



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
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Salem, OR 97301-2540
(503) 373-0050
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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

03/03/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Independence Plan Amendment
DLCD File Number 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Tuesday, March 18, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

*NOTE: The 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: Renata Wakeley, City of Independence
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative

<paa> YA



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-14 (20165)
[17780]
Received: 2/25/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [DLAR 600-018-0030](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Independence

Local file no.: **ZC/CPMA-01-2013**

Date of adoption: 2/25/2014

Date sent: 2/25/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 1/7/2014
No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Renata Wakeley, City Planner

Phone: 503-540-1618

E-mail: renatac@mwvcog.org

Street address: 100 High Street SE, Suite 200

City: Salem

Zip: 97301

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

N/a.

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from Agriculture (AG) to Low Density Residential (RS) 0.62 acres. ~~A goal exception was required for this change.~~
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.
- Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): Lot 111 of Map 041W21DB, 206 River Drive, Independence, OR.

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

~~If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.~~

~~Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:~~

~~If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.~~

~~Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:~~

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

N/a

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from Agriculture (AG) to Low Density Residential (RS) Acres: 0.62
Change from to Acres:
Change from to Acres:
Change from to Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: N/a Acres added: N/a Acres removed: N/a

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: ODOT, Yamhill County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending the City of Independence]	
Comprehensive Plan Land Use Map and Zoning]	
Map for a portion of Tax Lot No. 8421DB00111 and]	COUNCIL BILL #2014-03
Stating and Effective Date]	

ORDINANCE NO. 1527

WHEREAS, the applicant initiated this request to amend the City Comprehensive Plan Land Use Map and Zoning Map to redesignate and rezone the subject property, a portion of the property located generally at 603 River Drive, Independence, Oregon, Tax Lot No. 8421DB00111 (Property), from its current Agriculture plan designation to the Low Density Residential plan designation and from its current Agriculture (AG) zoning to Low-Density Residential (RS) zoning; and

WHEREAS, on February 3, 2014, the Independence Planning Commission conducted a properly noticed public hearing, provided the public an opportunity to comment on the proposed plan change and rezone, and adopted findings and recommended Council approval of the proposal; and

WHEREAS, on February 11, 2014, the Independence City Council conducted a properly noticed public hearing concerning the proposed plan change and rezone and provided the public with an opportunity to be heard; and

WHEREAS, the Council has reviewed the record and Planning Commission recommendation of approval, and has determined to approve the plan change and rezone, **NOW, THEREFORE**,

THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City of Independence hereby adopts the findings in support of these Comprehensive Plan Land Use Map and Zoning Map amendments, as contained in the Staff Report attached hereto as Exhibit "A", and by this reference incorporated herein.

Section 2. Property Description. The Property described above and as more particularly described in Exhibit "B" (attached hereto and by this reference incorporated herein) is hereby redesignated on the City of Independence Comprehensive Plan Land Use Map from the Agriculture plan designation to the Low Density Residential plan designation and it is rezoned from the Agriculture (AG) to the Low-Density Residential

(RS) zone, as illustrated on Exhibit B. All official maps of the City are hereby amended to conform to the changes enacted by this ordinance.


Section 3. Effective Date. This Ordinance shall take effect 30 days from its passage by the Council and the signature of the Mayor.

READ for the first time:	February 25, 2014
READ for the second time:	February 25, 2014
APPROVED by Council:	February 25, 2014
SIGNED by the Mayor:	February 25, 2014



JOHN McARDLE, MAYOR

ATTEST:



Karin Johnson, MMC
City Recorder

EXHIBIT 'A'
STAFF REPORT



CITY OF INDEPENDENCE

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TO: Independence City Council

FILE: ZC/CPMA-01-2013

HEARING: February 11, 2014, 7:30 pm
City Council Chambers, 240 Monmouth Street

APPLICANT: Willard Leedy
603 River Drive, Independence, OR 97351

SUBJECT PROPERTY: Section 21DB, Township 8 South, Range 4 West Willamette Meridian, Lot 111 (located at 603 River Drive) totaling 6.07 acres. The portion of the property subject to this application is comprised of 0.62 acres of the westernmost portions of the total property.

EXHIBITS:

- EXHIBIT A Polk County assessor map
- EXHIBIT B Application materials
- EXHIBIT C Buildable Lands, FIRM map, and Willamette River Greenway map

REQUEST:

The applicant is requesting approval to amend the Comprehensive Plan designation from Agricultural (AG) to Low Density Residential (RS) and change the zoning from Agricultural (AG) to Low Density Residential (RS) for approximately 0.62 acres of the 6.07 acre property.

PROCEDURE:

Pursuant to Subchapter 11 of the Independence Development Code (IDC), Comprehensive Plan Map Amendments and Zone Changes are processed as a Type III quasi-judicial application.

Comprehensive Plan Amendments and Zone Changes are processed under Subchapter 12. The application was received by the City on November 4, 2013, and the application was determined complete on December 27, 2013. Notice was properly mailed under 11.015.C and 11.025.A to surrounding property owners on January 10, 2014 and published in the Itemizer Observer on January 15, 2014. Notice was also provided to the Oregon Department of Land Conservation and Development, Independence Public Works, and Independence Community Development Director. As of the date of this report, no comments or concerns were received from these entities.

The City has until **April 23, 2014** (120 days from acceptance of the application) to approve, conditionally approve, or deny the application.

Per 12.015, the Planning Commission will hold a public hearing and forward its recommendation on the requested action to the City Council within 30 days from the date of its hearing. On February 3rd, the Planning Commission held a public hearing. Upon close of the hearing, the Planning Commission adopted the findings in the staff report and recommended the City Council approve the application as recommended by staff.

APPEAL

There is no right to appeal the Planning Commission's recommendation. Appeal of the subsequent City Council's final decision is to the Land Use Board of Appeals (LUBA).

BACKGROUND:

Tax lot 111 of Map 8.4.21DB, estimated at 6.07 acres is designated and zoned Agricultural (AG). The applicant is proposing to re-designate and rezone 0.62 acres of the total property.

Zoning and uses on adjacent properties are as follows:

North:	RS zone	(low density residential housing)
South:	RM zone	(low and medium density residential housing)
East:	AG zone	(vacant agricultural land and floodplain)
West:	RM zone	(low and medium density residential housing)

The applicant is requesting approval to re-designate portions of the comprehensive plan designation for the subject property from Agricultural (AG) to Low-Density Residential (RS) and rezone portions of the property from AG to RS. Lot 111 already contains a single family residence on northern, westernmost portion of the lot, constructed in 1967 according to the Polk County Assessor and with a comprehensive plan and zone designation of RS. The applicant proposes to remove the westernmost 120 feet of Lot 111 from the AG zone and re-designate it as RS.

The property has access from River Drive and Picture Street with secondary access from Williams Street. Future use of the site would be subject to conformance with the City Comprehensive Plan and Development Code.

APPLICABLE APPROVAL CRITERIA:

Independence Development Code, Subchapter 12.025 and 12.030

ANALYSIS OF APPLICABLE APPROVAL CRITERIA

Goal Analysis: The redesignation must comply with the statewide planning goals and applicable Comprehensive Plan and Transportation System Plan provisions.

Findings: The State of Oregon has adopted statewide land use goals which comprehensive plan map amendment decisions must adhere to. Comprehensive plan map amendments must comply with the applicable statewide planning goals and implementing regulations. To recommend approval to the City Council, the Planning Commission must find that the application shows compliance with the applicable statewide goals. Part of this decision is determining which statewide goals are applicable. Staff believes that, at a minimum, statewide planning Goal 1- Citizen Involvement, Goal 2- Land Use Planning, Goal 10 -Housing, Goal 11- Public Facilities and Services, and Goal 12-Transportation are applicable to this approval.

Goal 1, Citizen Involvement- The application was received by the City on November 2, 2013 and determined complete on December 27, 2013. Notice was properly mailed under 11.015.C and 11.025.A to surrounding property owners on January 10, 2014 and published in the Itemizer Observer.

Notice was also provided to the Department of Land Conservation and Development, Department of Transportation, Oregon Parks and Recreation Department, Polk County, Independence Public Works, and Community Development Director. The Planning Commission held a public hearing on February 3, 2014. Staff and the Planning Commission found this goal to be met.

Goal 2, Land Use Planning- The proposed amendments were developed and reviewed with the assistance of the public and are being considered for adoption in accordance with the procedures outlined in the City of Independence's Comprehensive Plan and Development Code. Staff and the Planning Commission find the proposed amendments are consistent with Goal 2.

Goal 3, Agricultural Lands- According to the Comprehensive Plan, the Agricultural designation is intended to protect areas for the continued practice of agriculture and permit the establishment of only those new uses that are compatible with agricultural activities. The AG zone currently allows for the development of a single family residence as a conditional use in the AG zone. The applicant proposes to rezone approx. 0.62 acres of the total 6.08 acres to allow for continued agricultural uses while permitting the potential for creation of two additional lots outside of the flood hazard area for development. The majority of Lot 111 will remain in the AG zone and use. In addition, the westernmost portions of Lot 111 proposed for the rezone have a FEMA map designation of "X" which is outside of the flood hazard area with no base elevations required. Staff and the Planning Commission finds this goal is met.

Goal 10, Housing - The area proposed for rezone is approximately 0.62 acres. If the application for rezone is approved, the applicant has proposed to partition Lot 111 into three separate lots. Lot #1 will contain the existing single family residence. Lot #2 will measure 10,800 square feet and Lot #3 will comprise the remaining 5.45 acres of Lot 111, which permits one single family residence as a conditional use under the AG zone. In summary, two additional residences are proposed to be constructed if the amendment and zone change is approved. Under the RS zone, however, there is potential for up to 4-5 additional residences in this location based upon the proposed rezoned square footage. In 2009, the City conducted an update to their Comprehensive Plan to address housing and employment lands. Lot 111 was identified as re-developable land as part of the City's plan update (see Exhibit C). Statewide Planning Goal 14 (Urbanization) requires cities to utilize land within the UGB efficiently and OAR 660-024-0050(4) requires that prior to a

local government expanding the UGB to demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. The conversion of the westernmost portions of Lot 111 appear to meet these goals for urbanization and development of buildable lands within the UGB.

Goal 11, Public Facilities and Services- The Independence Comprehensive Plan identifies a general policy under this Goal to “investigate the cooperation and coordination with other government and quasi-governmental agencies in planning and providing public facilities and service”. The proposed comprehensive plan map amendment and rezone would allow for the development of up to 4-5 more residential units based upon the square footage proposed to be rezoned. Notice regarding the application were provided to the City public works and community development department . The City expressed no concerns regarding the ability of public services to accommodate the additional development. Staff and the Planning Commission find this goal is met.

Goal 12, Transportation- Goal 12 is implemented via the State Transportation Planning Rule 660-012-0060. The TPR applies to Comprehensive Plan amendments or land use regulations that would significantly affect an existing or planned transportation facility. The subject property has primary access from River Drive and Picture Street, with secondary access from Williams Street. The 0.62 acres proposed for rezone can accommodate up to 4-5 new residential units under the RS zone.

The Trip Generation Manual (7th Edition, Institute of Transportation Engineers), identifies trip generation for a single family residence as 9.57 vehicle trips per weekday. While the applicant has suggested the addition of two additional single family dwellings, there is potential for 4-5 new units, or up to 50 new vehicle trips per day. The addition of up to 50 vehicle trips per day is not significant enough to negatively impact the accessed on River Drive, Picture Street and/or William Street. Future street improvements, if needed, may also be evaluated at the time of partition application. Staff finds the proposed redesignation and rezone will not significantly affect the identified transportation facilities within the permitted future uses of the re-designated rezoned site. Staff and the Planning Commission finds this goal is met.

Goal 14, Willamette River Greenway- According to the Comprehensive Plan, the overriding goal of the Willamette River Greenway is to protect, conserve, enhance and maintain the natural, scenic, historic, agricultural, economic and recreational activities of lands along the Willamette. The area encompasses all lands situated within 150 feet of the ordinary low water line on each side of each channel of the Willamette River. The area proposed for rezone is more than 500 feet from the western portion of the Willamette River. Polk County, who has responsibility for management of the Willamette River Greenway, was provided notice on the pending application. In addition, IDC section 52 requires additional administrative review prior to building permit approval for properties located within the Willamette River Greenway overlay, including notice to the County and surrounding property owners. No changes to the Willamette River Greenway boundary are proposed in this application. Staff and the Planning Commission find the proposed application is in compliance with this goal.

Staff and the Planning Commission find the proposed redesignation is consistent with the applicable statewide planning goals.

Comprehensive Plan Criteria: The City has adopted a comprehensive plan which guides the City’s decisions for comprehensive plan map amendments. To amend a designation on the comprehensive plan map, the change must be consistent with applicable goals and policies in the

plan. To recommend approval to the City Council, the Commission must find that the application and change shows compliance with the applicable comprehensive plan goals and policies. Part of this decision is determining which goals and policies are applicable in this case. Goals regarding Forest Lands; Natural Resources; Air, Water and Land Resources Quality; Natural Hazards; Recreational Needs; Energy Conservation; Estuarine or Coastal Resources; and Beaches, Dunes, and Ocean Resources are found not to apply to this application.

Staff and the Planning Commission find the proposed redesignation conforms to the applicable policies of the Independence Comprehensive Plan.

Subchapter 12 Zone Changes and Plan Amendments

12.025 Standards for Zone Changes

No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, and at least one of the following standards is met:

Findings: The rezone must comply with the Comprehensive Plan and Transportation System Plan. The findings for Comprehensive Plan policies, including the Transportation Element, are summarized above and incorporated by reference here. Staff and the Planning Commission find the proposed rezone conforms to the applicable policies of the Independence Comprehensive Plan and Transportation System Plan.

12.025.A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;

Findings: The adoption of the Agricultural zone for Lot 111 is not found to be erroneous. Rather, portions of Lot 111, including the northern portion that is currently under the RS zone and the westernmost portions that are outside of the flood hazard area, are not subject to the same conditions and development restrictions as the remaining, low lying portions of Lot 111. Staff and the Planning Commission find the zone change and comprehensive plan amendment would allow for infill and development of land more in line and similar to those of surrounding residential uses. Staff and the Planning Commission finds this criterion is met.

12.025.B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;

Findings: Properties to the south, west and north are residential in nature. While the majority of Lot 111 is more suited for agricultural development due to proximity to flood zones and the Willamette River, the westernmost portions of Lot 111 do not have the same conditions. Staff and the Planning Commission finds this criterion is met.

12.025.C. There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.

Findings: Statewide Planning Goal 14 (Urbanization) requires cities to utilize land within the UGB efficiently and OAR 660-024-0050(4) requires that prior to a local government expanding the UGB to demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. The conversion of the westernmost portions of Lot 111 appear to meet

these goals for urbanization and development of buildable lands within the UGB. Staff and the Planning Commission finds this criterion is met.

12.030 Standards for Plan Amendment

No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:

- A. The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;*
- B. Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;*
- C. There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.*

Findings: The discussion and finding for 12.025 (A), (B), and (C), above, are hereby incorporated by reference here and used to address the criteria under 12.030. Staff and the Planning Commission finds these criteria are met.

SUMMARY FINDINGS OF FACT/CONDITIONS OF APPROVAL:

- 1) The subject property is: Section 28DB, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 111 of Map 8.4.21DB.
- 2) The owner of record is: Willard Leedy, 603 River Drive, Independence, OR 97351.
- 3) The property is currently within city limits and has a current Comprehensive Plan designation and zoning of Agricultural (AG).
- 4) The application meets the standards for approval found in: Subchapter 12.
- 5) The properties remain within the Willamette River Greenway and will remain subject to IDC 51-Flood Damage Prevention and IDC 52-Willamette River Greenway.

CONCLUSIONS/RECOMMENDATIONS:

Based on the findings in this report, staff and the Independence Planning Commission found the application (File #CPMA/ZC-01-13) met the requirements for Comprehensive Plan Map Amendment and Zone Change found in Subchapter 12 of the Independence Development Code. Staff and the Planning Commission recommend that the City Council **approve** this application (File #CPMA/ZC-01-13) with the conditions of approval outlined above.

Should council approve this application, an ordinance to formally adopt the zone change will be presented at the next city council meeting.

Renata Wakeley
City Planner

Comprehensive Plan Map Amendment/Zone Change 01-2013

City Council Action Options:

- A. A motion to adopt the findings in the staff report and approve Comprehensive Plan Map Amendment/Zone Change 01-13:
 - 1. As recommended by staff and the Planning Commission; or
 - 2. As further conditioned by the City Council (stating any revisions).

- B. A motion to continue the Comprehensive Plan Map Amendment and Zone Change request to a time and date certain, keeping in mind the 120-day rule.

- C. A motion to deny the Comprehensive Plan Map Amendment and Zone Change request (stating findings for the denial).

EXHIBIT 'B'

LEGAL DESCRIPTION & MAP

Tax Lot No. 8421DB 00111

(map on page following)

IMPORTANT
This Map for Assessment
and Taxation Purposes
ONLY

NW1/4 SE1/4 SEC.21 T8S R4W WM
POLK COUNTY

8.4.21DB

Scale 1" = 100'

See Map 8.4.21

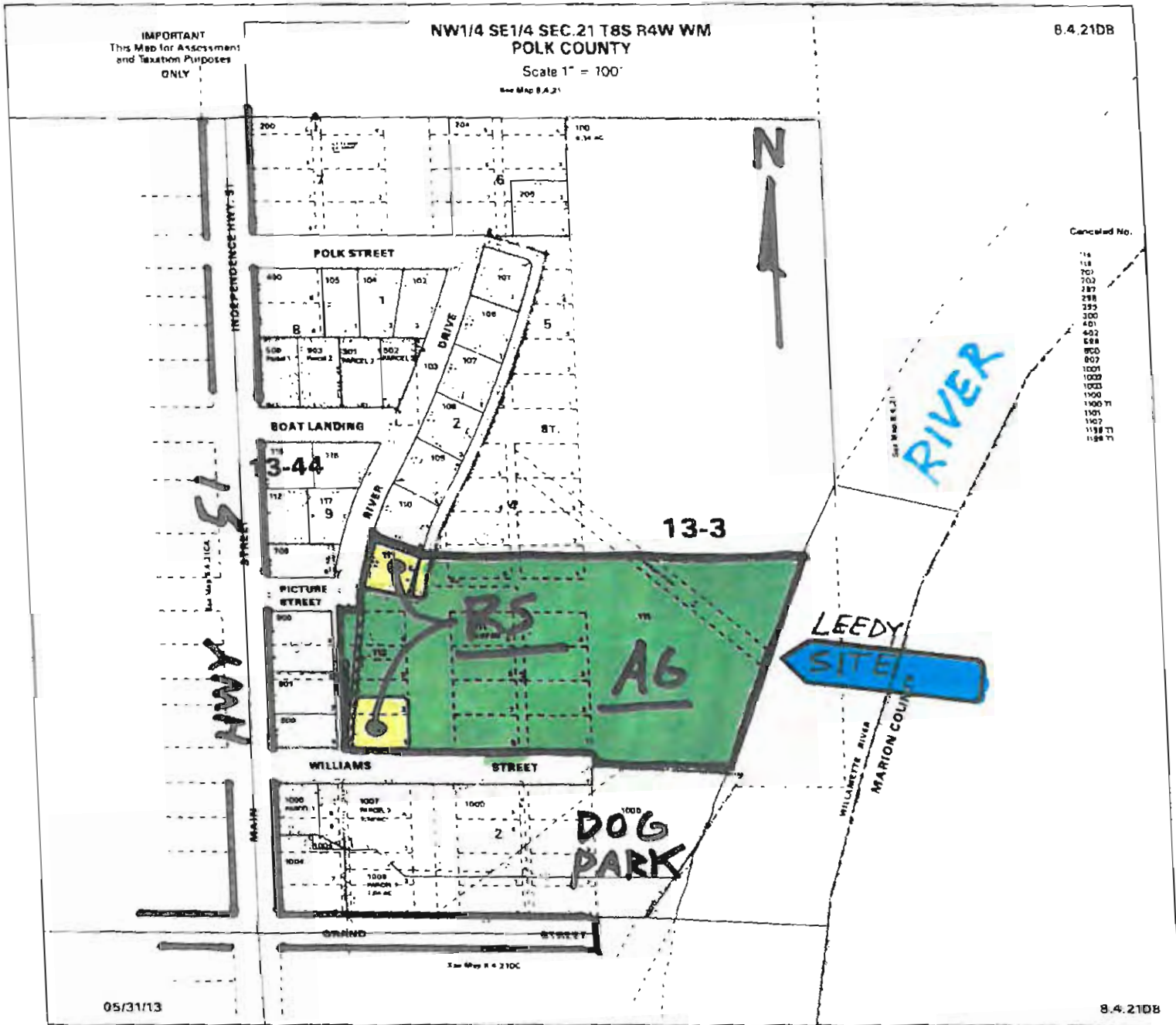


EXHIBIT B - Ord. No. 1527/Amends Zoning/Leedy Property

PROPOSED