a septic system. No other development would be allowed.

The subject property is located within the Chehalem Mountain Limited Ground Water Area. This request is not expected to trigger additional water usage by the South Store Café, and it will not affect water levels in the area.

No new wells are proposed and the property will have no measurable impact on the quality or quantity of water resources in the area. Therefore, the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation.

- b. **Ensure adequate quality of surface water and groundwater by:**
1. **Promoting compliance with Department of Environmental Quality water quality standards;**
 2. **Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
 3. **Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
 4. **Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Applicant: See page 8 of the application.

Staff: The county's Department of Health and Human Services must issue a septic system permit prior to construction of the septic system. A permit will not be issued if soils are not adequate for the system. The standards for such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Compliance with these standards ensures adequate quality of surface water.

According to HHS staff, any activity that compacts the soil within a drainfield is prohibited because this would compromise the effectiveness of the septic system. As previously mentioned, the use of the subject property for the drainfield will allow for at least a 100 foot setback from nearby wells. This setback was established to help prevent groundwater contamination from drainfields. Staff therefore finds the criteria of implementing strategy 6.b. can be satisfied.

- c. **Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modification are necessary.**

- d. **Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**
- e. **Encourage property owners with land which qualifies as "designated riparian land" and defined by the 1981 Riparian Habitat Act to apply for exemption of that land from *ad valorem* taxation.**

Applicant: See page 6 of the application.

Staff: According to the Significant Natural Resources map in the Rural/Natural Resource Plan, the subject property is located near the 100-year floodplain for McKee Creek and the Tualatin River. HHS staff confirmed that drainfields are not prohibited in floodplains. The subject property may only be used for the South Store Café drainfield, and no R-COM uses will be allowed. Staff therefore finds these strategies can be satisfied.

- f. **Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. **Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- h. **Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is not located within a drainage basin watershed.

- i. **Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property does not contain water areas and wetlands recognized by the Division of State Lands.

- j. **Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and the Unified Sewerage Agency [now Clean Water Services], support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with Community Development Code sections that implement the above strategies—Sections 410 (Grading and Drainage) and 426 (Erosion Control). Staff therefore finds this strategy can be satisfied.

These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.

- 4. Policy 14, Plan Designations, states:

It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.

Applicant: See page 9 of the application.

Staff: In accordance with Policy 14.c(7), the South Store Café property was designated as Rural Commercial at the time of the adoption of the Rural/Natural Resource Plan in order to recognize the existing, lawfully created commercial use. The plan amendment request, if approved, would allow for continued use of a long-established rural business. Staff therefore finds the subject request is consistent with Policy 14.

5. Policy 15, Exclusive Farm Lands

It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 600 Division 04 and the applicable plan amendment criteria in Policy 1.

Applicant: See page 9 of the application.

Staff: The subject property is currently designated EFU and in farm use (pasture). Findings for LCDC Goal 2, OAR Chapter 660 Division 04 and the Policy 1 plan amendment criteria are included in this report.

6. Policy 18, Rural Lands, states:

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

Applicant: See page 10 of the application.

Staff: As previously discussed, this request is to provide an area for a future drainfield for the South Store, an established rural business. The subject property is the most appropriate location for the drainfield; therefore, staff finds this criteria can be met.

7. Policy 20, Rural Commercial Development, states:

It is the policy of Washington County to provide rural commercial lands for support of rural residential, agricultural and forest activities.

Applicable Implementing Strategies:

- a. Allow commercial uses which support the needs of rural residents and agricultural and forest uses.
- b. Evaluate proposed rural commercial uses to determine if they are needed to support the Rural and Natural Resource area.
- c. Recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.

Applicant: See page 10 of the application.

Staff: The South Store Café is a long-standing rural commercial use recognized as an appropriate rural use on land designated R-COM. Implementing Strategy c. of Policy 20 states that expansion of lawfully created commercial uses may be allowed where urban services are not required and where conflicts with surrounding uses can be minimized. Expansion of the R-COM District for the South Store drainfield does not require urban services and is highly unlikely to cause conflict to surrounding uses. Staff finds the request is consistent with Policy 20.

8. Policy 23, Transportation, states:

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan.

Staff: See Attachment B, the Transportation Staff Report for this plan amendment.

C. Washington County Transportation Plan

Staff: Attachment B, which is by this reference incorporated into this staff report and made a part of it, contains discussions of whether the plan amendment complies with the Transportation Plan and the Transportation Planning Rule. Based on the applicant's written materials and the findings in this report, staff concludes that this proposed plan amendment will not "significantly affect" a transportation facility as defined in OAR 660-012-0060. Staff finds the plan amendment is consistent with the Transportation Planning Rule and the Transportation Plan.

These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation.

D. Washington County Community Development Code

1. Article III, Land Use Districts:

Section 340 Exclusive Farm Use District (EFU)

340-1 Intent and Purpose

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County.

The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm use and related supportive uses which are deemed appropriate.

This EFU District is provided to meet the Oregon statutory and administrative rule requirements.

Section 352 Rural Commercial District (R-COM)

352-1 Intent and Purpose

The intent and purpose of the Rural Commercial District is to implement the rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forest character of the area.

Rural Commercial centers shall be designed to be compatible with the surrounding environment and generally not to exceed five (5) acres.

Applicant: See page 10 of the application.

Staff: Placing an R-COM designation on the property and granting a reasons exception would allow for the additional area needed for the future drainfield. The conditions recommended for this approval will ensure compatibility with surrounding uses and serve the needs of the South Store Café. Staff finds that the subject request meets the intent and purpose of the R-COM District.

These findings for the Community Development Code also pertain to Statewide Planning Goal 3.

VII. SUMMARY AND CONCLUSIONS

1. The plan amendment request is consistent with the intent and purpose of the Rural Commercial land use district and to meets the applicable criteria for a plan amendment from EFU to R-COM.
2. The change in land use designation will not "significantly affect" the surrounding planned transportation system and is therefore consistent with Policy 10 of the Transportation Plan and OAR 660-012-0060.
3. No urban services will be needed to support the subject property.

S:\PLNG\WPSHARE\Plan Amendments\Casefiles\2010\10-062-PA SouthStore\Reports\10062_BCC_Staffreport.doc



MEMORANDUM

DATE: April 13, 2010

TO: Anne Elvers, Associate Planner
Long Range Planning

FROM: Larry Fenster, REHS *LF*
Senior Environmental Health Specialist

RE: South Store Café Onsite Wastewater Treatment System Issues.

The existing onsite wastewater treatment system (i.e. septic system) serving the South Store Café consists of a 1,500 gallon 2-compartment septic tank followed by a seepage bed drainfield system. The current septic tank was installed in 1996 and connected to the existing seepage bed drainfield system which was installed in 1971. Both were permitted by this office at the time of installation.

The existing septic tank and seepage bed drainfield system are located within 100 feet of the well serving this facility. The water system serving the South Store Café is a public water system. The drainfield is currently located approximately 60 feet from the well. Current Oregon DEQ Onsite Wastewater Treatment System Rules (OAR 340-071-0220) and Oregon DHS Drinking Water Program Rules (OAR 331-061-0050 (2)(E)) require a minimum 100 foot separation between the well and drainfield and 50 foot separation between the well and septic tank.

The existing septic tank appears to be in good condition, is 50 feet from the well and is adequate for its current use. The existing drainfield is almost 40 years old, is located too close to the well, may be partially located under a parking area and is nearing the end of its useful life (i.e. beginning to show signs of failure.) Also, there is no room on the existing lot to locate a replacement drainfield that will meet the 100 foot setback from the well.

There are two options for a replacement system for the South Store Café. One would be a holding tank which requires the tank to be pumped out each time it fills. This would require the tank to be pumped out from two to four times per month at a cost of \$400 to \$600 per pumping (An estimated cost of \$10,000 to \$30,000 per year.) In my opinion, this is cost prohibitive.

The second option would be to locate a new drainfield site outside the 100 foot zone of the well. For this facility, that means acquiring an easement on neighboring property. (There is no room on this existing lot that is outside the 100 foot zone of the well.) The first step in identifying a suitable location for the replacement drainfield is to complete a site evaluation. This process determines the suitability of the soils and the proposed location. Once the site evaluation is completed then the type of system required and permitting requirements can be determined.

It is my opinion that a new drainfield located on a neighboring property outside the 100 foot zone from the well is the only feasible option for replacement of the South Store Café's drainfield.

Department of Health & Human Services
155 N First Avenue, MS 5, Hillsboro, OR 97124-3072
Administration & Planning: (503) 846-4402
Fax: Clinic (503) 846-4522 / Administration (503) 846-4490

TTY: (503) 846-8601
Environmental Health: (503) 846-8722

WIC Nutrition Plan: (503) 846-3555
Health Services: (503) 846-8881

March 26, 2010

**TRANSPORTATION REPORT
FOR
CASEFILE NO. 10-062-PA**

Applicant: Ralph Morgan/Debra Lee Thompson by Ty Wyman for the South Store Café

Location: At the northwest corner of the intersection of Oregon Highway 219 and Scholls Ferry Road

Tax Map/Lot: 2S2 16A Tax Lot 100 (portion)

Site Size: An approximately 0.50 acre portion of tax lot 100, which totals 19.81 acres

Staff has reviewed this request for compliance with the applicable Washington County 2020 Transportation Plan policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:

1. The proposed plan amendment involves an approximately 0.50 acre area of a 19.81 acre parcel (tax lot 100, Map 2S2 16A) that is designated as Exclusive Farm Use (EFU). The proposed plan amendment would designate the subject 0.50 acre of tax lot 100 as Rural Commercial (R-COM).
2. The purpose of the plan amendment is to provide area to relocate a septic drainfield from tax lot 400 to tax lot 100. Tax lot 400 is located to the southeast of the subject property (at the northwest corner of SW Scholls Ferry Road and Highway 219) and is within the R-COM land use district. Tax lot 400 supports an existing rural commercial use, The South Store Cafe.
3. Moving the drainfield to tax lot 100 is intended only to support the continued use of tax lot 400 as currently developed with the South Store Café; no expansion of use on tax lot 400 is proposed and no additional trip generation is expected as a result of this plan amendment.
4. Tax lot 400 has frontage on and access to both Highway 219 and SW Scholls Ferry Road. Highway 219 is under the jurisdiction of ODOT; SW Scholls Ferry Road is a county rural arterial roadway. Because no changes in use or expansions are proposed as a result of this plan amendment, no impacts to the transportation system are anticipated. Any future expansion would be subject to development review and approval under the applicable provisions of CDC Section 352 (R-COM).
5. The proposed plan amendment, from EFU to R-COM, is necessary in order to obtain approval for use of the 0.50 acre area as a drainfield to support the rural commercial use on nearby tax lot 400.

6. The following standards are applicable to this request and are addressed in this staff report:
 - a. OAR 660, Division 12, Oregon Transportation Planning Rule:
Section 0060 - Plan and Land Use Regulation Amendments
 - b. Washington County 2020 Transportation Plan Policies:
 - 1.0 Travel Needs Policy
 - 2.0 System Safety Policy
 - 4.0 System Funding Policy
 - 5.0 System Implementation and Plan Management Policy
 - 6.0 Roadway System Policy
 - 10.0 Functional Classification Policy
 - 19.0 Transportation Planning Coordination and Public Involvement Policy

B. Oregon Transportation Planning Rule

1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will 'significantly affect' the planned transportation system in the area. Pursuant to the OAR, the proposed plan amendment would 'significantly affect' the nearby transportation system if it does any of the following:
 - Changes the functional classification of an existing or planned transportation facility;
 - Changes standards implementing a functional classification system;
 - Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
 - Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.
2. Considering the criteria above, in order to determine if a plan amendment will result in a 'significant impact' on transportation facilities, the County generally requires a comparative analysis of a 'reasonable worst-case development' of a site under current and proposed land use designations. Plan amendment requests may be for designations that permit more intensive land uses with greater trip generation potential. In such cases, applicants are typically required to submit traffic analyses that have been prepared by licensed traffic engineers in order to help evaluate the potential affects of proposed plan amendments on transportation facilities.
3. In this instance, the proposed expansion of the R-COM designation on a portion of tax lot 100 is intended to allow relocation of the existing drainfield from tax lot 400. Due to limited parking area on tax lot 400, it is unlikely that the existing commercial use would be able to expand even with the proposed plan amendment. Based on these circumstances, no impacts to the transportation system are anticipated if this plan amendment is approved.
5. No changes in functional classification for Highway 219 or SW Scholls Ferry Road are proposed or required in order to accommodate the proposed plan amendment. Furthermore, the plan amendment will not affect the standards implementing the functional classification system as set forth in Policy 10.0 of the County's 2020

Transportation Plan. Based upon the facts outlined above, staff concludes that the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 0060 of the Oregon Transportation Planning Rule.

C. Washington County 2020 Transportation Plan

The proposed plan amendment is subject to 7 policies from the County's 2020 Transportation Plan, which are listed and addressed below.

1.0 TRAVEL NEEDS POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A MULTI-MODAL TRANSPORTATION SYSTEM THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF WASHINGTON COUNTY RESIDENTS AND BUSINESSES.

STAFF: As previously stated in this report, the proposed plan amendment is not anticipated to have a detrimental impact on the capacity or level of service on transportation facilities. The proposal therefore does not conflict with Policy 1.0.

2.0 SYSTEM SAFETY POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A TRANSPORTATION SYSTEM THAT IS SAFE.

STAFF: Any traffic safety impacts associated with future development on the subject property (tax lot 100) or on related tax lot 400 will be subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Policy 2.0. Compliance with Policy 2.0 will therefore be maintained.

4.0 SYSTEM FUNDING POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO AGGRESSIVELY SEEK ADEQUATE AND RELIABLE FUNDING FOR TRANSPORTATION FACILITIES AND SERVICES, AND TO ENSURE THAT FUNDING IS EQUITABLY RAISED AND ALLOCATED.

STAFF: No detrimental impacts to system capacity are anticipated as a result of the proposed plan amendment because the no additional trip generation is anticipated. Any future development is subject to payment of the appropriate Transportation Development Tax (TDT) toward future capacity improvements. Payment of the TDT is consistent with the strategies included under Policy 4.0.

5.0 SYSTEM IMPLEMENTATION AND MANAGEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO EFFICIENTLY IMPLEMENT THE TRANSPORTATION PLAN AND TO EFFICIENTLY MANAGE THE TRANSPORTATION SYSTEM

STAFF: As found elsewhere in this report, no impacts on capacity or roadway safety are anticipated under the proposed plan designation. The proposal is therefore consistent with Policy 5.0 since there will be no appreciable change in travel demand as a result of the plan amendment.

6.0 ROADWAY SYSTEM POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THAT THE ROADWAY SYSTEM IS DESIGNED IN A MANNER THAT ACCOMMODATES

THE DIVERSE TRAVEL NEEDS OF ALL USERS OF THE
TRANSPORTATION SYSTEM.

STAFF: Since the proposed plan amendment will not result in an increase in trips or travel demand, it will not degrade the planned motor vehicle performance measures set forth in the strategies for implementation of Policy 6.0. The proposal is therefore consistent with Policy 6.0.

10.0 FUNCTIONAL CLASSIFICATION POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THE ROADWAY SYSTEM IS DESIGNED AND OPERATES EFFICIENTLY THROUGH USE OF A ROADWAY FUNCTIONAL CLASSIFICATION SYSTEM.

STAFF: The proposed plan amendment will not affect the Functional Classification of either Highway 219 or SW Scholls Ferry Road nor result in land uses that are inconsistent with those identified in the Transportation Plan. Although none are associated with this proposal, any new access or changes in access are required to comply with the applicable access requirements found in CDC Article V; such compliance ensures that the functional integrity and roadway safety are maintained.

19.0 TRANSPORTATION PLANNING COORDINATION AND PUBLIC INVOLVEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO COORDINATE ITS TRANSPORTATION PLANNING WITH LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND TO PROVIDE OPPORTUNITIES FOR CITIZENS TO PARTICIPATE IN PLANNING PROCESSES.

STAFF: Policy 19 provides that all plan amendments be reviewed for consistency with the applicable provisions of the Transportation Planning Rule (OAR 660-012-0060). This request has been reviewed and determined to be consistent with the applicable provisions of the Transportation Planning Rule (see findings in Section B., above). It is therefore consistent with Policy 19.0.

CONCLUSION

Based on the findings in this report, staff concludes that this plan amendment proposal (EFU to R-COM) will not "significantly affect" a transportation facility as defined in OAR 660, Division 12. Under the proposed R-COM plan designation, no additional development of the subject site (tax lot 100) or associated rural commercial site (tax lot 400) is anticipated. The proposal is also consistent with all of the applicable Washington County 2020 Transportation Plan policies as discussed in Section C. of this report.

SUMMARY OF DECISION

Ralph Morgan and Debra Lee Thompson applied to Washington County for a plan amendment to change the plan designation for a portion of one parcel totaling 19.81 acres described as a portion of tax lot 100 on tax map 2N2, Section 16A from Exclusive Farm Use (EFU) District to Rural Commercial (R-COM) District; requires a Reasons exception to Statewide Planning Goal 3 (Agricultural Land).

At its meeting on April 21, 2010, the Washington County Planning Commission unanimously agreed to forward a recommendation of approval to the Board of County Commissioners. On May 18, 2010, the Board heard this matter and approved the plan amendment request, subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owing the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The applicant shall submit a legal description of the area prepared by a registered surveyor to be used for the proposed drainfield (to be the R-COM designation) within one-hundred eighty (180) days of approval of the request. The drainfield area shall be no more than the minimum area required by the Washington County Health and Human Services Division.
3. The Rural Commercial area approved by this plan amendment shall only be used for septic system components for the commercial use(s) on tax map and lot number 2S2 16A 400. Rural commercial uses set forth by Community Development Code Section 352 shall not be allowed. The applicant and/or property owners of the subject property and tax map and lot number 2S2 16A 400 shall submit a quasi-judicial plan amendment application to change the Rural Commercial District plan designation to the underlying plan designation of tax map and lot number 2S2 16A 100 when the subject property is no longer needed as a drainfield for tax map and lot number 2S2 16A 400.
4. Approval of this plan amendment does not preclude the need to comply with Washington County Department of Health and Human Services requirements regarding septic systems and obtain necessary permits and approvals. The requirements of the Community Development Code will also apply to specific development applications on each parcel, depending upon the development. Other regulations may also apply, including requirements for wells.
5. Record a restrictive covenant in the Washington County Deed Records for the subject property (a portion of tax map and lot number 2S2 16A 100 as described in the required land survey) and tax map and lot number 2S2 16A 400 that:
 - a. states the required drainfield for the use(s) located on tax map and lot number 2S2 16A 400 is located on the subject property;

- b. limits the use of the subject property to the drainfield for the use(s) located on tax map and lot number 2S2 16A 400, with all other commercial uses being prohibited; and
- c. the subject property and tax map and lot number 2S2 16A 400 are subject to all conditions of approval of Casefile No. 10-062-PA.

The restrictive covenant shall run with both parcels. The restrictive covenant shall be approved by County Counsel and the Long Range Planning Division prior to recording. Prior to the removal of the restrictive covenant, an application to change the Rural Commercial District plan designation on the subject property to the underlying plan designation of tax map and lot number 2S2 16A 100 must be approved.

- 6. Prior to the issuance of any permits, including Washington County Department of Health and Human Services permits, to construct the new drainfield on tax map and lot number 2S2 16A 100, conditions 1 through 5 above must be satisfied.

WASHINGTON COUNTY - DLUT
ong Range Planning Division, #350-14
55 North First Avenue
illsboro, OR 97124-3072

601004

FIRST CLASS MAIL

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

FIRST CLASS MAIL