



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

November 6, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 004-06



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: November 17, 2006

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

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

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

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Dianne Snow, City of Brookings

<paa> ya/



FORM 2

DLCD NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

DEPT OF

OCT 30 2006

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Brookings Local File No.: CPZ-1-06
(If no number, use none)

Date of Adoption: October 23, 2006 Date Mailed: October 27, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: August 4, 2006

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

The application requested a Comprehensive Plan Change and a Zone
Change from Tourist Commercial (4-C) to Residential (R-3) on the
subject property.

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

Same.

Plan Map Changed from: Commercial to REsidential

Zone Map Changed from: 4-C to R-3

Location: Adjacent of Hwy. 101 & Acres Involved: 3.72

Specify Density: Previous: Constitution Way New: approx. 22 DU per acre
N/A

Applicable Statewide Planning Goals: 1, 2, 9, 10, 14

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 004-06
(15447)

DEPT OF

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes: X No:
If no, do the Statewide Planning Goals apply. Yes: No:
If no, did The Emergency Circumstances Require immediate adoption. Yes: No:
Affected State or Federal Agencies, Local Governments or Special Districts: ODOT

Local Contact: Dianne Snow Area Code + Phone Number: 541-469-1138
Address: 898 Elk Drive City: Brookings
Zip Code+4: 97415 Email Address: dsnow@brookings.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

DEPT OF

OCT 30 2006

LAND CONSERVATION AND DEVELOPMENT

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

AN ORDINANCE AMENDING THE)
COMPREHENSIVE PLAN DESIGNATION)
ON A PARCEL OF LAND LOCATED ON N.)
BANK CHETCO RIVER RD. FROM)
COMMERCIAL TO RESIDENTIAL AND) *ORDINANCE NO. 06-O-578*
THE ZONING FROM C-4 (TOURIST)
COMMERCIAL) TO R-3 (MULTI-FAMILY)
RESIDENTIAL).)

Sections:

Introduction.

- Section 1. Comprehensive Plan designation to Residential.**
- Section 2. Zoning Map amendment to Multi-family Residential.**

WHEREAS, a public hearing was held on September 23, 2006 before the Brookings Planning Commission for the purpose of considering a request for a Comprehensive Plan change from a Commercial designation to a Residential designation and a zone change from C-4 (Tourist Commercial) to R-3 (Multi-family Residential) on a 3.72 acre parcel of land located on adjacent to N. Bank Chetco River Rd., Constitution Way, and Hwy. 101; (identified as Assessor's Map No. 41-13-05B; Tax Lots 1600, 1601, 1602, 1603, and 1700).

WHEREAS, following closure of the public hearing after considerable evidence and testimony was presented by proponents and opponents, the Planning Commission directed the Planning Director to prepare a recommendation, with findings, to the City Council, for approval of the request; and

WHEREAS, the Brookings City Council, at its regularly scheduled meeting of October 23, 2006 did conduct a public hearing on this matter, during which hearing considerable testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from and presented by the Planning Director; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to grant the applicant's request and instructed staff to prepare a Final Order to that effect;

The city of Brookings ordains as follows:

Section 1. Amendment to the Comprehensive Plan to designate property Residential. The Comprehensive Plan of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is designated as Residential.

Section 2. Amendment to the Zoning Map to designate property R-3 (Multi-family Residential) Zoning Map of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is zoned R-3 (Multi-family Residential)

(See Attachment A and B)

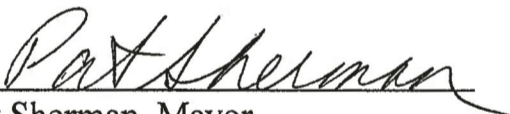
First Reading: October 23, 2006

Second Reading: October 23, 2006

Passage: October 23, 2006

Effective Date: November 22, 2006

Signed by me in authentication of its passage this 23 day of October, 2006.


Pat Sherman, Mayor

ATTEST:

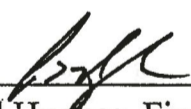

Paul Hughes, Finance Director/Recorder

EXHIBIT A

Area to be Rezoned
41-13-5B tax lots 1600, 1601, 1602, 1603, 1700


EXHIBIT A

A tract of land lying in Section 5, Township 41 South Range Thirteen West, Willamette Meridian, City of Brookings, Curry County, Oregon, described as follows:

BEGINNING at a point on the Easterly right of way line of the North Bank Chetco River Road, said point being North 3412.7 feet and East 2721.9 feet from the Southwest corner of said Section 5;
thence South 70°36' East 66.74 feet;
thence South 48°54'31" West 48.0 feet;
thence South 32°59' West 111.9 feet;
thence South 02°20' West 362.0 feet, more or less, the lands of Miller as described in Book of Records 103, Page 967, Official Records of Curry County, Oregon;
thence along the lands of Miller as described in Book of Records 103, Page 967, Official Records of Curry County, Oregon, South 2°39' West 39.9 feet;
thence South 2°02' East 20 feet, more or less, to the Northerly boundary line of the relocated Oregon Coast Highway;
thence Westerly, along said Northerly boundary to its intersection with the Southerly right of way line of the North Bank Chetco River Road;
thence Easterly and Northeasterly along said right of way line to the POINT OF BEGINNING.

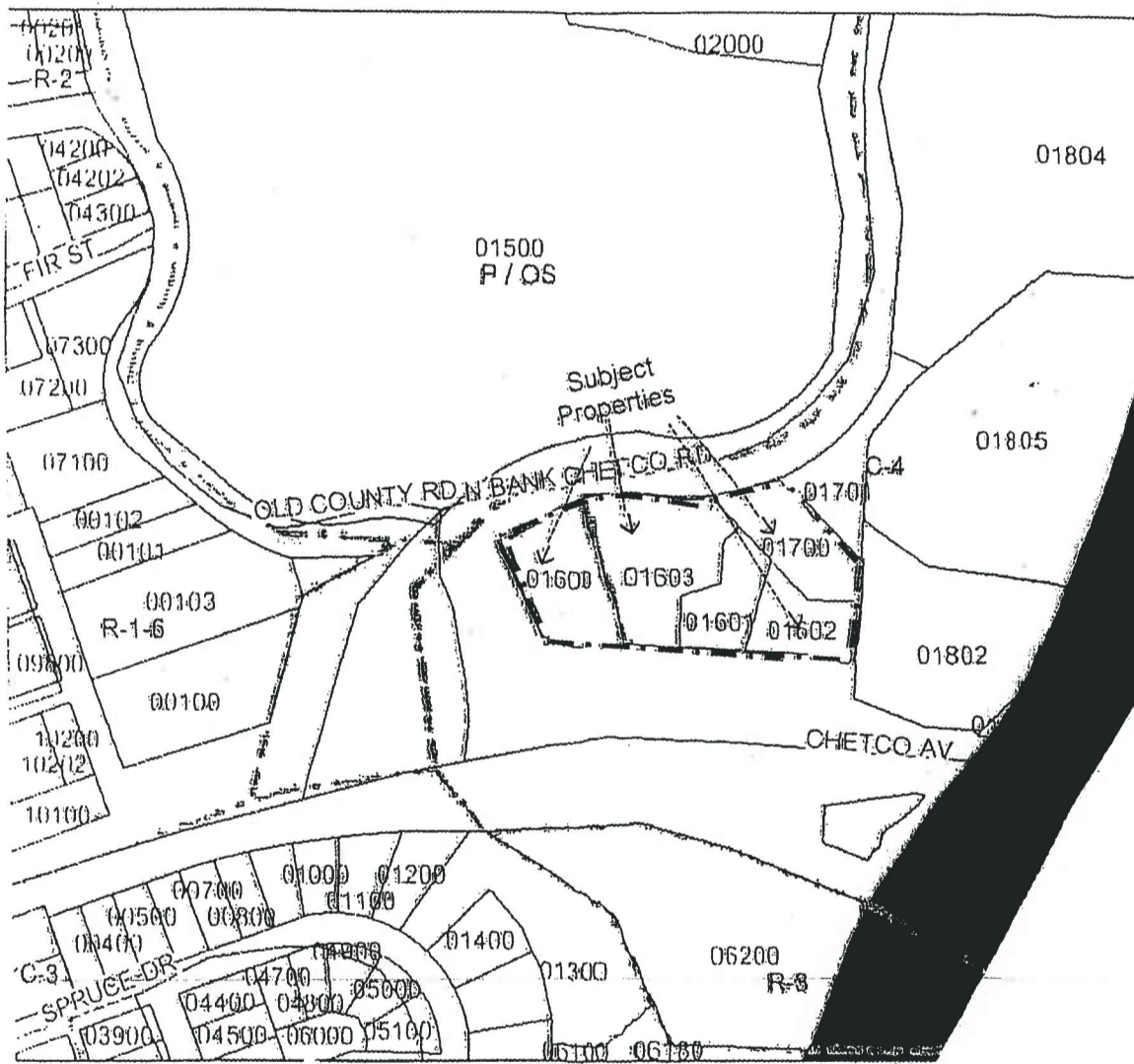
EXCEPTING THEREFROM that parcel conveyed by instrument recorded November 5, 1958 in Volume 54, Page 208, Official Records of Curry County, Oregon.

REGISTERED
PROFESSIONAL
LAND SURVEYOR


OREGON
JULY 25, 1995
RICHARD P. ROBERTS
2730

EXPIRATION DATE: 12/31/06

EXHIBIT B



**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

**In the matter of Planning Commission File No.) Final ORDER
CPZ-1-06; application for a Zone Change; Steve) and Findings of
Cadwalader, applicant.) Fact**

ORDER approving an application for a Comprehensive Plan designation change from Commercial to Residential and a zone change from C-4 (Tourist Commercial) to R-3 (Multi-family Residential), and subject to conditions of approval as stated in this document, on a 3.72 acre parcel located adjacent to N. Bank Chetco River Rd., Constitution Way, and Hwy. 101; Assessor's Map 41-13-05B, Tax Lots 1600, 1601, 1602, 1603, and 1700; Zoned C-4 (Tourist Commercial).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with Section 144, Amendments, of the Land Development Code; and,
2. The Brookings Planning Commission duly considered the above described application on the agenda of its regularly scheduled public hearing on Sept. 26, 2006; and,
3. Recommendations were presented by the Planning Director in the form of a written Staff Report dated Sept. 18, 2006, and by oral presentation, and evidence and testimony was presented by the applicant and the public at the public hearing; and,
4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Report and recommended that the City Council approve the request, subject to conditions of approval; and,
5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meeting held on Oct. 23, 2006, and is a matter of record; and,
6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation.

THEREFORE, LET IT BE HEREBY ORDERED that the application for an amendment on the subject parcel is approved. This approval is supported by the following findings and conclusions, and subject to the following conditions of approval:

FINDINGS

The applicant has submitted findings to support this application as addressed above in this report and at the conclusion of the hearing process these findings will be made a part of the Final Order. The following are supplemental findings and conclusions proposed by staff to further support the application.

1. The applicant is requesting a Comprehensive Plan change from a Commercial designation to a Residential designation and a zone change from the existing C-4 (Tourist Commercial) Zone to the R-3 (Multiple Family Residential) Zone, on a 3.72 acre parcel of land consisting of five tax lots.
2. The proposed change of zone will have the effect of changing the ratio of residential to commercial land within the city's urban growth boundary.
3. When the Needs Assessment for the urban growth boundary expansion was prepared in 1993, a formula based on the per-capita income and aggregate buying power of the community was used to determine the projected need for commercially zoned land.
4. The subject property is bounded on three sides by city streets or state highway right-of-way.
5. Azalea City Park is located directly across North Bank Chetco River Rd. from the subject property and the area to the west and south is zoned for residential use. The area adjoining to the east is the only other commercially zoned property in the vicinity.
6. The intersection of Constitution Way and Highway 101 is unsignaled and considered to be congested and dangerous, and is currently under study by the Oregon Department of Transportation to determine the best mitigation for this condition.
7. The applicant's submittal includes a Traffic Impact Study that indicates that a residential use on the property will generate less traffic than would be generated by uses allowed in the C-4 Zone. ODOT staff has sent an e-mail message stating that they also believe the residential use will generate less traffic.
8. The subject property has been zoned for commercial use for several decades and yet there has never been any commercial use of the property. It has been used for residential purposes and presently has an existing dwelling located on it.
9. A letter from Public Works Department dated August 24, 2006, states concerns that some of the City's existing off-site infrastructure, which will be used to serve the subject property, may not be adequate.
10. The applicant's findings are made a part of this record and found in Attachment A.

CONCLUSIONS

1. The staff and applicant's findings support the proposed plan and zone change when addressing the issue of compatibility with surrounding uses. The staff report addresses this issue with the conclusion that due to the isolated nature of the subject property and its topography, which places it at least 70 feet above the commercial property adjoining to the east, either the commercial or residential use would not be a particular impact on the surrounding residential uses. However, commercial uses on the property would have the potential to negatively impact the public's enjoyment of Azalea Park, which is directly across the street from the property, and thus residential development is a better use for the

property when considering surrounding uses.

2. In considering the ratio of commercially zoned land to residentially zoned land, as discussed in the staff report, at the time of the urban growth boundary expansion the projected need for commercial land was determined using a formula based on the per-capita income and the aggregate buying power of the community. This formula had the result that the less commercial land the community had at the base year, the less it would need in the future. This has two basic faulty assumptions. First, it assumes that the amount of commercial business at the base period was sufficient to meet the communities needs; and second, it assumes the per capita income would not change (it being impossible to project the future per capita income) by the end of the study period. In the case of Brookings, the community did not have the needed amount of commercial businesses at the beginning of the study, 1993. For example, dress shoes were not available in the area and it was necessary to drive for at least two hours in any direction to find them.

During the process of determining the commercial land needs it was found that there are a number of variables involved and no specific formula could account for all of these variables. The variables include the location of the community in relation to other commercial centers, for example Troutdale, which is adjacent to Portland, compared to Burns, which is isolated from any large community. Other variables are the demographic nature of the community and whether the community depends on tourist trade or has self-sufficient industry. The formula used, although it satisfied the requirements of the expansion process, does not allow for the variables that influence a community's needs and thus is an educated guess at best.

Commercial development within the Brookings community since the commercial needs were projected has increased substantially and now meets the needs of the community. The establishment of businesses offering high end goods reflect the wealthy retirement nature of the community and the "big box" Fred Meyer Store offers the everyday needs of the entire community. The city has also established a master plan to redevelop more than 40 acres of the older depressed and under utilized downtown commercial area. All of these factors indicate that the ratio of commercial to residential land is being met and that the projected commercial acreage need is only a basis from which to determine actual need. In addition, the City has increased the Commercial (C-3) zoned lands by 2.9 acres with the approval of two zone changes in the last two years. Since the adoption of the commercial lands inventory 4 acres within the Urban Growth Boundary have also been rezoned to a commercial designation.

In addition, although this land has been zoned for commercial use for several decades, there has never been any commercial use of the property. The subject property has been used for residential purposes and there is a dwelling located there presently.

3. The applicant's Traffic Impact report and the correspondence from ODOT both agree that the proposed residential zone will generate less traffic than the permitted uses in the existing commercial zone. The proposed change will thus have a lesser impact on the Constitution Way/Highway 101 intersection. The number of dwelling units authorized by this zone change will be limited through a condition of approval to further mitigate concerns about traffic congestion. Less traffic will also have less negative impact on the public's use of

Azalea Park and will also provide potential energy conservation.


4. To mitigate concerns expressed by the Public Works Department in a letter dated August 24, 2006, stating that existing off-site City infrastructure, which will be used to serve the subject property, may not be adequate, a condition of approval will require engineering analysis and improvements paid for by the applicant, if needed.

CONDITIONS OF APPROVAL

1. At the time of development, no more than 70 multi-family dwelling units may be sited on the subject property. When mitigation for traffic problems at Constitution Way are completed, an application to consider additional development may be submitted.
2. Prior to the issuing of a building permit for any development, the property owner shall submit engineered analysis of sewer, water, and storm drainage needs for the specific proposal. This analysis shall also determine the adequacy of the existing infrastructure to be used to transport sewer, water, and storm drainage. Any increase in capacity needed by the proposed development must be engineered, constructed, and paid for by the property owner. The City must review and approve all plans.

LET IT FURTHER BE OF RECORD that the City Council APPROVED the requested Comprehensive Plan and Zone Change subject to the above stated Conditions of Approval.

Dated this 23rd day of October, 2006.



Pat Sherman, Mayor

ATTEST:



Dianne L. Snow, Planning Director

City of Brookings
898 Elk Drive
Brookings, OR 97415



COUNCIL AGENDA REPORT

To: Mayor and City Council (mtg. of 10/23/06)

From: Dianna Snow

Date: Oct. 5, 2006

Re: Planning Commission Recommendation on Comprehensive Plan and Zone Change File CPZ-1-06, Applicant Steve Cadwalader.

Subject: Request for Comprehensive Plan change from Commercial to Residential and zone change from Tourist Commercial (C-4) to Multi-family Residential (R-3) on property located at 207 North Bank Chetco River Rd.; Assessor Map 41-13-05B, Tax lots 1600, 1601, 1602, 1603, and 1700.

Recommendation: The Planning Commission and Staff recommend approval of the Comprehensive Plan and Zone Change.

Background /Discussion: After reviewing the attached staff report, applicant's findings, and testimony at their Sept. 26, 2006 hearing, the Planning Commission recommends approving a "qualified" Comprehensive Plan and Zone Change with two conditions of approval. The conditions are as follows:

- At the time of development, no more than 70 multi-family dwelling units may be sited on the subject property. At such time when mitigation for traffic problems at Constitution Way are completed, an application to consider additional development may be submitted.
- Prior to the issuing of a building permit for any development, the property owner shall submit engineered analysis of sewer, water, and storm drainage needs for the specific proposal. This analysis shall also determine the adequacy of the existing infrastructure to be used to transport sewer, water, and storm drainage. Any increase in capacity needed by the proposed development must be engineered, constructed, and paid for by the property owner. The City must review and approve all plans.

In recommending approval of CPZ-1-06 the Planning Commission noted an additional supporting circumstance related to the use of the subject property. Although it has been zoned commercially for several decades, it has never had a commercial use on the

property. There have been several residences located on the property and presently there is one dwelling.

Allowed dwelling density in the R-3 zone was another issue that was discussed. Here are the calculations used to provide further clarification. The subject property contains 162,043 sq. ft.. 6,000 sq. ft. are needed for the first two dwellings. Each additional dwelling unit (D.U.) requires 1,500 sq. ft.. This would allow for 104 D.U. Further determining factors are the need for 1 ½ parking spaces for each D.U. and an area equal to 7% of the total parking lot area for landscaping. Multi-family developments also require 15% of the total acreage devoted to recreation open area. This area can utilize any required setback areas and possibly some of the landscaped areas adjacent to the parking lot. Only 45% of the total acreage can be covered with structures (not including paved areas). The structures may contain individual D.U. on each floor thereby lessening the total amount of coverage. As can be seen, it requires a detailed and scaled plot plan to determine the number of dwelling units that can be accommodated on the subject property. The desired design and R-3 zone requirements, will dictate the number of dwelling units that can be sited, but due to traffic impact considerations, no more than 70 D.U. are recommended.

Financial Impact(s): None.

City Manager Review and Approval for placement on Council Agenda:


Dale Shaddox, City Manager

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Comprehensive Plan/Zone Change
FILE NO: CPZ-1-06
HEARING DATE: September 26, 2006

REPORT DATE: September 18, 2006
ITEM NO: 8.1

GENERAL INFORMATION

APPLICANT: Steve Cadwalader.

REPRESENTATIVE: Jim Capp, Western Land Use Services.

REQUEST: A Comprehensive Plan change from a Commercial designation to a Residential designation and a zone change from C-4 (Tourist Commercial) to R-3 (Multiple Family Residential) on a parcel of land consisting of 5 tax lots.

TOTAL LAND AREA: 3.72 acres.

LOCATION: Between Highway 101 on the south and North Bank River Rd. on the north, adjacent to the east side of Constitution Way. 207 North Bank Chetco Road.

ASSESSOR'S NUMBER: 41-13-5B, Tax Lots 1600, 1601, 1602, 1603, and 1700.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: C-4 (Tourist Commercial).

PROPOSED: R-3 (Multiple Family Residential).

SURROUNDING: North—P O/S (Public Open Space); East—C-4; South and West—R-3 and R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

COMP. PLAN: Currently Commercial.

LAND USE INFORMATION

EXISTING: Four of the tax lots are vacant on lot contains a single family house.

PROPOSED: Residential use in the form of condominiums.

SURROUNDING: North—Azalea Park; East—Commercial use and vacant; South and West—Residential uses.

PUBLIC NOTICE: Mailed to all property owners within 250 feet of the subject site and advertised in the local newspaper.

APPLICABLE CRITERIA: Land Development Code – Ordinance #89-O-446
Section 144 Amendments

BACKGROUND INFORMATION

The subject property is an irregular shaped, 3.72 acre, parcel of land consisting of five tax lots located on the east side of Constitution Way between North Bank River Rd. on the north and Highway 101 (Chetco Ave.) on the south. The property has approximately 453 feet of frontage on North Bank Rd., 253 feet of frontage on Constitution Way and approximately 534 feet of frontage on the highway. The easterly boundary extends southeast from North Bank Rd. for 237 feet then turns south for another 244 feet to the highway. Four of the tax lots are vacant and Tax lot 1700 contains a single family house that will be removed. Access to the property is from North Bank Rd. only.

Currently the subject property is zoned C-4 (Tourist Commercial) but has never been used for commercial purposes. Besides the existing house, other tax lots within the parent parcel have contained houses in the past. The area directly north of North Bank Rd. is the site of Azalea Park and is zoned P O/S (Public Open Space). The area to the east is zoned C-4 and is mostly vacant except for a carpet company and a mobile home. On the south side of the highway the area is zoned R-3 (Multiple Family Residential) with R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to the south. The R-3 area is vacant and the R-1-6 area is developed with single family houses and is the site of a planned unit development. The area within the center of Constitution Way is zoned PO/S, which is the site of the Botanical Gardens, and west of that the area is zoned R-1-6 and is developed accordingly.

Topographically the subject property is essentially flat with a slight (less than 5%) downward slope to the south and southwest, except that at the southerly edge it drops about 20 feet with a 60% grade to the highway. The slope along the highway continues around the corner along Constitution Way, gradually getting shorter as Constitution Way rises to the grade level of North Bank Rd. About 30 to 40 feet of the easterly edge of the property drops steeply down to the flat area along the west side of the Chetco River, with slopes ranging from 50 to 100%.

Highway 101 is classified as an arterial street and has a right-of-way that varies throughout its length. North Bank Rd. is a paved travel way within a 100 foot right-of-way with no other improvements. Constitution Way is actually an extension of the highway right-of-way that extends up to the intersection of North Bank Rd. and Old County Rd. Water mains are located within the North Bank Rd. right-of-way. Sewer mains are located within Highway 101 right-of-way.

PROPOSED ZONE CHANGE

The applicant is requesting that the zoning on the property be changed from the current C-4 Zone to the R-3 Zone, to allow development of 70 dwelling units in the form of condominiums. Since this involves a change in the type of use allowed on the property, the City's Comprehensive Plan must also be changed from the existing Commercial designation to the Residential designation.

ANALYSIS

The Land Development Code does not contain specific criteria to be considered when deciding a change of zone. However, in the process of making such a decision the Commission must consider the different uses allowed as permitted in the requested new zone and the compatibility of those uses

with, and the impact they may have on, existing uses in the surrounding area. The Commission must also consider how the requested change affects the goals and policies of the City's Comprehensive Plan. The requested zone change presents three areas that must be analyzed - compatibility with existing uses, traffic impact on existing streets and consistency with the goals and policies of the Comprehensive Plan. The applicant has submitted findings addressing the issue of consistency with the comprehensive plan and other provisions of the Land Development Code (**Attachment A**). In the following analysis staff will discuss the issue of compatibility with surrounding uses and traffic generation and then will review the applicant's findings in regard to consistency with the Comprehensive Plan.

Compatibility.

Although the subject property and the property to the east adjacent to the Chetco River is zoned C-4 the only commercial use on either property is a small carpet shop in the area along the river, which is 60 or 70 feet below the level of the subject property. Other than these properties the nearest commercially zoned land is approximately ¼ mile to the west, adjacent to Alder St. The area between these two commercial zones is residential in nature.

The uses allowed in the proposed R-3 Zone include multi-family units, duplex units and rooming houses. Single family homes are allowed if property was owned prior to August 1998. The uses allowed in the existing C-4 Zone are numerous and include retail, restaurants, bars and taverns. Because the subject property is isolated from the surrounding residential uses by topography, Constitution Way, and Azalea Park, there is essentially no particular compatibility issue with either the proposed residential or the existing commercial zoning. The existing commercial zoning has a greater potential to impact Azalea Park in terms of noise and traffic, than would the proposed residential zoning.

Traffic Impacts.

The intersection of Constitution Way with Highway 101 is, and has been, considered to be dangerous and congested. The Oregon Department of Transportation (ODOT) is in the process of concluding a study on how to best mitigate the problems associated with this intersection. The existing commercial zoning, with the uses permitted outright by the zone, has the potential to generate significantly more traffic that would impact the intersection than the proposed residential zoning. In two e-mails addressing the proposed zone change from the ODOT staff (**Attachment B**) to the City planning staff, ODOT stated that they consider the rezone as a "down zone" which is not subject to or necessitating changes to the City's Transportation Systems Plan and goes on to state that "(T)he R-3 land uses will generate less traffic than the C-4 land uses. ODOT is not recommending a traffic impact study for the proposed project." The applicant did, however, submit a traffic impact analysis that agrees with the ODOT determination that the residential use will generate significantly less traffic (**Attachment A, Exhibit 7**). ODOT will also restrict access to the property to be from North Bank Rd. and not from the highway or Constitution Way.

Based on the ODOT e-mails and the Traffic Impact Analysis submitted by the applicant, it can safely be concluded that the proposed zone change will not create a greater traffic impact than the uses allowed outright in the existing commercial zone.

Comprehensive Plan.

The applicant has submitted findings of how the proposed zone change relates to the policies of the City's Comprehensive Plan. The following is staff's review of those findings on each goal.

GOAL 1, Citizen Participation. To provide a citizen involvement process that ensures the opportunity for citizens to be involved in all phases of the planning process.

State law has determined that in the matter of quasi-judicial land use matters, the mailing of a hearing notice to property owners within 250 feet of the subject property and publishing the notice in the local newspaper provides sufficient opportunity for public input. Staff agrees with the applicant's finding for this goal.

GOAL 2, Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City has an adopted Comprehensive Plan and implementing ordinances providing for review of land use matters. Staff agrees with the applicant's finding for this goal.

GOAL 3, Agricultural Lands. To cooperate with the County in the preservation and maintenance of agricultural lands.

GOAL 4, Forrest Lands. To support and cooperate with the County in its efforts to protect Forest Lands.

These goals are not applicable as no forest or agricultural lands are involved in this zone change. Staff agrees with the applicant's finding for these goals.

GOAL 5, Open Spaces, Scenic and Historic Areas and Natural Resources. To conserve open space and protect natural, scenic resource, cultural, and historic areas while providing for the orderly growth and development of the City.

Policy 1. It is the policy of the City of Brookings to protect natural and scenic resources by encouraging the conservation of ecologically and scientifically significant natural areas, scenic views and sites, historic areas, local energy sources, and mineral and aggregate resources.

Policy 3. It is the policy of the City of Brookings to preserve forest and agricultural lands which serve as valuable open space areas by focusing development within the City limits/Urban Growth Boundary.

This property has been zoned for commercial development since at least 1970 and could have been developed at anytime. The fact that the applicant is requesting a zone change does not change the fact that there are no inventoried natural, scenic, cultural or historic attributes on or related to this site. Also, as in Goals 3 and 4 above, there are no forest or agricultural lands involved. No other Goal 5 policy applies in this case. Staff agrees with the applicant's finding for this goal.

GOAL 6, Air, Water and Land Resources Quality. To maintain and improve the quality of the air (including the control of noise pollution), water and land resources of the Brookings area.

The proposed residential zone will actually provide a lesser impact in the form of air pollution due to the decrease in traffic generated by the new use. Residential development could also use less water and generate less noise than some of the permitted uses in the C-4 Zone. Staff agrees with the applicant's finding for this goal.

GOAL 7, Areas Subject To Natural Disasters And Hazards. To protect life and property from natural disasters and hazards.

The applicant has submitted a geological report on the subject property that indicates that the site is suitable for the proposed type of development (**Attachment A, Exhibit 6**). At the development stage, the geological report will be used to ensure that all buildings will be placed an appropriate distance from the existing slopes on the property. This goal would apply regardless of the type of development, whether residential or commercial. At the time of development or any disturbance on the slopes that are greater than 15%, Section 100, Hillside Standards, will be considered. Staff agrees with the applicant's finding for this goal.

GOAL 8, Recreational Needs. To satisfy the recreational needs of the citizens of the Brookings area, State and visitors.

Policy 1. It is the policy of the City of Brookings to encourage better utilization of existing recreational facilities and to plan for and develop new recreational facilities and opportunities.

With Azalea Park adjacent to the northern boundary of the subject property, residential development would be more likely to utilize this recreational facility. Staff agrees with the applicant's finding for this goal.

GOAL 9, Economy. To diversity and improve the economy of the Brookings area.

Staff agrees with the applicant's finding for this goal, however, the proposed zone change does represent the loss of commercially zoned land and thus changes the ratio of land zoned for residential and commercial uses within the city. This issue will be discussed further under Goal 14, Urbanization, below.

GOAL 10, Housing. Provision of varied housing types that are safe, sanitary and adequate for all residents of the community.

The multi-family zone can provide for a less expensive and denser development than other residential zones. Housing of this type meets a need for an alternate choice to single family dwellings on individual lots. Staff agrees with the applicant's finding for this goal.

GOAL 11, Public Facilities And Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to provide a framework for urban and rural development.

Although there has recently been concern that the city is limited in its ability to process and transmit water, steps have been and are being taken to mitigate this problem. A letter, dated August 24, 2006, from the Public Works Director (**Attachment C**) concludes "I believe that there may be adequate water infrastructure in place to serve this development for average and maximum day demands, but additional infrastructure will be required to serve peak hour and fire demands." There have been two recent water line projects. One has been completed and work continues on the second project. The letter goes on to say "I believe that there may be adequate wastewater infrastructure to serve this development already in place; however additional information is needed to final this determination." If at the time of development and upon review of development plans, it is determined that infrastructure improvements are required, the developer will be required to work with the city to mitigate the deficiencies. The Planning Commission may want to consider recommending that the applicant enter into an infrastructure agreement with the City which would spell out responsibility for infrastructure improvements, timing of obligations, coordination, etc.

GOAL 12, Transportation. To provide and encourage safe, convenient and economic transportation system.

See analysis on page 3 of staff report, "Traffic Impacts". Staff agrees with the applicant's finding for this goal.

GOAL 13, Energy Conservation. To conserve energy.

Energy conservation is primarily an issue of the development stage, determined by building codes. The reduction of traffic generated by the proposed residential use compared to that generated by the potential commercial uses, also served to save energy in the form of fuel. Staff agrees with the applicant's finding for this goal.

GOAL 14, Urbanization. To provide for the orderly and efficient transition of land within the Urban Growth Boundary from rural to urban uses.

A finding must be made to justify the change in the ratio of land within the UGB that is designated for residential, commercial and industrial uses. One of the requirements of the urban growth boundary expansion was to determine the projected amount of residential, commercial and industrial land that would be needed in the future, in this case at the end of the 20 year period, 2015. Once this has been established a ratio of these land uses is established and technically must be maintained and thus when commercial land is rezoned to residential use, the ratio is changed.

In the process of acknowledgement for the new boundary, it was found that there are a number of variables that are involved in determining the amount of commercial land a given community should have and no specific formula could account for all of these variables. The variables include the location of the community in relation to other commercial centers, for example Troutdale, which is adjacent to Portland compared to Burns, which is isolated from any large community. Other variable are the demographic nature of the community and whether the community depends on tourist trade or has self-sufficient industry.

The formula used for the UGB expansion was based on the per-capita income and thus the aggregate buying power of the community. Using this formula, staff realized that it had the result that the less commercial you had at the base date, the less you would need in the future. This has two basic faulty assumptions. First, it assumes that the amount of commercial business at the base date was sufficient to meet the communities needs; and second, it assumes the per capita income would not change (it being impossible to project the future per capita income) by the end of the study period. In the case of Brookings, the community did not have the needed amount of commercial businesses at the beginning of the study, 1993. For example, dress shoes were not available in the area and it was necessary to drive for at least two hours in any direction to find them.

Although this formula satisfied the requirements to expand the UGB, its false assumptions, the City's growth rate, the fact that a city's location, and other variables play an important roll in determining the actual commercial need, projections made by any formula are an educated guess at best.

Since the commercial land needs for the boundary expansion were produced, a Fred Meyer Store has opened in Brookings. The day this store opened, the variety of goods available to the community increased tremendously, providing everything from groceries to clothing (and dress shoes), furniture, hardware, and pharmaceuticals. In the interim, Brookings has also created a master plan for the redevelopment of the old, largely run down and under utilized commercial downtown area. This plan calls for a pedestrian friendly area of mixed commercial and residential uses that will appeal to both the local residents and to the tourist. This area of 40+ acres will provide those services and goods not provided by the "big box" Fred Meyer Store.

The loss of 3.72 acres of commercially zoned land that is located in an area that is not particularly suitable for commercial use will not place the city or community in jeopardy of commercial shortage in the future. In addition, the City has increased the Commercially (C-3) zoned lands by 2.9 acres with the approval of two zone changes in the last two years. Staff agrees with the applicant's findings on this goal.

GOAL 16, Estuarine Resources. To recognize and protect the unique environmental, economic and social values of the Chetco River Estuary and its wetlands.

The subject property is not located within the estuary. Drainage from the property will be into the City's storm drain system. Staff agrees with the applicant's finding for this goal.

GOALS 17 and 18, Coastal Shorelands; Beaches and Dunes.

These goals are not applicable. Staff agrees with the applicant's finding for this goal.

FINDINGS

The applicant has submitted findings to support this application as addressed above in this report and at the conclusion of the hearing process these findings will be made a part of the Final Order. The following are supplemental findings and conclusions proposed by staff to further support the application.

1. The applicant is requesting a Comprehensive Plan change from a Commercial designation to a Residential designation and a zone change from the existing C-4 (Tourist Commercial) Zone to the R-3 (Multiple Family Residential) Zone, on a 3.72 acre parcel of land consisting of five tax lots.
2. The proposed change of zone will have the effect of changing the ratio of residential to commercial land within the city's urban growth boundary.
3. When the Needs Assessment for the urban growth boundary expansion was prepared in 1993, a formula based on the per-capita income and aggregate buying power of the community was used to determine the projected need for commercially zoned land.
4. The subject property is bounded on three sides by city streets or state highway right-of-way.
5. Azalea City Park is located directly across North Bank Chetco River Rd. from the subject property and the area to the west and south is zoned for residential use. The area adjoining to the east is the only other commercially zoned property in the vicinity.
6. The intersection of Constitution Way and Highway 101 is un signaled and considered to be congested and dangerous, and is currently under study by the Oregon Department of Transportation to determine the best mitigation for this condition.
7. The applicant's submittal includes a Traffic Impact Study that indicates that a residential use on the property will generate less traffic than would be generated by uses allowed in the C-4 Zone. ODOT staff has sent an e-mail message stating that they also believe the residential use will generate less traffic.

CONCLUSIONS

1. The staff and applicant's findings support the proposed plan and zone change when addressing the issue of compatibility with surrounding uses. The staff report addresses this issue with the conclusion that due to the isolated nature of the subject property and its topography, which places it at least 70 feet above the commercial property adjoining to the east, either the commercial or residential use would not be a particular impact on the surrounding residential uses. However, commercial uses on the property would have the potential to negatively impact the public's enjoyment of Azalea Park, which is directly across the street from the property, and thus residential development is a better use for the property when considering surrounding uses.
2. In considering the ratio of commercially zoned land to residentially zoned land, as discussed in the staff report, at the time of the urban growth boundary expansion the projected need for commercial land was determined using a formula based on the per-capita income and the aggregate buying power of the community. This formula had the result that the less commercial land the community had at the base year, the less it would need in the future. This has two basic faulty assumptions. First, it assumes that the amount of commercial business at the base period was sufficient to meet the communities needs; and second, it assumes the per capita income would not change (it being impossible to project the future per capita income) by the end of the study period. In the case of Brookings, the community

did not have the needed amount of commercial businesses at the beginning of the study, 1993. For example, dress shoes were not available in the area and it was necessary to drive for at least two hours in any direction to find them.

During the process of determining the commercial it was found that there are a number of variables that are involved in determining the amount of commercial a community should have and no specific formula could account for all of these variables. The variables include the location of the community in relation to other commercial centers, for example Troutdale, which is adjacent to Portland, compared to Burns, which is isolated from any large community. Other variables are the demographic nature of the community and whether the community depends on tourist trade or has self-sufficient industry. The formula used, although it satisfied the requirements of the expansion process, does not allow for the variables that influence a community's needs and thus is an educated guess at best.

Commercial development within the Brookings community since the commercial needs were projected has increased substantially and now meets the needs of the community. The establishment of businesses offering high end goods reflects the wealthy retirement nature of the community and the "big box" Fred Meyer Store offers the everyday needs of the entire community. The city has also established a master plan to redevelop more than 40 acres of the older depressed and under utilized downtown commercial area. All of these factors indicate that the ratio of commercial to residential land is being met and that the projected commercial acreage need is only a basis from which to determine actual need. In addition, the City has increased the Commercial (C-3) zoned lands by 2.9 acres with the approval of two zone changes in the last two years.

3. The applicant's Traffic Impact report and the correspondence from ODOT both agree that the proposed residential zone will generate less traffic than the permitted uses in the existing commercial zone. The proposed change will thus have a lesser impact on the Constitution Way/Highway 101 intersection. Less traffic will also have less negative impact on the public's use of Azalea Park and will also provide potential energy conservation.

CONDITIONS

Staff is recommending a "qualified" zone change for this property. The applicant has indicated that he intends to place only 70 units on the subject property. Staff is therefore recommending the following condition of approval:

At the time of development, no more than 70 multi-family dwelling units may be sited on the subject property. At such time when mitigation for traffic problems at Constitution Way are completed, an application to consider additional development may be submitted.

RECOMMENDATION

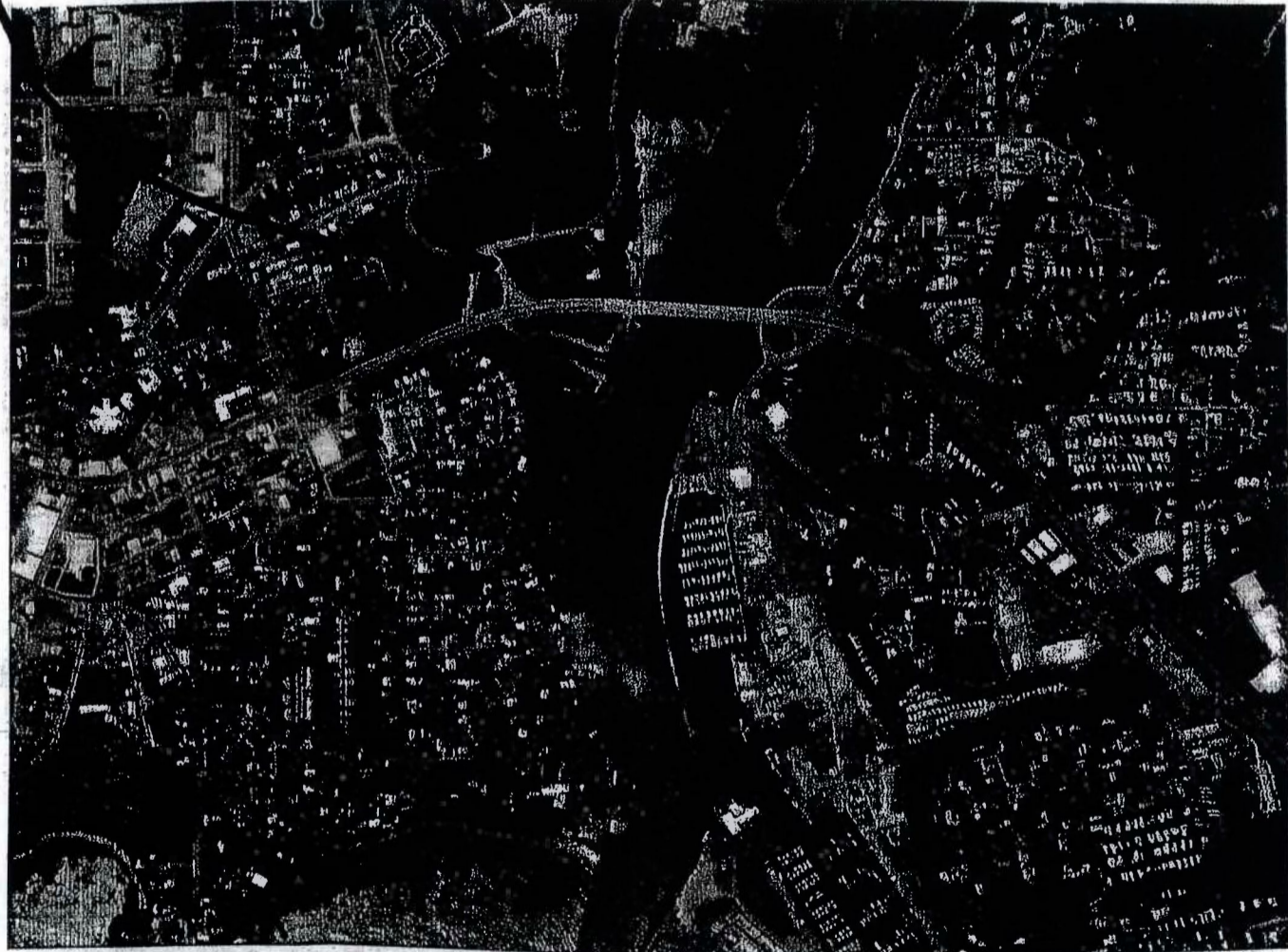
Staff supports a recommendation of **APPROVAL** of Case File No. CPZ-1-06, to the City Council based on the findings and conclusions provided by the applicant and stated in the staff report and with the proposed condition of approval.

Statement and Supportive Evidence
for:
ZONE CHANGE REQUEST
TO: CITY OF BROOKINGS, OREGON.

APPLICANTS: Steve Cadwalader, Bayside Builders, 96507 West Cliff Dr. Brookings
Robert & Dorris Allsup, PO Box 2053, Harbor, Or. 97415

AGENT: Jim Capp
Western Land Use Services
PO Box 2937, Harbor OR. 97415
541-469-9587 phone & fax

SUBJECT PROPERTY: Tax Lots 1600 (1 ac.) , 1601 (0.36 ac), 1602 (0.66 ac.),
1603 (1.11 ac.) and 1700 (0.59 ac.) of Map 40-13-05B, Approx. 3.72 acres total.



PROPOSAL: Applicants Request change of zoning from the current Tourist Commercial (C-4) to the proposed Multiple Family Residential (R-3) zone; and, intend developing the subject property with multiple family residential units under a condominium ownership if zone change is approved.

The area proposed for zone change includes 3.72. Multiple-family dwellings may be established as an outright use under Section 28.020 B. of the Brookings Land Development Code as a permitted use in the R-3 zone once that zone is applied to the subject property via approval of this application.

EXHIBIT LIST

1. Subject Property Vicinity Map (See Page 1, front)
2. Curry County Assessor Map 41-13-05B
3. Notification Map, composite of Assessor Maps 41-13-05A and 05B (see Page 3)
4. Map of Topography, geologic test pits and previous structures, from Geologic Evaluation Report.
- 5a. Statutory Warranty Deed, Lomo Family LLC to Steve Cadwalader, filed at Curry Co. Inst. 2006-Page 1223.
- 5b. Sherriff's Deed, Mark Metcalf Curry County Sherriff to Robert B. and Doris Allsup, filed at Curry Co. Inst No. 2006 Page 2407.
- 5c. Bargain and Sale Deed, Steve Cadwalader to Steve and Kaleb S. Cadwalader, filed at Curry County Inst. No. 2005 Page 2620.
6. Geologic Evaluation, Vista Grande I, by Terra Firma Geologic Services
7. Trip Generation Analysis, by H. Lee & Associates

NOTICE: This application has been developed for the specific applicants and properties identified herein. Use of this application or portions of this application for other property or persons without the written consent of Western Land Use Services is not authorized.

APPLICABLE CRITERIA: Brookings Planning Director advises Section 144 of the *Land Development Code* and applicable Policies of the *Comprehensive Plan of the City of Brookings* should be addressed in this application. This application is formatted so that ordinance requirements and our findings in regard thereto are both presented. Each applicable criterion is quoted and is then followed by our proposed findings of fact in response to that criterion. **Part 1** of this application addresses applicable policies of the *Comprehensive Plan*; and, **Part 2** addresses *Land Development Code* Section 144. The information contained in these Findings and Exhibits should be considered as evidence on the relevant criteria in support of this application.

Part 1. Policies of the Comprehensive Plan

I. Statement of the Criterion:

Goal 1: To provide a citizen involvement process that ensures the opportunity for citizens to be involved in all phases of the planning process.

a. Finding on this criterion:

The City has adopted as part of its Land Development Code (Section 144.030.D.) a requirement that it notify property owners within 250 feet of a proposed action. Applicants are required to provide the City a list of owners of property within that distance. The map printed below is a composite of Curry County Assessor Maps 41-13-05A and 05B which shows the required 250' radius from the exterior boundaries of the subject property.

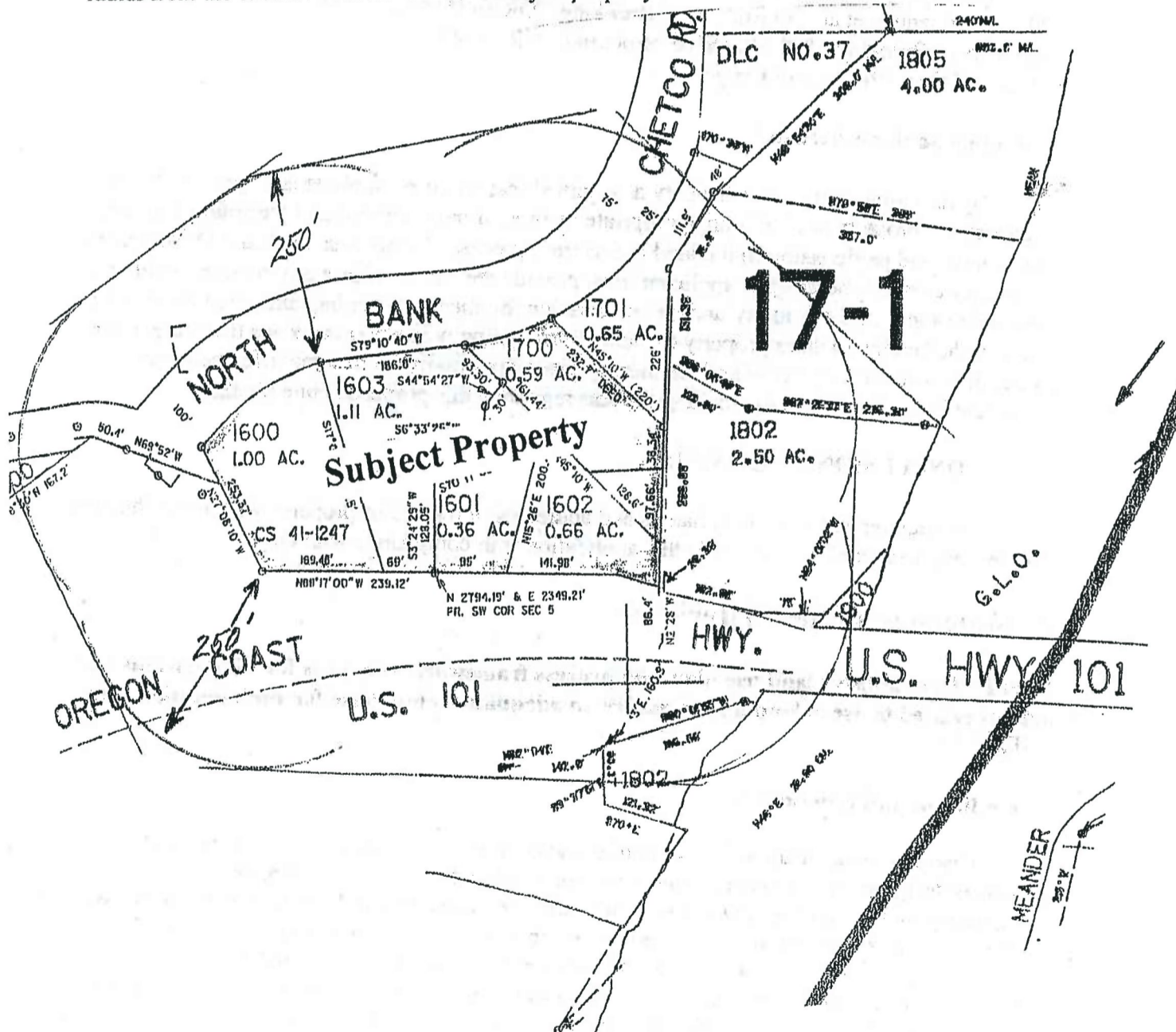


Figure 1 below provides ownership information for all tax lots touched by or included within the required 250 foot distance. This list was compiled from Curry County Assessment Department records of ownerships of all property within that distance of the subject.

Figure 1 Owners of Property Within 250'

of Tax Lots on Map 41-13-05B

1500 City of Brookings, 898 Elk Drive, Brookings, OR. 97415 (this is Azalea Park)
1501 City of Brookings, 898 Elk Drive, Brookings, OR. 97415
1701 Daeshika & Heesuk Chang, 3243 Santa Clara Court, Union City, CA. 94587
Portions of Hwy 101, State of Oregon

of Tax Lots on Map 41-13-05A

1802 Jess Fitzhugh et.al., PO Box 1956, Brookings, OR. 97415
1805 Jess Fitzhugh et.al., PO Box 1956, Brookings, OR. 97415
1900 City of Brookings, 898 Elk Drive, Brookings, OR. 97415
Portions of Hwy 101, State of Oregon

b. Finding on this criterion:

By its adoption of Goal 1 the City determined that requiring applicants to provide lists of neighborhood property owners is an appropriate method of providing for and stimulating citizen involvement and participation in the land use hearing process. In this case the Land Development Code requires public hearing; an applicant must provide the names of property owners within the specified distance of the property under consideration for change of zoning; and, the City provides notice of the hearing to those property owners. Surrounding property owners are therefore made aware, first hand, of the process and are thereby given opportunity to become informed and participate in the City's decision making process regarding this proposed zone change.

CONCLUSION ON GOAL 1:

The requirement to provide names and addresses of owners of property within two hundred fifty feet has been met. We conclude this application is in compliance with Goal 1.

2. Statement of the Criterion:

Goal 2: To establish a land use planning process framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions:

a. Finding on this criterion:

Goal 2 is broad instruction given cities and counties by the state as to how the land use process is designed. It sets general parameters for making decisions. The Brookings Comprehensive Plan and Land Development Code were developed and adopted over a long period of time in response to input from various sectors of the community. Those land use planning documents were developed as a result of the parameters set out in Goal 2 which provides an overview of the process of land use planning. Local Comprehensive Plans and Zoning Ordinances provide the specifics (the nitty-gritty if you will) of making individual land use decisions. A local

government comprehensive plan is developed and adopted in response to Goal 2 and other Statewide Goals. A local zoning ordinance is developed and adopted in response to the local comprehensive plan. The zoning ordinance [in this City the Brookings Land Development Code] is the document which implements the decisions and policies affecting land use in the City as set forth in the Comprehensive Plan. Goal 2 does not apply directly to this application because it set forth basic parameters under which applicable Land Development Code criteria were developed. Through decision making based on the criteria of the Land Development Code, the City will ensure goal 2 parameters are carried forth.

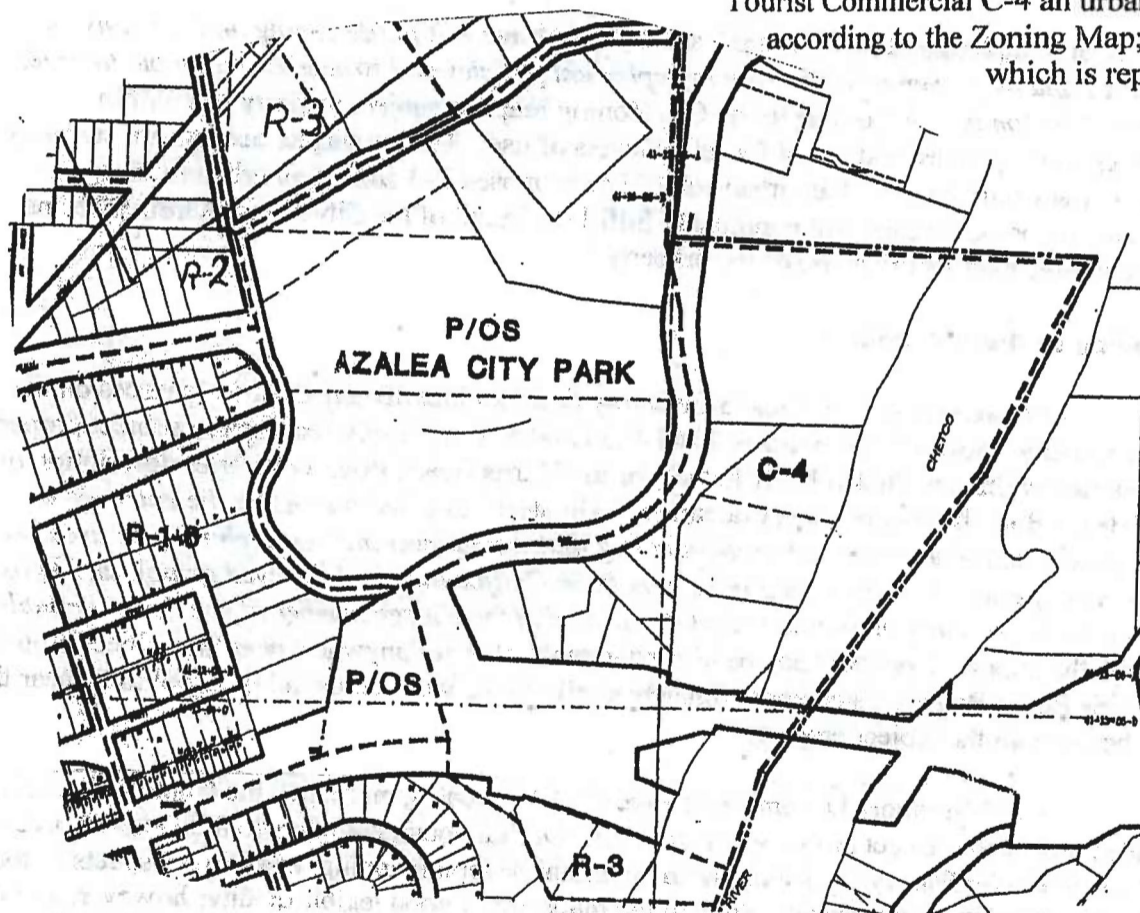
3. Statement of the Criterion:

Goal 3: To cooperate with the County in the preservation and maintenance of agricultural lands: -and-

Goal 4: To support and cooperate with the County in its efforts to protect Forest Lands.

a. Finding on these Goals:

The subject property is not zoned as either agriculture or forest land. It is currently zoned Tourist Commercial C-4 an urban designation according to the Zoning Map; a portion of which is reprinted here.



The Subject Property lies within the City Limits of Brookings. The City planned and zoned the subject property for urban use nearly four decades ago and that intended use is reflected in the intent of Statewide Goal 14 and general urban planning concepts. This application is for a change to the R-3 zone which is also an urban zoning designation. Approval of this application will continue the City history for urban levels of use and density on the subject; and, to have the subject property developed as urban land.

CONCLUSION ON THESE GOALS:

Because the subject property is planned and zoned as urban land, Goals 3 and 4 do not apply to this application.

4. Statement of the Criterion:

Goal 5: To conserve open space and protect natural and scenic resources and historic areas while providing for the orderly growth and development of the City.

Policy 1. It is the policy of the City of Brookings to protect natural and scenic resources by encouraging the conservation of ecologically and scientifically significant natural areas, scenic views and sites, historic areas, local energy sources, and mineral and aggregate resources.

Policy 3. It is the policy of the City of Brookings to preserve forest and agricultural lands which serve as a valuable open space areas by focusing development within the City limits/ Urban Growth Boundary.

a. Finding on this criterion:

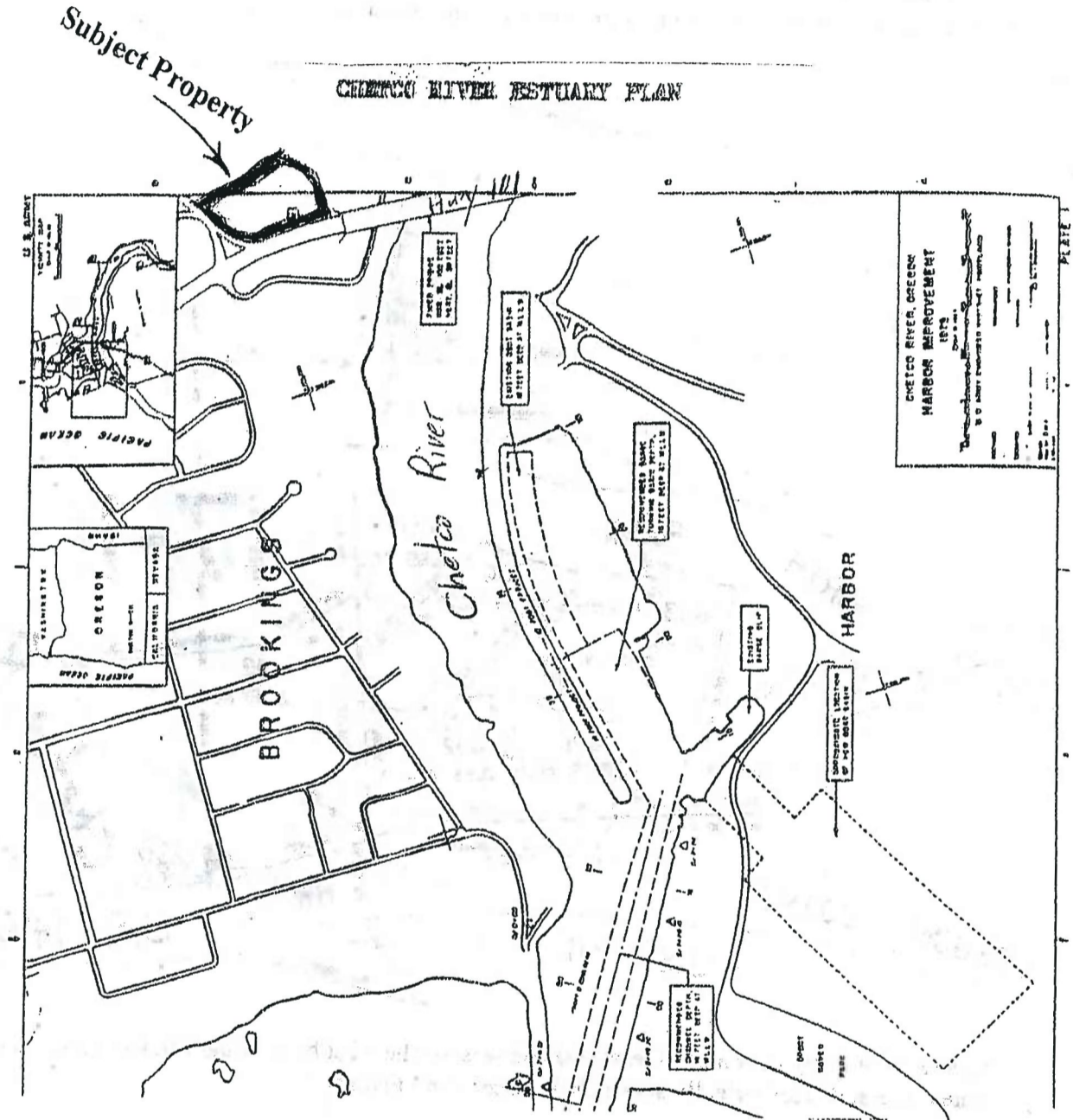
Goal 5 Implementation Measure 1 states "*Brookings will utilize zoning and subdivision ordinances and the Comprehensive Plan to implement policies and strategies that apply to areas within the City limits.*" According to the City Zoning map the subject property lies within Brookings and is planned and zoned for urban levels of use. All five subject tax lots are currently zoned Tourist Commercial C-4 an urban zone. The proposed R-3 zone is an urban level zone. Therefore, the proposed zone will continue to fulfill the intent of the City Zoning Ordinance and Comprehensive Plan for urban use of the property.

b. Finding on this criterion:

The Comprehensive Plan, Goal 5 Inventory does not identify any Goal 5 resources on the subject property. Additionally, policies 2 and 4 to Goal 5 do not apply because the subject property is not located within the Chetco River Estuary or the Harris Beach Bog. In its brief description of Harris Beach Bog, the Plan Inventory document indicates: "*Located just inside the entrance to Harris Beach State Park is a small sphagnum bog that would meet this research natural area need. Several rare species of plants including Sisyrrinchium Californium (golden-eyed grass), and Drosera are found here. In addition, wetland habitat is provided for a large number of species of animals.*" Although the import of that bog may be understandable, it is not anywhere near the subject property. The Harris Beach Bog is located approximately a mile to the west, across all of Brookings, near the ocean beach from the subject property.

The Goal 5 Inventory Document, at page I 5-10 indicates, on Map 3, the Chetco River estuary is located nearby the subject property. Section 7.A. Of that document refers to the Goal 16 inventory of the Chetco River Estuary. It is lengthy and contains several mappings of various aspects of the Estuary discussed in the document. None of the maps are of good legible quality; however, a map, titled *Figure 10* and located on Plan Inventory page I 16-30, does as good a job of graphically demonstrating where the Estuary is as any other map or drawing in the document. For lack of a better definition and for locational demonstration purposes only, we define the Estuary loosely as defined by tidal extremities of the Ocean/River interface. A portion of that map (Figure 10), on which we have drawn the location of the subject property, is reprinted on the following page. In plan view only, that map demonstrates the subject property is located across Highway 101 to the north

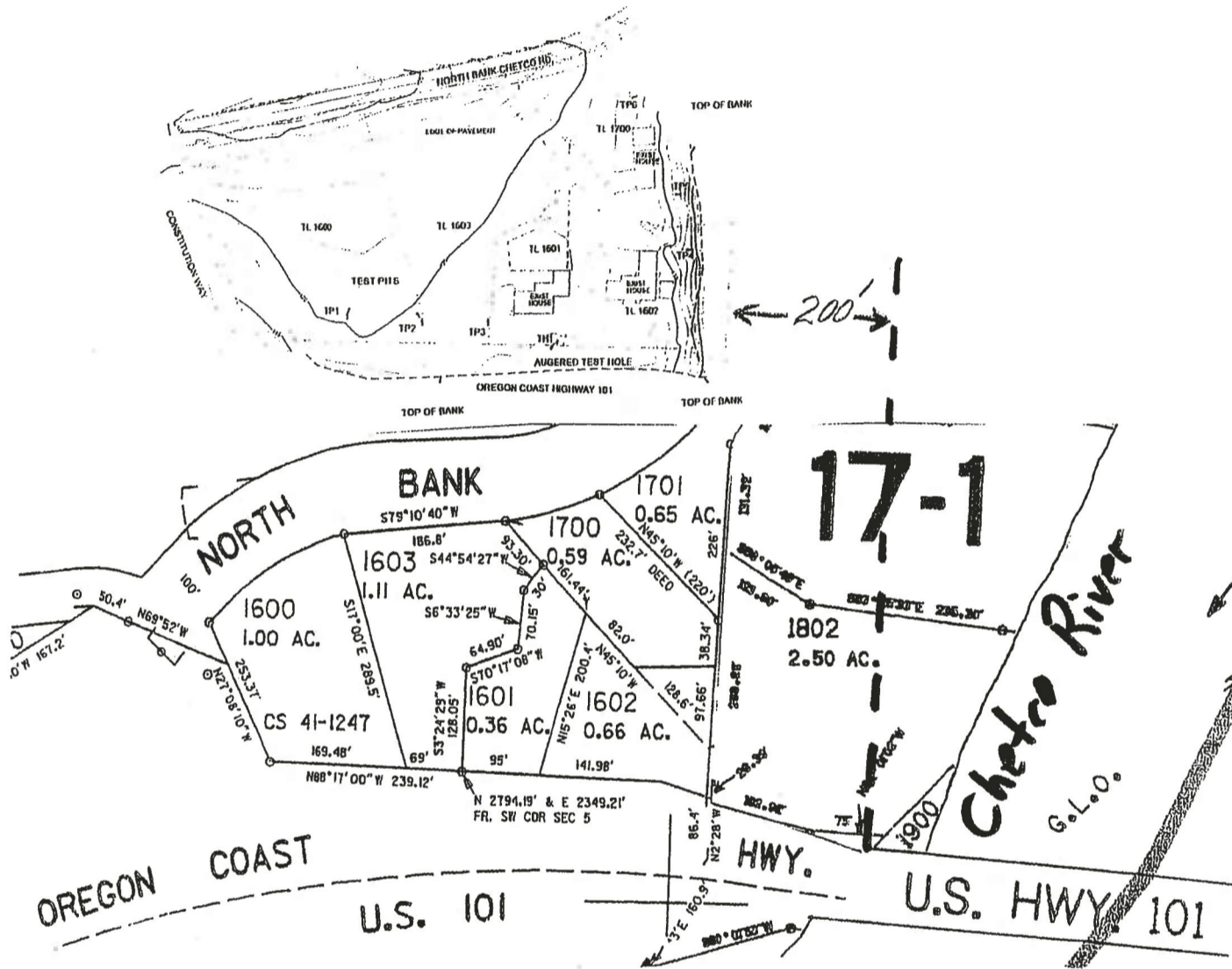
and west of the River environs.



According to USGS topo mapping, the land surface slopes down from the subject to the mean Chetco River level; and, the drop in elevation is over eighty vertical feet below the average surface level of the subject property. The subject property is at least eighty feet above the Estuary and, therefore, is not located within the Estuary.

Additional understanding of the location of the Estuary in relation to the subject property can be gained by review of the topographic information contained in the Geotechnical Evaluation report

conducted for the property. The map from page 6 of that report (reduced here approximately 50% in size so as to match the scale of Assessment maps which are at 1" = 200') is presented below along with portions of the Assessor composite map, printed further below, in order to demonstrate both the vertical and horizontal relationship of the subject to the River and estuary.



The subject property is located at least 200 feet west of the west bank of the Chetco River; and, is located at least 80 feet vertically above the surface of the Estuary.

As stated in Goal 5 Policy 3, the City intends to focus development within its Urban Growth Boundary and City Limits. The Subject property is currently located within the City. Given approval of this application for change from one urban zone to another urban zone the intended use will be developed to standards of the City's Land Development Code. It is therefore true the proposed zoning for the subject property and subsequent development to City standards will in fact comply with, and be in concert with, the stated intent of Policy 3 to "focus development within its Urban Growth Boundary and City Limits".

CONCLUSION ON THIS CRITERION:

We conclude Goal 5 in the overall does not apply to this request because the City Comprehensive Plan Goal 5 Inventories do not identify any such resources on the Subject Property.

5. Statement of the Criterion:

"Goal 6: To maintain and improve the quality of the air (including the control of noise pollution), water and land resources of the Brookings area.

Policy 3. It is the policy of the City of Brookings to utilize programs to manage land conservation and development activities in a manner that reflects the desires of the community for a quality environment and a healthy economy and is consistent with environmental quality statutes, rules, standards and implementation plans."

a. Finding on this criterion:

Environmental quality statutes, rules, standards and implementation plans are applied to development through implementation of measures such as safety and sanitation criteria of the state plumbing and building codes and standards and practices of transportation network design. These criteria are a facet of the permitting process which is required for development and they will be applied to development of the subject property after approval of this zone change request and subsequent application for building permits from the City.

Applicants have discussed the topic of hookup to the City sewer and water systems on several occasions with City staff and through the preapplication conference discussions previously held. Planned development will require connection to the sewer and water mains in the area. Regardless the exact dimensions of sewer and water systems to be provided for such development; permitting process required for connecting new residential uses on the property to both municipal sewer and water systems will enforce state and local requirements to provide safe and sanitary systems and will protect the environment in a manner "consistent with environmental quality statutes, rules, standards and implementation plans".

CONCLUSION ON GOAL 6:

We conclude this proposal will be rendered consistent with environmental quality statutes, rules, standards and implementation plans through the development permitting process utilized by the City.

6. Statement of the Criterion:

"Goal 7: To protect life and property from natural disasters and hazards..."

Policy 2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken..."

a. Finding on this criterion:

According to the Geologic Hazard Map of the Cape Ferrello Quadrangle Oregon, published in Bulletin 90 Land-Use Geology of Western Curry County, Oregon 1976, the subject property is not located in an area identified as a "hazard" area. That map shows the area of the subject is not color coded nor is it in any other manner indicated to have hazard potential. Explanations on this map do not indicate slopes for the subject properties, however, the topography maps included in this application by the applicants do. These maps indicate 90% of the property is approximately 2% or less.

b. Finding on this criterion:

Preliminary review of topographic maps and on-site measurement of slope indicated the approximate easterly most 10% of the property exceeds 15% slope. Section 100 of the Brookings Development Code addresses potential hazardous conditions. Therefore applicants contracted for review by a geologist and the report, Geotechnical Evaluation, Vista Grande I, published by Ron Sonnevil, Terra Firma Geologic Services, is attached as Exhibit to this application.

c. Finding on this criterion:

In his report, Mr. Sonnevil indicates the topography is as follows:

"Most of the property slopes gently (less than 5 percent) to the south and southwest except for the eastern 30 to 40 feet which has slope gradeints of 50 to 70+ percent. The eastern part of the property is located on the upper part of a 60 to 70 foot tall slope that has a gradient of 50 to 100 percent and is bounded to the east by the Chetco River Floodplain. The top of a cutslope for US Highway 101 is located about 25 feet south of the property. The cutslope is about 20 feet tall and has a gradient of 60 percent. The eastern part of the property includes three homes which are planned to be relocated and/or demolished."

The report reviews the property for potential geologic hazards.

Regarding potential for Slope Failure, it indicates: *"No evidence was found to suggest that the proposed development will be impacted by slope failures. In my opinion the Highway 101 cutslope does not have a significant risk of failing and impacting the proposed development due to its distance from the planned structures combined with its relatively low height. Portions of the steep slope in the eastern part of the property were examined and no evidence was found to suggest that large slope failures capable of impacting the proposed development are imminent. However, the slope is very steep in that area and shallow slope failures appear possible of occurring. ... it is recommended that the final development plans be reviewed prior to construction to identify site specific concerns that may exist in that area due to the presence of steep slopes."*

Regarding potential for Seismic Hazard, excerpts from the report indicate: *"A potential geologic hazard is seismic shaking related to a large magnitude earthquake ... The recurrence interval for these for these seismic events is thought to be about 400 years with the last event being a little over 300 years ago, thus, although an event is possible the risk is not very high that it will occur during the economic life of the development (calculated at having a 10 to 20 percent chance of occurring in the next 50 years...) ... The Brookings area has experienced several historic earthquakes but, to date, the amount of damage has been relatively minor..."*

"...The Brookings area is shown to have peak ground acceleration values of 0.65g, 0.85g and 1.15g for the 500, 1000 and 2500 year events, respectively, which means that there is a 10, 5 and 2 percent chance that these respective levels of shaking will occur within the next 50 years..."

"...It is impossible to precisely determine how this area will respond to such extreme ground shaking, if it occurs during the economic life of the development. The eastern part of this property has the greatest risk of being impacted by a seismic induced slope failure..."

Regarding Suitability of soils for foundations, excerpts from the report indicate:

"...Foundations should extend through the topsoil and bear on the yellow to reddish brown colored subsoil that classifies as a silty sand or the fractured sandstone bedrock. These materials were found to exist between 1.5 and 3 feet beneath the ground surface in the test pits and are suitable for standard foundation loads of 2000 psf."

The report concludes with four recommendations for construction based on the findings paraphrased here above.

CONCLUSION ON GOAL 7:

We conclude the subject site is or can be made to be in compliance with Goal 7 by imposition of the recommendations of the geologist at time of construction.

7. Statement of the Criterion:

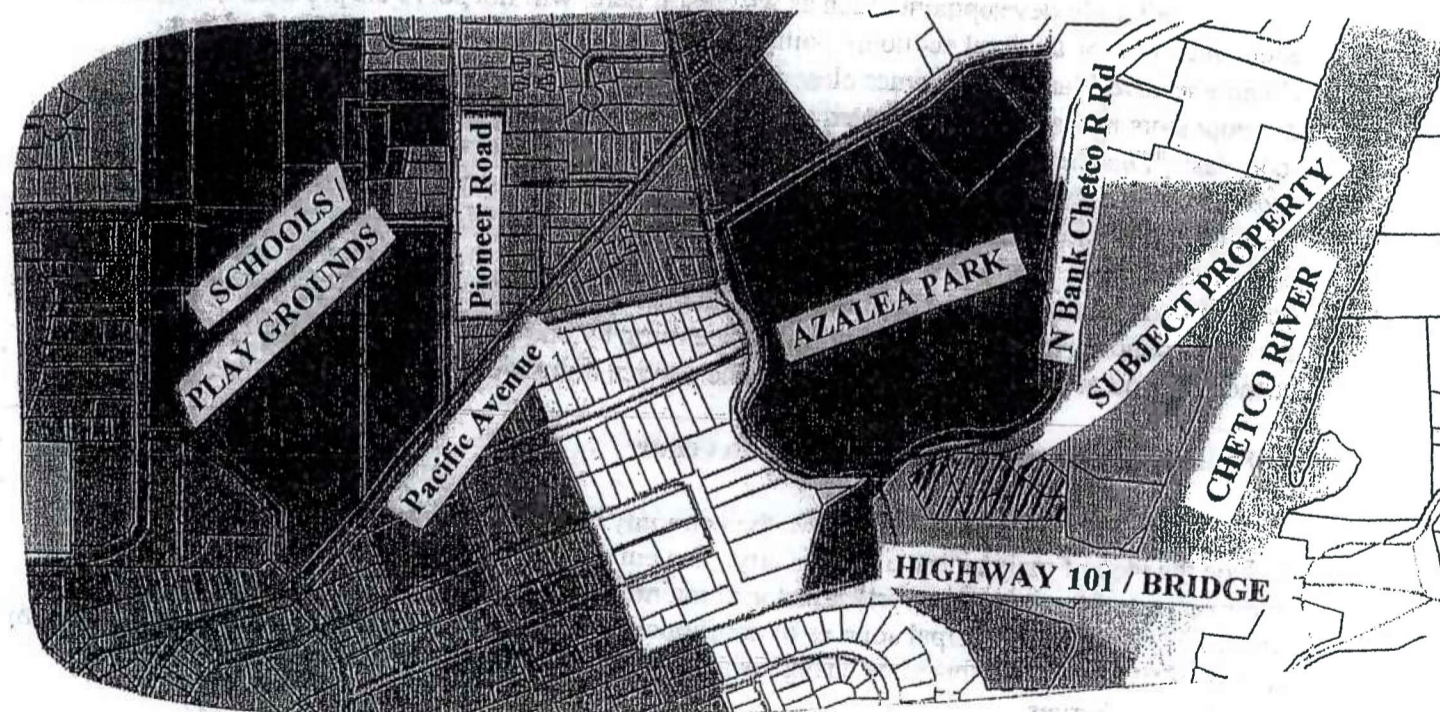
Goal 8: To satisfy the recreational needs of the citizens of the Brookings area, State and visitors.

Policy 1. It is the policy of the City of Brookings to encourage better utilization of existing recreational facilities and to plan for and develop new recreational facilities and opportunities.

Policy 2. The City of Brookings encourages the development of neighborhood parks to be coordinated with future expansion of residential areas.

a. Finding on this criterion:

One of the City's largest parks, Azalea Park, is located across North Bank Chetco River Road from the subject property. The Comprehensive Plan, Goal 8 Inventory identifies many other recreational sites and facilities in Brookings and surrounding areas. Azalea Park has open and wooded areas, nature trails, Kid Town play structure, picnic areas and public restrooms, band shell, ball fields and other amenities. Additionally, the facilities of public schools are located along Pioneer Road and Pacific Avenue approximately three blocks to the north east. Residential development of the subject property within the City limits and close by the park encourages coordination between those recreational facilities and this proposal for future expansion of residential areas because the subject lies in close proximity to each. Development of additional residential area in close proximity to these two, existing recreational facilities will assist the City to better utilize these facilities and coordinate the use of those facilities with future residential areas as proposed here.

**CONCLUSION ON GOAL 8:**

This proposal would encourage better utilization of existing recreational facilities per Goal 8.

8. Statement of the Criterion:

Goal 9: To diversify and improve the economy of the Brookings area.

Policy 2. The City of Brookings will encourage the diversification of the City and the regional economy. The City wishes to create new employment opportunities while sustaining and expanding existing economic sectors.

a. Finding on this criterion:

The findings provided under Goal 9 in the Comprehensive Plan indicate Brookings had a narrow economic base at the time the Plan was adopted. Finding one indicates as follows: *"The economic base in the Brookings area is relatively narrow and mostly dependent on the timber industry. The lumber and wood products industry accounts for over 60% of the basic jobs in the County, and there has been a continuing decline in timber harvested in the County since 1959. When interest rates are low, as is still the case presently, money for the construction of new houses becomes relatively unavailable. This decrease in housing starts has a negative effect on lumbering activity in the area. As a result, Brookings can expect periods of time with high unemployment rates."*

Economic conditions change from time to time and they have changed since the Plan was written. Current and past economic data indicate interest rates have both risen and fallen since then. Interest rates have been relatively low for several years now but have begun to climb in recent months. Times have changed but still the concern voiced in the Plan remains valid. Encouragement of housing starts can have a positive effect on lumbering activity as well as the general economy in the Brookings area.

b. Finding on this criterion:

Small scale developments such as will result here, will not solve the problem of a narrow economic base for the local economy pointed out in Article 9 of the Plan. Policy 2 of that Comprehensive Plan Article comes closest of all to addressing any economic impacts of small developments in residential areas such as may result from this proposed zone change. Where it indicates: *"The City of Brookings will encourage the diversification of the City and the regional economy..."* Policy 2 sets out the import of developments such as proposed here. Resulting land use permits and development will provide employment opportunities for those in the local home building and infrastructure construction industry; and, provide a boost to the local market through increased need for construction and building materials. Economic spin offs will also accrue to other sectors of the local economy as well because increased spending by one sector manifests itself in increased spending by other economic sectors such as the service industries.

c. Finding on this criterion: Added Tax Revenue

A goal "To diversify and improve the economy of the Brookings area" would also have to include the idea of maintaining a solvent city. Revenue to the City, resulting from development or improvement of land, is an important factor in maintaining or improving the economy of the Brookings area. The principal sources of additional revenue to the City of Brookings, resulting from development to follow if this zone change is approved, will be property taxes and systems development charges.

Tax revenue can be estimated. Assessor Maps for land in the vicinity of the subject property

assign Tax Rate Code 17-1 to residential areas in the City. The pamphlet "2003-04 Curry County Property Tax Rate Summary" reflects the following taxing authorities and rates.

TAX CODE AREA 17-1	TAX RATE	M5 RATE
School District 17-C	3.1897	
Education Service District	0.4351	
South West Oregon Community College	0.6889	
EDUCATION TOTAL	4.3137	4.3137
City of Brookings	3.6939	
Port of Brookings-Harbor	0.1292	
South Curry Cemetary District	0.0362	
Chetco Library District	0.4178	
Curry Co. 4H & Extension Service	0.1003	
Curry County General	0.5655	
Urban Renewal Plan	0.1967	
TOTAL GOVERNMENT	5.1396	5.1396
City of Brookings (not subject to Mes 5)	0.2482	0.2482
School 17c Bond	1.0341	1.0341
Curry Soil and Water Conservation	0	
TOTAL CODE RATE	9.6791	9.6791

The total City tax rate in tax code area 17-1, which is the tax code area applied to property in this neighborhood, is 3.9421 per thousand dollars of assessed value. One must assume a number of dwelling units and a value of each unit in order to estimate tax revenues.

The requested Residential R-3 zone allows a minimum lot size (density) of 6,000 square feet; with and additional 1,500 square feet allowed for each additional dwelling unit on a lot. Applicant Cadwalader indicates previous Planning Director, Mr. Bischoff, advised him one dwelling unit could be located on the square footage indicated with a maximum of three floors in the structures. Section 28.060D. Provides only for a maximum lot coverage by buildings and structures of 45 percent. Given single story structures, "Ballpark" maximum density can be calculated by first accounting for maximum lot coverage. For single story construction, the calculation is: 3.72 acres X 43,560 sq.ft./ac = 162,043 sq.ft. X 45% = 72,919 sq.ft. of available building foot print; and, then by subtracting the first dwelling unit allowed space of 6,000 which yields 66,919 sq.ft.; and, then dividing the remaining space by the allowed 1,500 square feet per additional dwelling unit beyond the first so as to yield 44 dwelling units (66,919 sq.ft. divided by 1,500 = 44.61 dwelling units.). Finally, the first (initial 6,000 sq.ft. allowance) and the additional 44 units (1 per each additional 1,500 sq.ft. allowances) are added to yield 45 total single story dwelling units.

We must note that other factors, such as building height limitations or allowances; and, parking requirements of 1 1/2 spaces per unit, may affect allowable numbers of dwelling units which can be permitted. Mr. Bischoff worked through all the requirements of the code affecting such a proposal and provided applicant Cadwalader the estimate of 110 to 115 dwelling units given three story structures. Applicant Cadwalader indicates plans are to construct a maximum of 70 units and limit buildings to two story structures if possible

For lack of better estimates of unit dollar value at time of future sale, we choose a low and a high value arbitrarily at \$200,000 and \$400,000 as a simple basis for this calculation. Tax revenue generated by an estimated 70 dwelling units would compute as follows:

9. Statement of the Criterion:

Goal 10: Provision of varied housing which is safe, sanitary and adequate for all residents of the community.

Policy 1. City shall not unduly restrict land development thereby artificially inflating the cost of both new and existing housing, but rather provide land in suitable quantities and encourage the construction of new residential units to meet increased demand.

Policy 2. City shall provide for a variety of housing options and sites and plan for suitable locations. It is recognized the private sector will continue their leadership role in this function.

Policy 3. City shall advance where possible the evolution of safe and aesthetically pleasing residential neighborhoods that are efficiently integrated with business and commercial property, schools, parks, public facilities and other urban development.

a. Finding on this criterion:

The subject property is located within the City. It is therefore in an area planned to be developed to urban standards and densities. The City set out the intent the subject property is best utilized for residential development to urban densities and standards. The subject is located within a neighborhood of probable continued medium income housing and the goal is to continue to provide for growth (additional land for development) in that sector as it is to provide growth in other sectors.

The subject property is located adjacent an existing paved street in an older neighborhood where all services are available. Water, power, telephone, cable TV and etc. are currently located and in use within the area. Water service lies adjacent and could be extended to serve the subject; and, sewer service is nearby. Upon approval, this request will allow and encourage extension of municipal sewer service lines to proposed development. The extension of sewer and water service will allow more dense development in a sanitary fashion. Because it is located in close proximity to existing recreational facilities located across the street to the north; and, commercial services of the community located either in Brookings to the west or in Harbor to the east just a short few blocks in either direction, annexation of the subject property will assist the City in attaining its goal to provide for a variety of housing which is safe, sanitary and adequate for all residents of the community.

CONCLUSION ON GOAL 10:

We conclude this proposed annexation is in compliance with Goal 10.

10. Statement of the Criterion:

Goal 11: To Plan and develop a timely, orderly and efficient arrangement of public facilities and services to provide a framework for urban and rural development.

Public Works:

A. Water treatment facilities will be maintained with the proper observation and planning to expand facilities on a timely basis to provide continued service to existing customers and projected growth.

B. Water distribution, pumping and storage construction will be constructed for new development by developers. The city council is presently reviewing methods of implementing a "pay as you go" development policy.

C. Wastewater treatment facility expansion programs will be funded through the most cost-effective methods utilizing all available federal, state and local funds.

D. All public works construction to serve newly developed areas will be on the "pay as you go" policy with developers designing and constructing new facilities in accordance with the city Standard Detail and Specifications adopted September, 1981

a. Finding on this criterion:

The city "Standard Detail and Specifications" quoted in the Plan have, over time since adoption of the Plan, been updated and amended. According to City staff the current document is referred to as "General Engineering Requirements and Standard Specifications" and was adopted in August 1988 and updated August 1998. Those standards are applied to all development and will be applied to development which may result from this request for change of zoning and subsequent building permit issuance. The framework of public facilities and services is guided by implementation of those standards through the land use permit process, including building, plumbing and electrical permits. In conjunction with long term land use decisions already made through residential zoning having been placed on the subject property; engineering standards and zoning together provide the framework for urban development of this property.

CONCLUSION ON GOAL 11:

This proposal for annexation is in accord with Goal 11.

11. Statement of the Criterion:

Goal 12 To provide and encourage a safe convenient and economic transportation system.

a. Finding on this criterion:

Goal 12 does not directly apply to this application and need not be specifically addressed here. This is because City design standards for roads and streets are long standing and apply to all new development. Standards for design and construction of streets and roads to serve new development are contained in City ordinances which were adopted in response to the Comprehensive Plan. The act of the City adopting and now enforcing those standards implements the goal "*to provided and encourage a safe convenient and economic transportation system*". Given approval of this request, a subsequent application for development of the subject property will be processed in accord with current City standards for streets and other public facilities.

Because there are no streets or new right-of-ways proposed (the site is bordered by existing roads) it is not likely new street standards will apply. Design and spacial requirements of the Code will of course apply regarding driveways, parking and other such amenities. Applicants met with City and agency staffs, site plan committee, during a preapplication conference over a year ago. Applicant Cadwalader indicates Oregon Department of Transportation staff did not voice concern for the proposed change to residential from commercial because the impact on existing transportation facilities would likely be less for the residential use. In any event, at time of building or other permit issuance for development, standards of the Land Development Code will be required.

CONCLUSION ON GOAL 12:

Future development of the subject property will become consistent with Goal 12 through implementation of the design standards previously adopted and contained in the Brookings Land Development Code.

12. Statement of the Criterion:

Goal 13 To conserve energy.

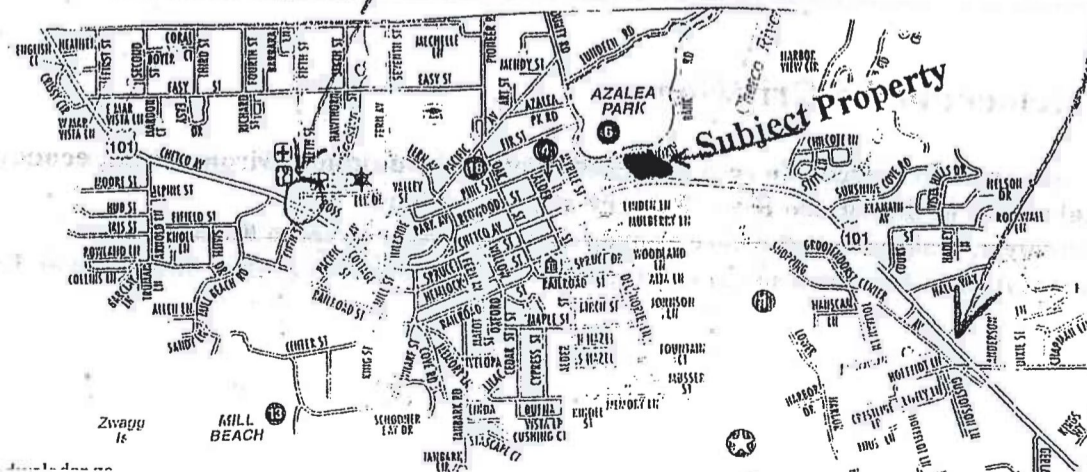
Policy 2. Brookings will encourage the infilling of undeveloped parcels of land within the City as well as the re-use of vacant land to the extent possible. The City will encourage land development practices which conserve energy as well as utilize renewable energy sources when-ever possible. The City desires high density development to be located adjacent to major shopping areas and along major transportation routes, as appropriate.

a. Finding on this criterion:

The major shopping area of the City is located along the corridor of Highway 101 as it traverses the City east to west. Major shopping centers are also located in the Port of Brookings Harbor and along the Highway 101 corridor through the Community of Harbor. These shopping areas are all located within two to four blocks of the subject property. North Bank Chetco River Road is a Collector according to the Brookings Curry County Transportation System Plan. Highway 101 is the Arterial in Curry County. The subject property is located at the junction of both and takes access directly from North Bank Chetco River Road. Such close proximity to the major shopping areas and major transportation route places the subject in a position which will assist the City in its desire to develop residential uses in close proximity to these features. The subject property is located within the City Limit.

b. Finding on this criterion:

The subject property is located adjacent to but does not take access directly from Highway 101, the major transportation route, the only Arterial, which traverses through the County and City. Therefore, development of the subject will result in short commute distances along this major traffic route to shopping, governmental and professional services, which are located along that route. This tends to promote little travel in order for homeowners to travel to and from these services. This drive should require three minutes. Those services are less than one half mile distant to the west or east of the subject along Highway 101 near the intersection of Fifth Street with that Arterial or near the intersections of Hoffeldt Lane and Shopping Center Avenue in Harbor with that Arterial. The subject is within a few minutes of City parks and the public schools. It lies across the street (North Bank Chetco River Road) from Azalea Park. All these locational factors will result in the desired situation whereby driving distances for normal family activities are kept short. Shorter travel distances between homes and schools, parks, government, professional and commercial services means less fuel consumed; less tire wear and etc. All of which translates into less energy consumption; whether the the energy consumption results from engine operation time, manufacture of tires or vehicle repair parts, these factors will help bring about the desired savings of energy.



CONCLUSION ON THIS CRITERION:

For the above stated reasons, zone change and subsequent development of the subject property is a development practice which will conserve energy.

13. Statement of the Criterion:

Goal 14 Urbanization to minimize the expansion of the urban service area outside of the city limits in order to provide for the efficient use of land, eliminate the unnecessary and uneconomical expansion of public facilities, and to conserve agricultural and forest lands outside of the City.

Policy 1. City shall maintain the livability of Brookings while providing appropriate land-use designation and adequate areas to accommodate expected growth.

Policy 3. City shall annex lands that are contiguous to the City limits and continue to extend City services only to areas within the corporate limits. City shall continue to honor present agreement for provision of public services in areas presently outside the corporate limits.

a. Finding on this criterion:

Based upon data included in the comprehensive plan and more recent data included in the amended urban growth boundary background documents, the City of Brookings long ago decided the subject property was needed for urban growth of the City. The subject property was included within the Limit. The subject is and has been within the urban environment for several decades and has been planned and zoned for urban development since the Plan was adopted. Therefore, the City has provided adequate land area to accommodate the proposed use. Approval of this zone change request will assist in the stated desire to provide adequate areas to accommodate expected growth.

b. Finding on this criterion:

As demonstrated on the Zoning Map the subject property lies within the City Limit. The stated policy is to not extend City services until land currently outside the City is annexed within the corporate limits of the City. In this case the property lies within the City and services exist adjacent or nearby. Connection to City sewer and water service, presently exist in this neighborhood, would allow full urban density as planned; and, as proposed with and as would result from this request.

CONCLUSION ON GOAL 14:

We conclude zone change from C-4 to R-3 is in accord with these relevant policies of Goal 14.

14. Statement of the Criterion:

Goal 16 Estuarine Resources To recognize and protect the unique environmental, economic and social values of the Chetco River Estuary and its wetlands.

Goal To protect, maintain, and where appropriate restore or develop the long term environmental, economic, and social values, diversity and benefits of the Chetco River Estuary.

Part 2. Brookings Development Code

1. Statement of the Criterion:

Section 144.020 Initiation of amendments. An amendment to the text of this code or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the Planning Commission.
- B. Motion of the City Council.
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation.

a. Finding on this criterion:

According to records of the Curry County Assessor, Steve Cadwalader, 96507 West Cliff Dr. Brookings is the owner of Tax Lots 1600, 1602, 1603 and 1700; and, Robert & Dorris Allsup, PO Box 2053, Harbor, Or. 97415 are owners of Tax Lot 1601. No other property is subject of this application. This application for rezoning is filed with the City of Brookings as required by Code.

2. Statement of the Criterion:

Section 144.030 Application. The property owner or his authorized agent may make application for an Amendment by filing an application, on a Land Use Application form, with the City Manager or his designee for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information:

- A. Name and address of the applicant.
- B. Title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application.
- C. Address, legal description and Curry County Assessor's tax lot and map number of the subject property.
- D. A map (Curry County Assessor's plat) showing the subject property, and surrounding properties and a listing of current property owners within 250 feet of the property subject to this application.
- E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Brookings and each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of and amendment to this code, zoning map or comprehensive plan map and/or text as listed in subsection D. of section 144.050.
- F. The application shall be accompanied by a filing fee in the amount established by general resolution of the City Council. No part of the fee is refundable.

a. Finding on this criterion:

Subsection A: Applicants are Steve Cadwalader, Bayside Builders, 96507 West Cliff Dr.,

Brookings, OR. 97415 and Robert & Dorris Allsup, PO Box 2053, Harbor, Or. 97415

Subsection B: According to Curry County Assessor, Curry Co. OR- Account Details sheets for each of the subject tax lots, attached as **Exhibit 5**; Steve Cadwalader is the owner of Tax Lots 1600 and 1603; additionally, Steve Cadwalader along with additional owner Kaleb S. Cadwalader are owners of Tax Lots 1602 and 1700. Robert and Dorris Allsup are the owners of Tax Lot 1601.

Subsection C: According to Curry County Assessor, Curry Co. OR- Account Details sheets for each of the subject tax lots, attached as **Exhibit 5**, The subject property Situs address is 207 North Bank Chetco River Road.

Subsection D: The Curry County Assessor's Map 41-13-05A is attached as **Exhibit 2** to this application. A composite of Curry County Assessor Maps 41-13-05A and 05B, upon which the list of current property owners within 250 feet is based, appears on **Page 3** of this application.

Subsection E: briefly, but importantly, sets out the requirements for making application to the City for change of zoning district. It sets out requirement the applicant's findings must address conformity with the Comprehensive Plan and the Land Development Code. As stated initially, Part I of this application addresses the Comprehensive Plan and Part II addresses requirements of the Land Development Code. This subsection E. provides direction for this application.

Subsection F: Filing fee has been paid at time of submittal of this application by check tendered by Applicant Cadwalader.

3. Statement of the Criterion:

Section 144.040 Action by the Planing Commission.

A. Upon filing of said application for an amendment as described in Section 144.030, or upon motion of the City Council or Planning Commission for the initiation of an amendment, the matter shall automatically be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Section 84, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Planning Commission shall study the matter to the extent that it considers such study to be necessary, and shall, in open meeting, recommend the approval or disapproval of said amendment. The recommendation shall be made by a majority of those present at the planning commission meeting at which official action is taken on the application. The recommendation shall be reported to the City Council by filing said recommendation with the City Recorder. No further action of acceptance of the recommendation need be taken by the City Council, but the City Recorder shall, upon filing the recommendation, report the same to the City Council at the next regular city Council meeting after the filing of the recommendations.

B. The report and recommendations of the Planning Commission shall be made within 90 days after the filing of the application; provided that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the commission to so report within 90 days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment of the Planning Commission. If the commission deems it advisable, it may recommend that the area under consideration for change in classification or designation be enlarged or diminished, or reclassified to a district or category other than the district or category originally initiated.

a. Finding on this criterion:

Subsections A and B are instructional in nature the City to itself (the Planning Commission and the City Council) as to procedure for processing a change of zoning application and do not require finding by an applicant. These subsections are, therefore, not addressed further here.

4. Statement of the Criterion:

Section 144.050 Action by the City Council.

A. Hearing before City Council. Upon receipt of said report from the Planning Commission or upon the expiration of such 90 days as aforesaid, a public hearing is automatically set for the next regular City Council meeting following the receipt of the report: provided however, that the Council may, by motion, set the date of such public hearing at such other time or at such other place it desires. Notice of said public hearing shall be given as provided in Section 84, and in the case of an amendment to property containing a mobile home park notice shall also be provided to tenants of such mobile home park.

B. At the conclusion of the public hearing, the Council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of of the zone change or amendment. The Council shall in any event render its decision on any application within 60 days after the receipt of the report and recommendation of the Planning Commission or after the expiration of such 90 days as aforesaid; provided, however, that nothing shall prohibit the City council from, by motion, postponing disposition of the application to a definite time past the said 60 day period.

C. If the Council proposes to adopt an amendment that is substantially altered from the recommendation of the commission, the Council may refer said proposed amendment back to the commission for report and recommendation, which may include the holding of a joint meeting, before adoption. The commission shall consider said amendment within 30 days of said referral and report thereon at the next regular meeting of the City Council. Failure to so report will be deemed to constitute approval by the Planning Commission.

a. Finding on this criterion:

Subsections A, B, and C are instructional in nature the City to itself (the Planning Commission and the City Council) as to procedure for processing a change of zoning application and taking action on same; and, do not require finding by an applicant. These subsections are, therefore, not addressed further here.

5. Statement of the Criterion:

D. except as set forth herein, in order for the City Council to adopt an ordinance for an amendment to this code, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and generalized land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan. For amendments to the Land Development Code that are legislative in nature, findings will not be required.

a. Finding on this criterion:

This subsection (D) is also instruction the City to itself regarding procedure; however, it underscores the import and burden of an applicant to provide supportive evidence and findings upon which the City may base its decision. This application has been written so as to address both the Comprehensive Plan policies (see Part 1) and the requirements of Section 144, Amendments, of the Brookings Development Code.

b. Finding on this criterion:

We find that the statewide land use planning goals and policies do not provide a more specific direction for this application than does the City of Brookings Comprehensive Plan. In fact, just the contrary is the case. The Comprehensive Plan was refined from application of and developed in response to the generalized concepts contained in State Goals. Plan adoption resulted from many years of work by elected, appointed and concerned individuals gathering information; and, working through various committees in making decisions regarding future growth and neighborhood characteristics and composition within the City. The Comprehensive Plan is a more specific document pertaining to land use within the City of Brookings than are the Statewide Goals. We conclude it is not necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies.

6. Statement of the Criterion:**Section 144.060 Burden of Proof.**

If findings are required, the specific findings made by the City Council, upon the recommendation of the Planning Commission, to adopt an ordinance for an amendment to this code, comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in subsection D of section 144.050, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings of the ordinance adopting the amendment proposal.

a. Finding on this criterion:

This section is instructive in that it directs the Council, in such matters, make findings upon the recommendation of the Planning Commission to adopt an ordinance.

Where this section states "*...The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in subsection D of section 144.050, the application must be denied based upon improper or inadequate findings,...*" it once again stipulates the requirement for supportive evidence and findings as a basis for the City's decision. This application is designed to supply that substantial evidence and findings; and, it is offered along with exhibits and maps in support of this request for rezoning. This application does offer evidence and findings for consideration by the City.

7. Statement of the Criterion:**Section 144.080 Resolution of Intent to Rezone.**

{section 144.080 Not set out here – see brief explanation in Finding a. below}

a. Finding on this criterion:

This section stipulates a rezone may be approved under resolution of intent thereby allowing the City to verify later fulfillment of any conditions, stipulations or limitations placed on the request at time of approval. It is set out in title only here because Applicant does not request to invoke resolution of intent procedure as applicant fully intends to initiate project development on the long time vacant subject property upon approval of this request for zone change.

8. Statement of the Criterion:**R-3 Zone**

Section 28.020 Purpose. This district is designed to provide an environment suitable for higher density urban residential uses. The R-3 district is intended for residential uses, community services and appropriated professional business and service offices.

a. Finding on this criterion:

The stated use intended to be constructed by the applicants on the subject property, given approval of this application for change to R-3 zoning, is that of multi-family residential buildings in the form of condominium units. As stated earlier, this is an outright use according to Mr. Bischoff in the R-3 zone. Therefore, the proposed use is in accord with the Purpose statement of the R-3 zone.

b. Finding on this criterion:

It should be noted there are some similarities in a few types of uses allowed in both the C-4 and the R-3 zones. Higher intensity and greater urban density of land uses is generally reflected in both of these zones. In some cases, what may be permitted in one zone conditionally, may be permitted in the other outright.

Some similar uses of both zones are:

Golf courses pursuant R-3 sec. 28.040A.; And, C-4 sec 56.040B.

Off-street parking lots pursuant R-3 sec. 28.040C.; And, C-4 sec 56.020P.

Lodges and Clubs pursuant R-3 sec. 28.040K.; And, C-4 sec 56.020K

Professional and service offices pursuant R-3 sec. 28.040O.; And, professional or business offices C-4 sec 56.020O.

Probably because these two zones are within the higher intensity ranges of urban densities they therefore exhibit some carry over of uses with similar impacts. This is not to argue the zones are the same; they are not, as generally the C-4 zone allows more intensity of use of a commercial nature. Because some of the uses allowed by one of these zones are also allowed in the other, we conclude there is obviously some similarity of land use density and impact, and the intent for same, between the R-3 and C-4 zones.

9. Statement of the Criterion:

Section 28.030 Permitted uses. The following uses are permitted:

B. Multiple-family dwellings and apartment buildings.**a. Finding on this criterion:**

Applicant intends, upon approval of this zone change request, to construct multifamily

dwelling structures in the form of condominium units where one structure may contain more than one dwelling unit. Brookings Development Code, Section 28.070 stipulates a maximum building height of 40 feet. Section 28.030 B. lists Multiple-family dwellings and apartment buildings as outright uses in the R-3 zone. Staff has indicated to applicant multi-family dwellings and apartment buildings may be constructed and marketed under terms of condominium units; and, that the proposed multi-family buildings could not be constructed under the terms of the existing Tourist Commercial zone. Thus this process for change to Residential R-3 to allow the proposed use has been initiated upon advice from staff.

Part 3. Addendum of Additional Information

This Part 3 is offered as Addendum to this application in response discussions with staff regarding thoughts concerning a review of the need for high density residential zoning and to address locational aspects of this proposal. The concerns are not preceded by ordinance criteria as no specific criteria could be found, however, these discussions are voluntarily offered for informational purposes.

Concern: Zoning Needs Reviews.

Concern: Review of Locational Factors.

GENERAL FINDINGS ON THESE CONCERNS

a. Finding on these concerns:

A complete array of Brookings area urban services is anticipated and desired to serve the area of this zone change to include: municipal sewer and water, police and fire protection. Electric service, cable or satellite TV and etc. are all anticipated and desired. All services are located close by and/or are available.

City of Brookings municipal Sewer and Water lines are located nearby and within the vicinity. The one existing dwelling on the subject is utilizing those services. North Bank Chetco River Road is a paved, striped, two lane County Road which lies adjacent generally to the north and/or runs through portions of the Subject in a general trend east to west at this location; then following the Chetco River notheasterly. That road is designated a Collector at Tables 4-9 and 5-17 of the City of Brookings Transportation Systems Plan. It is listed as having a Level of Service (LOS) of "A" which level is the best and least impacting of six levels of service utilized in measuring traffic usage. It exhibits a Volume to Capacity Ratio (V/C) of 0.33 as a result.

The availability (relative to capacity) of sewer and water has always been addressed by the City, as far as connection or new hookup is concerned, on a first come first served basis. During times when capacity is not available, for what ever reason, for instance in sewage treatment facilities, the City would not issue additional hookup permits until such time as the treatment facilities have been reviewed and improved so that additional sewage treatment capacity is restored and available. That said, Planning Director, Mr. Bischoff, indicated recently that sewage capacity in the City is not a problem because the "City treatment facilities have capacity for City Limit as well as urban growth boundary buildout". The subject property is located within the City; therefore, capacity to serve the subject at urban density (even greater than the proposed 70 maximum dwelling units exists) is not an issue.

Cable or Satellite TV service, High speed internet service, telephone service and any similar services are normally affected to the individual residence on a contractual basis between the provider and the individual home owner or renter except that as development permits and/or land division plats are processed by the City, the City normally requires underground conduit to be installed so that wiring for these services can be installed underground. This is common practice with subdivision or PUD developments and high density residential development in the City and is anticipated in this case. Construction method and design of these utilities is not a facet of this application; rather, it

will be addressed, and the method of construction will be required, by issuance of building and other permits and issuance of development permits after zone change occurs. Services such as Telephone, cable TV and electric lines also exist in the area and are provided to the developed properties which exist along North Bank Chetco River Road and neighboring areas both north and south of Highway 101 within the City Limits. Those services are in use in this vicinity and are available to the subject property.

City police and fire services do, of course, serve this area of the City and the nearby Old County Road neighborhood. Reciprocal service agreements are currently in effect for police and fire protection service between Curry County and the City for nearby areas located outside the City further out along North Bank Chetco River Road. The Brookings Rural Fire District, which is essentially the City of Brookings Fire Department provides service outside the City further up river along North Bank Road. Because the subject property lies within the City, the City provides structural fire protection for the entire area of the subject property.

b. Finding on these concerns:

For purposes of assessing impacts from development which is actually planned, as opposed to that allowed in the current C-4 zone, the following analysis is appropriate: The July, 2005 population estimates for the City of Brookings as published by Portland State University Center for Population Research was 6,050 persons. The 2000 U.S. Census reported an average of 2.38 persons per household and we assume that is still fairly accurate for purposes of this impact assessment. Accordingly, extrapolating from those figures results in 2,542 households within the City (6,050 divided by 2.38). The maximum 70 dwellings of the applicant's proposal would allow approximately 166 persons living quarters in the City ($70 \times 2.38 = 166.6$). One hundred sixty six persons equates to approximately 3% of the City population.

As a means of assessing traffic impact of this request, applicant had H.Lee & Associates, traffic engineering consultants, provide analysis of the proposed use (70 dwelling units) compared to the impact on the transportation system which might be caused by some of the uses allowed within the existing Tourist Commercial C-4 zone. His brief analysis is attached as **Exhibit 7**.

After discussion in comparison of the Residential R-3 zone to the Tourist Commercial C-4 zone, Mr. Lee provides:

"Estimate of daily, A.M. Peak hour, and P.M. Peak hour trips generated by the existing and proposed zoning were developed from rates published in "Trip Generation, 7th Edition" (Institute of Transportation Engineers, 2003). As shown in table 1, the proposed condominium use would generate 410 daily, 31 A.M. peak hour trips and 36 P.M. peak hour trips. The C-4 Tourist Commercial build out would generate 1,740 daily, 42 A.M. Peak hour trips, and 152 P.M. Peak hour trips. The proposed R-3 rezoning build out would generate 1,330 fewer daily, 11 fewer A.M. Peak hour trips, and 116 fewer P.M. Peak hour trips than the existing C-4 zoning build out."

From this Traffic Engineer's analysis, we conclude the proposed use would generate only 24% as many daily trips as uses allowed in the existing C-4 zone. Stated another way, the proposed use is only one fourth as impacting or 76% less impacting as uses of the existing C-4 zone would be on the intersection of Constitution Way and Highway 101.

c. Finding on these concerns:

Oregon Department of Transportation, Highway Division, traffic engineers have indicated to City staff in the past their preference the subject property be rezoned to R-3 because that zones list of

uses would have less impact on the over stressed intersection of Constitution Way and Highway 101. Previous Planning Director, Mr. Bischoff, stated that during the preapplication conference held some time ago in this matter, Mr. Tom Guevara of ODOT staff made similar statements; and, in addition that ODOT feels Brookings has too much commercial zoning. Applicant Cadwalader indicates Mr. Guevara recently stated concern the existing C-4 zone allows uses too intense for that intersection and restating ODOT's preference the property be rezoned to R-3 thereby allowing less traffic impact on the intersection.

d. Finding on these concerns:

The subject property was occupied by three single family dwellings until approximately 2004 at which time two of those were moved to another location within the City. There remains one small (approx 900 square feet) dwelling on one of the tax lots.

It is noteworthy the current C-4 zoning district has been in place on the subject property for approximately two decades; and, that no Tourist Commercial use has been developed on the site despite its relatively undeveloped state. That fact is all the more striking considering the boom experienced by the Brookings area during the past five to eight years. It therefore seems logical and appropriate to conclude perhaps that zone is not the best zone for this particular site. We conclude; this thought, along with Oregon Department of Transportation personnel concerns the existing C-4 zone is too impacting [That is at least four times (4X) more impacting by Engineer Lee's analysis] on the intersection of Constitution Way and Highway 101 at the west end of the Chetco River Bridge also leads to a conclusion the proposed rezoning to Residential R-3 is appropriate.

CONCLUSION:

Findings, information and mapping contained in this application are offered in support of this application. These findings are constructed and written in such manner to be the statement and supportive evidence as basis for findings of approval indicating the manner in which the proposed amendment is in conformance with the comprehensive plan and applicable provisions of the Brookings Development Code. As indicated herein this request has been demonstrated to be consistent with and to comply with provisions of the Brookings Land Development Code and Comprehensive Plan which regulate. Applicants respectfully request approval of the proposed change of zoning for the subject property based on these findings and together with other findings in support as the City may desire

Respectfully submitted,



Jim Capp, Agent

P WAS PREPARED FOR
MENT PURPOSE ONLY



NW1/4 SECTION 05 T.41S. R.13W. W.M.
CURRY COUNTY
1" = 200'

41S 13W 05B
& INDEX
BROOKINGS

CANCELLED NO
101
401
501
601
701
801
901
1001
1101
1201
1301
1401
1501
1601
1701

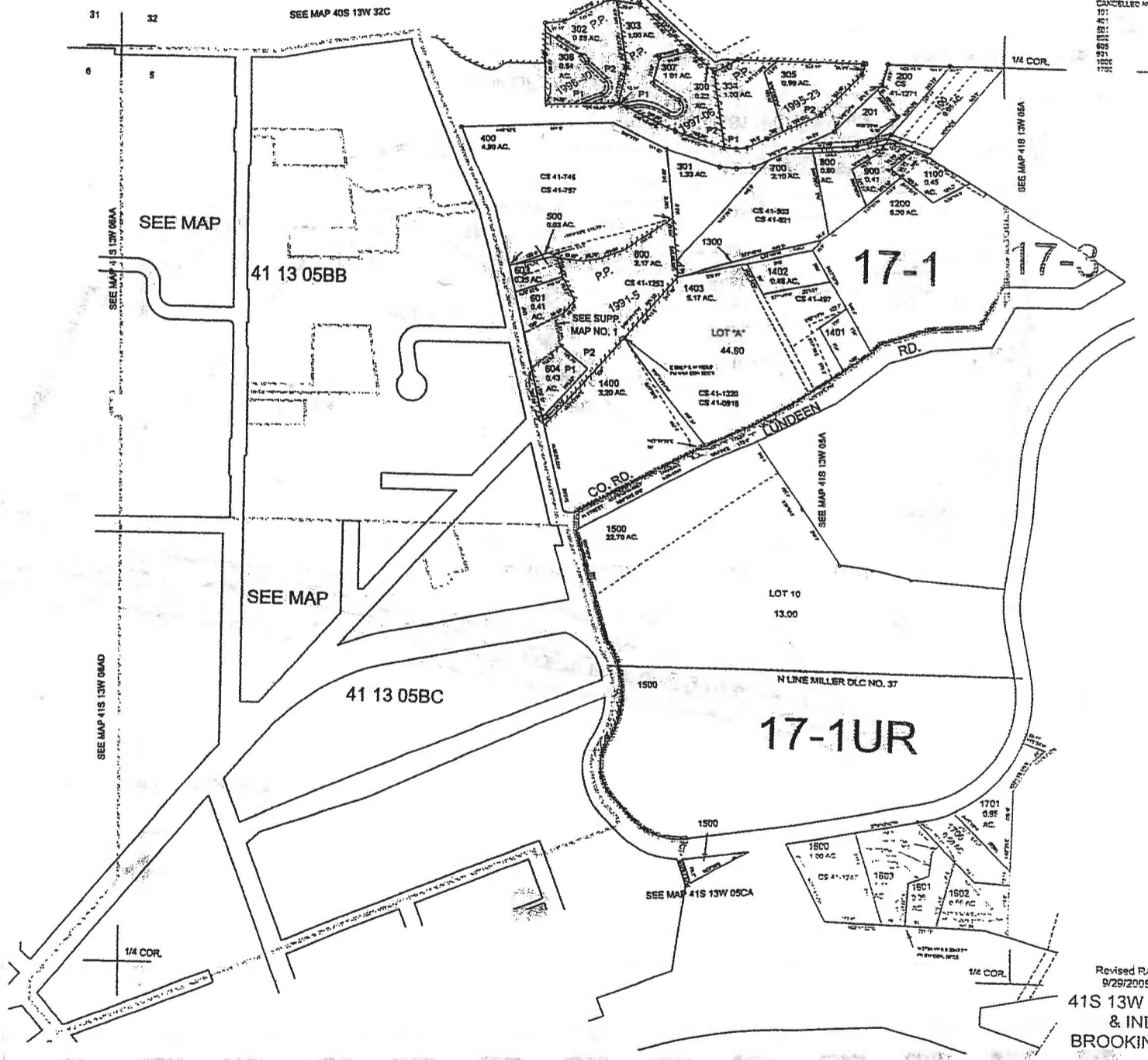


EXHIBIT 2

A-29

Revised RAA
9/29/2005
41S 13W 05B
& INDEX
BROOKINGS

EXHIBIT 4

A-30

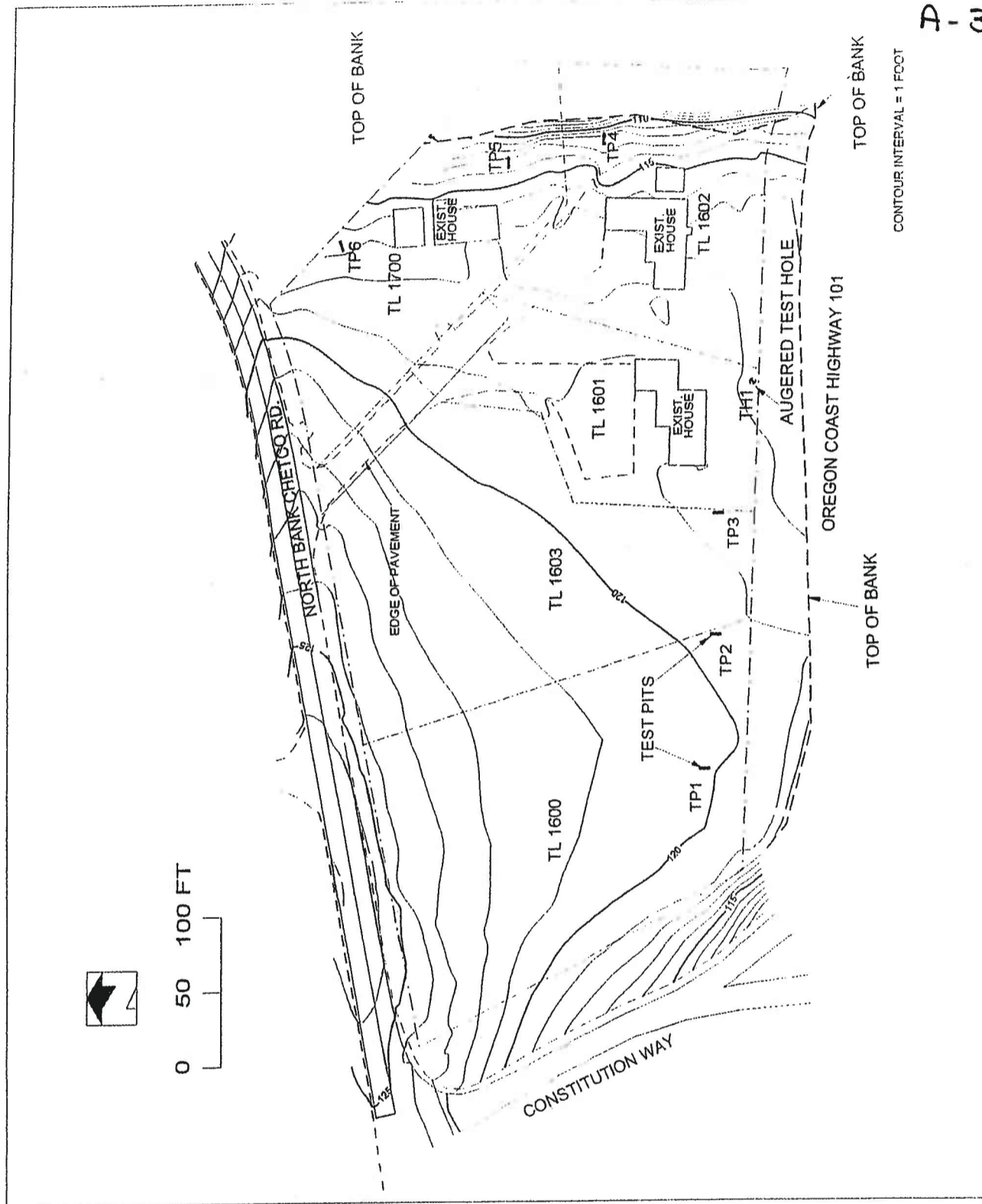


Figure 2. Map of Vista Grande project property, Tax Lots 1600, 1601, 1602, 1603 and 1700 41-13-5B, Brookings, OR. Map provided by Stuntzner Engineering and Forestry.





After recording return to:
Bayside Builders
96507 West Cliff Drive
Brookings, OR 97415

Until a change is requested all tax statements
shall be sent to the following address:
Bayside Builders
96507 West Cliff Drive
Brookings, OR 97415

File No.: 7171-688362 (GJH)
Date: February 06, 2006

THIS SPACE RESERVED FOR RECORDER'S USE

WHEN RECORDED RETURN TO:
FIRST AMERICAN TITLE CO.
PO BOX 1750
BROOKINGS, OR 97415

STATUTORY WARRANTY DEED

Lomo Family LLC, an Oregon Limited Liability Company formerly Lomo Family Partnership, a Oregon Partnership, Grantor, conveys and warrants to Steve Cadwalader, doing business as Bayside Builders, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

This property is free from liens and encumbrances, EXCEPT:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$580,000.00**. (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005.(BALLOT MEASURE 37 (2004)).

A-32

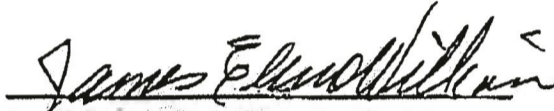
APN: R17290

Statutory Warranty Deed
- continued

File No.: 7171-688362 (GJH)
Date: 02/06/2006

Dated this 14th day of February, 20 06.

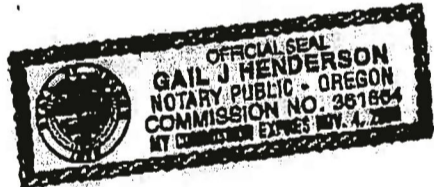
Lomo Family LLC an Oregon Limited Liability
Company formerly Lomo Family Partnership,
an Oregon Limited Liability Company

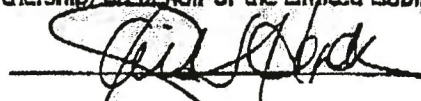

By James Elmo Williams, Successor
Trustee/Operating Manager

of the James Elmo Williams and Lois Lorraine Williams Family Trust

STATE OF Oregon)
)ss.
County of Curry)

This instrument was acknowledged before me on this 14th day of February, 20 06
by James Elmo Williams as Successor Trustee/Operating Manager of Lomo Family LLC an Oregon Limited
Liability Company formerly Lomo Family Partnership, on behalf of the Limited Liability Company.




Notary Public for Oregon
My commission expires: 11-4-08

APN: R17290

Statutory Warranty Deed
- continued

File No.: 7171-699362 (GJH)
Date: 02/06/2006

EXHIBIT A

LEGAL DESCRIPTION:

TRACT A: (TL 1600)

That certain tract of land lying in Section 5, Township 41 South, Range 13 West, Willamette Meridian, in the City of Brookings, Curry County, Oregon, described as follows:

312

Beginning at an iron pipe driven on the Northerly boundary of the relocated Oregon Coast Highway at a point described as being 2833.6 feet North and 2262.4 feet East of the Southwest corner of said Section 5; thence North 17°00' West 289.5 feet to an iron pipe driven on the approximate Southerly boundary of the County Road; thence Westerly, following the Southerly boundary of the County Road to its intersection with the Easterly right of way boundary of the relocated Highway; thence Southeasterly and Easterly, following the relocated Coast Highway right of way to the point of beginning.

TRACT B: (TL 1603)

That certain tract of land lying in Section 5, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, described as follows:

785

Beginning at a point North 2794.19 feet and East 2349.21 feet from the Southwest corner of Section 5; thence North 3°24'29" East 128.05 feet; thence North 70°17'08" East 64.90 feet; thence North 6°33'25" East 70.15 feet; thence North 44°54'27" East 30.0 feet; thence North 45°05'33" West 93.30 feet; thence South 79°10'40" West 186.80 feet, more or less; thence South 17°00' East 289.5 feet; thence South 88°17'00" East 69.64 feet, more or less, to the point of beginning.

CLERK'S RECORDING INFORMATION

TRANSACTION: Sheriff's Deed
GRANTOR: Mark Metcalf, Curry County Sheriff
GRANTEE: Robert B. and Doris Allsup

TRUE AND ACTUAL CONSIDERATION: \$342,810.83

SEND TAX STATEMENTS TO:

ROBERT B. ALLSUP
DORIS ALLSUP
PO BOX 2053
HARBOR, OR 97415

AFTER RECORDING RETURN TO:

ROBERT B. ALLSUP
DORIS ALLSUP
PO BOX 2053
HARBOR, OR 97415

SHERIFF'S DEED

THIS DEED made this 24th day of April 2006, between Mark Metcalf, Sheriff of Curry County, Oregon hereinafter called grantor, and Robert B. and Doris Allsup, hereinafter called grantee, *husband and wife

WITNESSETH:

WHEREAS, in an action in the Circuit Court of the State of Oregon for Curry County, Oregon, Case number 04CV0801 between Robert B. and Doris Allsup, Plaintiffs, and The Bank 9, Inc., a Nevada Corporation; Mark H. Saunders; and Does 1-10, Defendants, a judgment of foreclosure was enrolled and docketed on June 1, 2005 for the foreclosure of a mortgage on real property described below; and

WHEREAS, the court thereafter issued a writ of execution, and pursuant thereto on September 1, 2005, all interest of the Defendants in the real property was sold at public auction, subject to redemption, in the manner provided by law, for the sum of \$342,810.83, to Robert B. and Doris Allsup, Plaintiffs, the highest bidder; and

WHEREAS, the Sheriff, duly executed and delivered to the purchaser a certificate of sale; and

WHEREAS, the Sheriff then filed the return of sale with the Court; and

WHEREAS, the time for redemption as required by law has expired, the real property has not been redeemed from the sale, and the grantee herein is the owner and holder of the certificate of sale and has delivered the certificate to grantor;

4710
RETURN TO:
CURRY COUNTY TITLE
PO BOX 672-GOLD BEACH, OR 97444

Sheriff's Deed - Page 1

CURRY COUNTY, GOLD BEACH, OR FEE \$41.00
RENEE KOLEN, COUNTY CLERK

05/01/2006 #2006-2407
02:29:45PM 1 OF 4

WHEREAS, the court issued a Special Finding and General Judgment, wherein it was ordered that the Sheriff convey the property to Robert B. and Doris Allsup;

NOW, THEREFORE, in consideration of the sum paid for the real property, that amount being \$342,810.83 grantor does hereby convey to grantee all interest the defendants had on July 15, 2003, the date of the Trust Deed, and all interest which Defendants had thereafter in that real property situated in Curry County, Oregon, described below;

Real Property is described in "Exhibit A", attached and incorporated by reference herein.

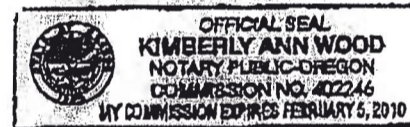
This instrument does not guarantee that any particular use may be made of the property described in this instrument. A buyer should check with the appropriate city or county planning departments to verify approved uses.

The true and actual consideration for this transfer is \$342,810.83 the amount of the Plaintiff's judgment plus costs, in the above entitled matter.

IN WITNESS WHEREOF, the grantor has executed this instrument on April 24, 2006.

Mark Metcalf
Curry County Sheriff

by: Rhonda L. Metcalf
Rhonda L. Metcalf
Chief Civil Deputy



STATE OF OREGON,)
) ss.
County of Curry)

This instrument was acknowledged before me on 4-24-06, 2006 by Rhonda L. Metcalf as a duly appointed and commissioned Deputy of Mark Metcalf, Sheriff of Curry County.

Kimberly Ann Wood
NOTARY PUBLIC FOR OREGON
My commission expires: February 5th 2010

Sheriff's Deed - Page 1

CURRY COUNTY, GOLD BEACH, OR FEE \$41.00
RENEE KOLEN, COUNTY CLERK

05/01/2006 #2006-2407
02:29:45PM 2 OF 4

Exhibit A

That certain tract of land lying in Section Five (5), Township Forty-one (41) South, Range Thirteen (13) West, Willamette Meridian, Curry County, Oregon, described as follows:

Beginning at a point North 2794.19 feet and East 2349.21 feet from the Southwest corner of Section

- thence North 3° 24' 29" East 128.05 feet;
- thence North 70° 17' 08" East 64.90 feet;
- thence North 6° 33' 25" East 70.15 feet;
- thence North 44° 54' 27" East 30.0 feet;
- thence South 45° 05' 33" East 68.2 feet;
- thence South 15° 26' West 200.4 feet;
- thence North 85° 17' 00" West 95.36 feet, more or less, to the point of beginning.

TOGETHER WITH an appurtenant easement as disclosed by HR: 130 Page: 46 recorded March 23, 1987.

CURRY COUNTY, GOLD BEACH, OR FEE \$41.00
RENEE KOLEN, COUNTY CLERK

05/01/2006 #2006-2407
02:29:45PM 3 OF 4

EXHIBIT A

STATE OF OREGON)
) ss. CASE NO 04CV0801
County of Curry)

I HEREBY CERTIFY, that on April 24, 2006, upon receipt of the original Certificate of Sale and the conveyance fee of \$15.00, I did execute a deed of conveyance to the purchasers, Robert B. and Doris Allsup, a copy of which is attached hereto..

Mark Metcalf
Curry County Sheriff

By: Rhonda Metcalf
Deputy

CURRY COUNTY, GOLD BEACH, OR FEE \$41.00
RENEE KOLEN, COUNTY CLERK

05/01/2006 #2006-2407
02:29:45PM 4 OF 4

BARGAIN AND SALE DEED (Revised by Oregon)

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That STEVE CADWALADER, dba BAYSIDE BUILDERS, INC. hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto STEVE CADWALADER AND KALEB S. CADWALADER, not as tenants in common but with full rights of survivorship, hereinafter called grantees, and unto grantees' heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, situated in the County of CURRY, State of Oregon, described as follows, to-wit:

REAL PROPERTY AS SHOWN ON EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

To Have and to Hold the same unto the said grantees and grantees's heirs, successors and assigns forever.
The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.00.

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 20 day of APRIL, 2005; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS OR LAWSuits AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 51.00.

Steve Cadwalader
STEVE CADWALADER, PRESIDENT

STATE OF OREGON,

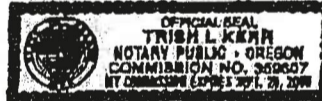
County of CURRY

The foregoing instrument was acknowledged before me this APRIL 20, 2005, by STEVE CADWALADER.

Trish L. Kern
Notary Public for Oregon

(SEAL)

My commission expires: 9-20-06



STEVE CADWALADER

GRANTOR'S NAME AND ADDRESS

STEVE CADWALADER and KALEB S. CADWALADER

GRANTEE'S NAME AND ADDRESS

After recording return to:

STEVE CADWALADER
866 OLD COUNTY ROAD
BROOKINGS, OR 97415
NAME, ADDRESS, ZIP

It will be enough to reproduce all the addresses used in the following address.

STEVE CADWALADER
KALEB S. CADWALADER
866 OLD COUNTY ROAD
BROOKINGS, OR 97415
NAME, ADDRESS, ZIP

SPACE RESERVED FOR RECORDER'S USE

CURRY COUNTY, GOLD BEACH, OR FEE \$31.00
RENEE KOLEN, COUNTY CLERK

04/21/2005 #2005-2620
12:00:40PM 1 OF 2

EXHIBIT "A"

The following parcel of land situated in Section 5, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, described in the 1970 survey made by Newhouse:

Parcel I

Beginning at an iron pipe on the North boundary of the relocated Oregon Coast Highway at a point described as being 2828.6 feet North and 2427.3 feet East of the Southwest Corner of Section 5; thence North 15° 26' East 200.4 feet; thence South 45° 10' East 201.0 feet; thence South 2° 39' West 39.3 feet (this bearing sometimes called South 2° 20' West); thence South 2° 02' East 20.0 feet, more or less, to the Northerly boundary of the relocated Oregon Coast Highway (this bearing sometimes called South 2° 28' East); thence Westerly, following the Northerly boundary of said right of way to the Point of Beginning.

Parcel II

A parcel of land situated in Section 5, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, described as follows:

Beginning at the most Southerly Corner of that parcel of land described in Volume 39, Page 510, Curry County Deed Records; thence along the lands of Miller, North 45° 39' West 128.6 feet to a 5/8 inch iron rod set; thence North 85° 25' East 96.1 feet to a 5/8 inch iron rod set on the line of Doherty; thence South 02° 13' 30" West 97.66 feet to the Point of Beginning.

Parcel III

That certain parcel of land situated in the Northwest Quarter of Section 5, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, more particularly described as follows:

Beginning at a point on the Easterly boundary of the North bank of the Chetco River Road, said point being North 3412.7 feet and East 2721.9 feet from the Southwest corner of said Section 5; thence South 70° 36' East 66.74 feet; thence South 48° 54' 31" West 48.0 feet; thence South 32° 59' West 111.9 feet; thence South 2° 20' West 362.0 feet; thence North 45° 10' West 380.0 feet to a point on the Easterly boundary of the above mentioned road; thence following said boundary Northeasterly 475.0 feet to the point of beginning.

SAVE AND EXCEPT that parcel conveyed by instrument recorded November 5, 1958, in Volume 54, Page 208, Curry County Deed Records, and that parcel conveyed by instrument recorded August 4, 1986, in Volume 123, Page 563, Curry County Book of Records.

CURRY COUNTY, GOLD BEACH, OR FEE \$31.00
RENEE KOLEN, COUNTY CLERK

04/21/2005 #2005-2620
12:00:40PM 2 OF 2



TERRA FIRMA
Geologic Services

○ EXHIBIT 6
A-40

Ron Sonnevil, C.E.G.
Engineering Geologist

27766 Hunter Creek Road
Gold Beach, Oregon 97444

541 247-2091
541 247-7173 Fax
ron@terrafirmageo.com

DATE: August 20, 2003
FROM: Ron Sonnevil, Engineering Geologist
TO: Vista Grande
P.O. Box 1708
Brookings, OR 97415
SUBJECT: Assessment of Property for Vista Grande I

INTRODUCTION

This report documents a geologic investigation conducted in July, 2003. The study site is located within a 3.85 acre area that includes Tax Lots 1600, 1601, 1602, 1603 and 1700 in Section 5 Township 41 South, Range 13 West in Brookings, Oregon. The property is sandwiched between Constitution Way, North Bank Chetco River Road and Highway 101 just west of where Highway 101 crosses the Chetco River (Figures 1 and 2). The purpose of the investigation was to assess soil and geologic hazards relevant to a proposed development of condominiums and light commercial structures. The investigation consisted of site mapping, inspection of soils in backhoe dug test pits and in a hand augered test hole, and inspection of soil and rock materials exposed on nearby slopes.

SITE CONDITIONS

Topography

Most of the property slopes gently (less than 5 percent) to the south and southwest except for the eastern 30 to 40 feet which has slope gradients of 50 to 70+ percent. The eastern part of the property is located on the upper part of a 60 to 70 foot tall slope that has a gradient of 50 to 100 percent and is bounded to the east by the Chetco River Floodplain. The top of a cutslope for US Highway 101 is located about 25 feet south of the property. The cutslope is about 20 foot tall and has a gradient of 60 percent. The eastern part of the property includes three homes which are planned to be relocated and/or demolished.

Bedrock and Soil Properties

Soils were examined in six backhoe dug test pits and in one hand augered test hole (Figure 2). The test pits, which were dug in the south and east parts of the property, encountered silty sand \pm gravel and are interpreted to be Pleistocene age (approximately 200,000 to 80,000 years old or possibly younger) terrace deposits related to the Chetco River and/or a regional marine terrace. The terrace deposits were found to be less than 3 feet deep in the eastern part of the property near the steeper slope, however, the depth of the terrace deposits is inferred to be 10 to 20 feet on most of the property.

The terrace sediments are underlain by sandstone and mudstone of the Jurassic age (approximately 150 million years old) Dothan Formation (Beaulieu and Hughes, 1976). Sandstone and minor mudstone bedrock were encountered in the eastern test pits. Sandstone bedrock is exposed in the eastern part of the cutslope for Highway 101, the slope below the west end of the Highway 101 bridge and, locally, on portions of the steep slope east of the property.

GEOLOGIC HAZARDS

Slope Failure

No evidence was found to suggest that the proposed development will be impacted by slope failures. In my opinion the Highway 101 cutslope does not have a significant risk of failing and impacting the proposed development due to its distance from the planned structures combined with its relatively low height. Portions of the steep slope in the eastern part of the property were examined and no evidence was found to suggest that large slope failures capable of impacting the proposed development are imminent. However, the slope is very steep in that area and shallow slope failures appear possible of occurring. Structures proposed for the eastern part of the property area were not exactly located at the time of this investigation and it is recommended that the final development plans be reviewed prior to construction to identify site specific concerns that may exist in that area due to the presence of steep slopes.

Seismic Hazards

A potential geologic hazard is seismic shaking related to a large magnitude earthquake. Recent geologic studies have demonstrated that the Northern California and Oregon coasts are periodically subjected to very large magnitude earthquakes (Richter Magnitude 8 or greater) generated on the Cascadia Subduction Zone (CSZ) which extends from just south of Eureka, California into Canada. The CSZ is an east dipping thrust fault which begins about 50 miles offshore and extends beneath the Klamath Mountains and Coast Range of Oregon and Northern California. Large segments of the fault are thought to experience movement simultaneously, accounting for the very large magnitude which is predicted. The recurrence interval for these seismic events is thought to be about 400 years with the last event being a little over 300 years ago, thus, although an event is possible the risk is not very high that it will occur during the economic life of the development (calculated at having a 10 to 20 percent chance of occurring in the next 50 years by Charland and Priest (1995)). The activity and recurrence interval of other faults which can generate earthquakes capable of impacting the southern Oregon Coast is poorly understood and it is entirely possible that other nearby faults which are not part of the Cascadia Subduction Zone may be active and can generate earthquakes capable of impacting the area. The Brookings area has experienced several historic earthquakes but, to date, the amount of damage has been relatively minor.

Madin and Mabey (1996) compiled earthquake hazard maps for Oregon which delineate maximum earthquake shaking values (peak ground acceleration) expected in bedrock for earthquakes with recurrence intervals of 500, 1000 and 2500 years. The Brookings area is shown to have peak ground acceleration values of 0.65g, 0.85g and 1.15g for the 500, 1000 and 2500 year events, respectively, which means that there is a 10, 5 and 2 percent chance that these respective levels of shaking will occur within the next 50 years.

Seismic shaking during infrequent, large magnitude earthquakes is undoubtedly very severe and has the potential to cause slope failures as well as structural damage to homes along the Oregon Coast. It is impossible to precisely determine how this area will respond to such extreme ground shaking, if it occurs during the economic life of the development. The eastern part of this property has the greatest risk of being impacted by a seismic induced slope failure. However, defining the extent of seismic induced slope failure possible on this property requires an extensive investigation of the bedrock that lies beneath the eastern part of the property to identify fracture systems and planes of weakness that may result in large rock slide events. Such an investigation, which is very costly, is rarely done in this area for this level of development.

Suitability of soils for foundations

Foundations should extend through the topsoil and bear on the yellow to reddish brown colored subsoil that classifies as a silty sand or the fractured sandstone bedrock. These materials were found to exist between 1.5 and 3 feet beneath the ground surface in the test pits and are suitable for standard foundation loads of 2000 psf.

CONCLUSIONS

1. The southern part of the property is sufficiently distant from the Highway 101 cutslope that there is negligible risk for the cutslope to fail and impact the proposed structures. The eastern part of the property encroaches onto the upper part of a steep slope that is 60 to 70 feet tall. The upper part of the slope was examined and no evidence was found to suggest that slope failures capable of impacting the proposed developments are imminent, however, the structure locations were not exactly determined at the time of the investigation. In my opinion we should be retained to review the locations of proposed structures in the eastern 85 feet of the property to identify constraints that the steep slope has on the proposed structures and to determine mitigation measures that may be appropriate to protect the structures.
2. Foundations should extend through any fill or topsoil and bear on the yellow brown to reddish brown colored subsoil that classifies as a medium dense to dense silty sand and/or fractured sandstone in the eastern part of the property. In my opinion an allowable bearing capacity of 2000 psf is appropriate for these materials.

3. Runoff from developments should not be allowed to be discharged onto the steep slopes south and east of the subject property where slope failures or erosion may result.
4. There is no evidence to indicate that the site is underlain by an active fault which has the potential to produce ground rupture. There is evidence, however, that nearby faults may be active and that severe ground shaking may occur. Structures throughout the Oregon Coast should be designed to withstand severe, strong ground motion. Structures should be built to at least UBC Seismic Zone 4 guidelines (required by current code) and greater protection can be provided by designing to or greater than UBC Seismic Zone 4 standards.

REFERENCES

Beaulieu, J. D. and P. W. Hughes, 1976, Land-Use Geology of Western Curry County, Oregon, *Bulletin, Oregon Department of Geology and Mineral Industries*, 90, 148pp.

Charland, J. W. and G. R. Priest, 1995, Inventory of Critical and Essential Facilities Vulnerable to Earthquake or Tsunami Hazards on the Oregon Coast, *Oregon Department of Geology and Mineral Industries, Open File Report O-95-02*, 52pp.

Madin, I. P. and M. A. Mabey, 1996, Earthquake Hazard Maps for Oregon *Oregon Department of Geology and Mineral Industries, GMS-100*, 1 sheet.

LIMITATIONS

The conclusions in this report are opinions based on a current knowledge of erosion rates and erosion processes that are interpreted to have historically impacted the area and the soil and bedrock conditions which were observed and are interpreted to exist on the remainder of the property. No warranties, either expressed or implied are provided. This report is submitted with the limitation that damage caused by an extreme, historically unprecedented climatic or seismic event is borne by the property owner and is an inherent risk of building near a steep slope in a geologically active area.

Respectfully,



Ron Sonnevil



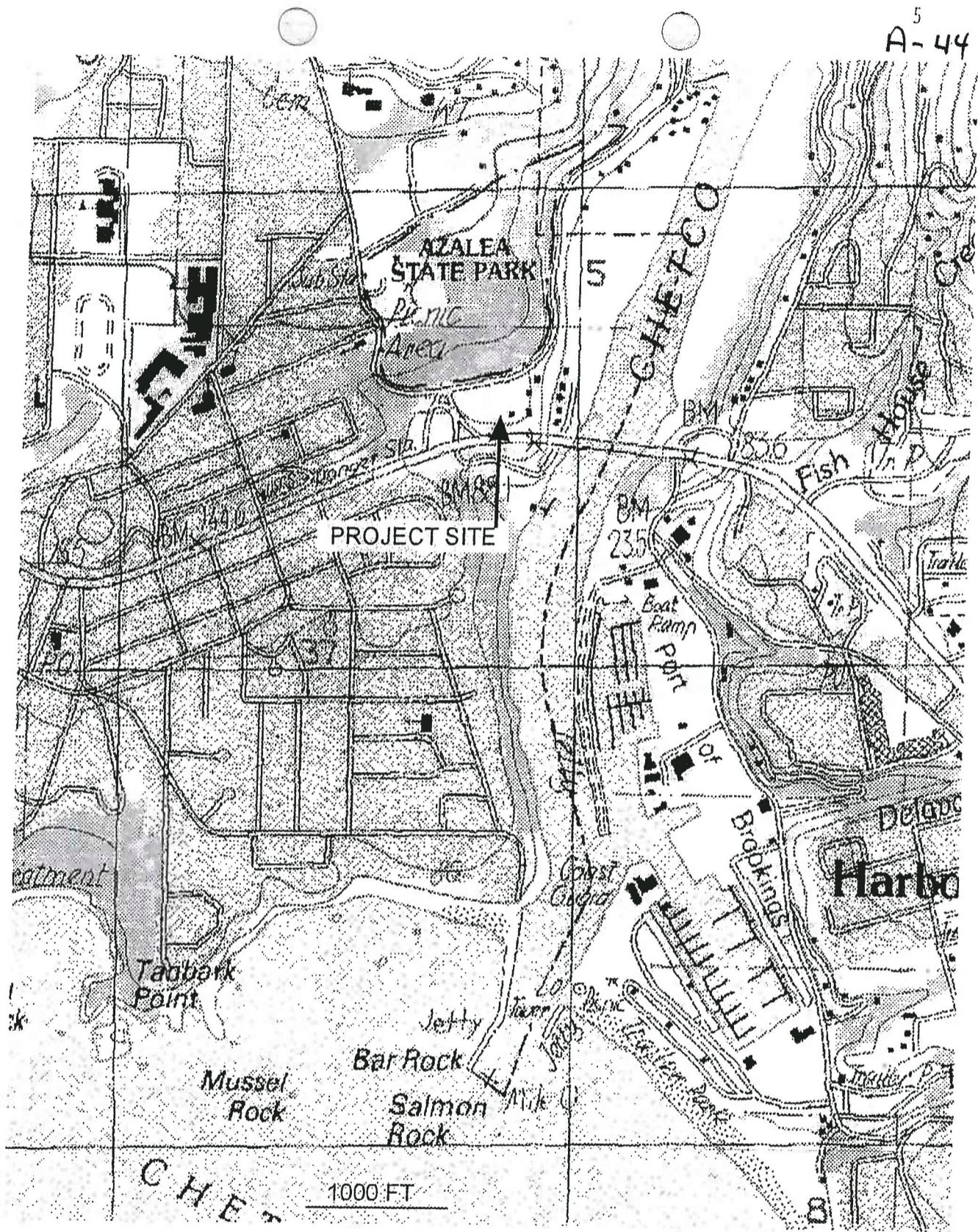


Figure 1. Map showing location of investigated area source = USGS Brookings 7.5 minute quadrangles.

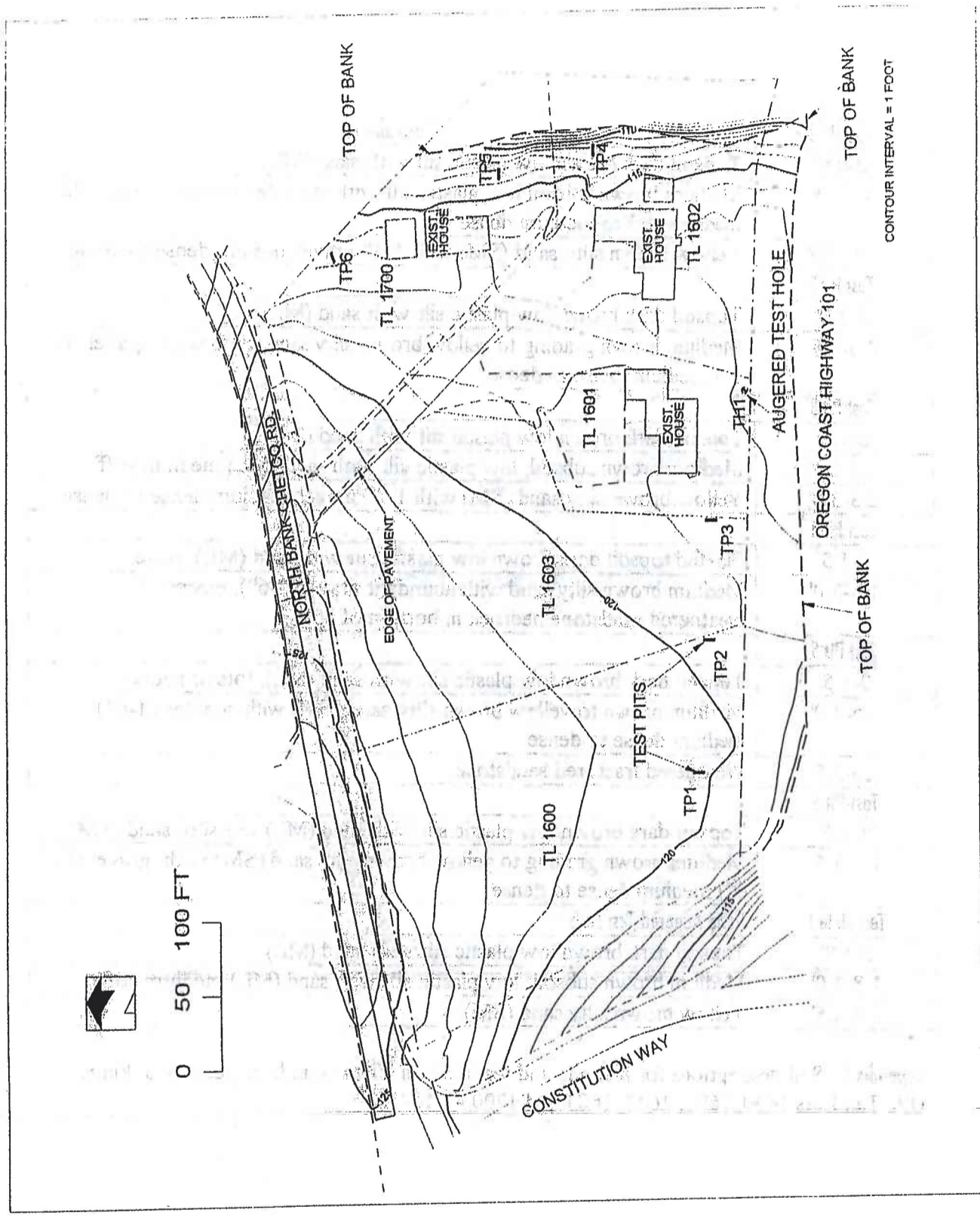


Figure 2. Map of Vista Grande project property, Tax Lots 1600, 1601, 1602, 1603 and 1700 41-13-5B, Brookings, OR. Map provided by Stuntzner Engineering and Forestry.



Test Pit 1	Description
0-0.6'	Topsoil dark brown low plastic silt with sand (ML)
0.6-1.8'	Medium brown subsoil low plastic silt with sand (ML) to silty sand (SM) medium stiff to medium dense.
1.8-3.0'	Yellow brown silty sand (SM) with 1-3" gravel medium dense to dense.
Test Pit 2	
0-2.0'	Topsoil dark brown low plastic silt with sand (ML).
0.6-1.8'	Medium brown grading to yellow brown silty sand (SM) with gravel (1-3") medium dense to dense.
Test Pit 3	
0-1.5'	Topsoil dark brown low plastic silt with sand (ML).
1.5-2.3'	Medium brown subsoil, low plastic silt with sand (ML) medium stiff
2.3-3.0'	Yellow brown silty sand (SM) with 1-3" gravel, medium dense to dense.
Test Pit 4	
0-1.5'	Fill and topsoil dark brown low plastic silt with sand (ML) loose.
1.5-3.0'	Medium brown silty sand with abundant gravel (2-6"), pieces of weathered sandstone bedrock in bottom of hole.
Test Pit 5	
0-1.5'	Topsoil dark brown low plastic silt with sand (ML), lots of roots.
1.5-3.0'	Medium brown to yellow brown silty sand (SM) with cobbles (1-6"), medium dense to dense.
3.0-3.5'	Weathered fractured sandstone.
Test Pit 6	
0-1.0'	Topsoil dark brown low plastic silt with sand (ML) and silty sand (SM).
1.0-3.5'	Medium brown grading to yellow brown silty sand (SM) with gravel (1-3") medium dense to dense.
Test Hole 1	Hand Augered Test Hole
0-1.8'	Topsoil dark brown low plastic silt with sand (ML).
1.8-3.0'	Medium brown subsoil, low plastic silt with sand (ML) medium stiff
3.0-4.5'	Yellow brown silty sand (SM).

Appendix 1. Soil descriptions for test pits and test hole on Vista Grande project, Brookings, OR, Tax Lots 1600, 1601, 1602, 1603 and 1700 41-13-5B.



**H. Lee & Associates***Traffic Engineering, Transportation Planning, and Intelligent Transportation Systems***EXHIBIT 7**

A-47

MEMORANDUM*P.O. Box 1849
Vancouver, WA 98668
Phone: (360) 567-3002
Fax: (360) 567-3005*

To: City of Brookings Staff

From: Hann Lee and Jay Bookisch, P.E.

Date: August 7, 2006

Subject: Trip Generation Analysis for Cadwalader Rezone

The project site is located on the east side of the intersection of US 101 and North Bank Chetco River Road. It is comprised of five tax parcels totaling approximately 3.72 acres. The proposed project involves rezoning the subject site from C-4, Tourist Commercial to R-3, Multifamily Residential.

The remainder of this memorandum provides a trip generation analysis comparing the trip generation between the build out based on the existing zoning and the proposed zoning.

The existing zoning, C-4, is a Tourist Commercial zoning. The zoning district is intended to make provision for tourist commercial uses which serve the traveling public and which are appropriate to major thoroughfare or highway locations. It was assumed that approximately 25 percent of the site could be used for the building footprint. This equates to a commercial space of 40,511 square feet. The Tourist Commercial zoning encompasses a wide range of commercial uses. The most diverse commercial code in the ITE Trip Generation Manual, 7th Edition, is the shopping center use (ITE Code 820). This use encompasses much of what is described in the permitted uses in the Brookings code.

For the proposed zoning, R-3, Multifamily Residential, it was assumed that a maximum of 70 condominium units would be developed. The residential condominium/townhouse ITE Trip Generation Manual rate was used to estimate the trip generation (ITE Code 230).

of daily, A.M. peak hour, and P.M. peak hour trips generated by the existing and proposed zoning were developed from rates published in "Trip Generation, 7th Edition" (Institute of Transportation Engineers, 1996). As shown in Table 1, the proposed condominium use would generate 410 daily, 31 A.M. peak hour and 36 P.M. peak hour trips. The C-4 Tourist Commercial build out would generate 1,740 daily, 42 A.M. peak hour trips, and 152 P.M. peak hour trips. The proposed R-3 rezoning build out would generate 1,330 fewer daily, 11 fewer A.M. peak hour trips, and 116 fewer P.M. peak hour trips than the existing C-4 zoning build out.

Table 1. Trip Generation Summary

ITE Code	Area	Average Daily	Trip Generation Rates			Average Daily	Trips Generation							
			AM Peak	PM Peak	Total		AM Peak	PM Peak	Total					
820	445,111 gsf	42.94	0.63	0.40	1.03	1.80	1.95	3.75	26	16	42	73	79	152
230	70 units	5.86	0.07	0.37	0.44	0.35	0.17	0.52	5	26	31	24	22	26
Difference						1.330	21	(10)	11	49	57	116		



GUEVARA Thomas

From: GUEVARA Thomas
Sent: Monday, September 11, 2006 2:49 PM
To: 'Dianne Snow'
Cc: HUGHES Ronald H * Ron; OLTMAN John W; WADDINGTON Jeff S; WEISENBACH Ingrid J
Subject: Cadwalader Multi-Family (R-3) Comprehensive Plan Amendment (CPZ-1-06)

We received public notice of a proposed Comprehensive Plan Amendment from Tourist Commercial (C-4) to Multi-Family Residential (R-3) on 3.72 acres located at 207 North Chetco River Road (Map 41-13-5B TL 1600, 1601, 1602, 1603 & 1700). We reviewed the applicant's trip generation analysis and find that multi-family land uses on the property are not expected to significantly affect the US 101/Constitution Way intersection function, capacity or performance standards.

We recommend the following conditions of approval be included in the Goal 12-Transportation and OAR 660-012-060 findings to protect the safety and operation of the intersection.

- No access shall be allowed on US 101 or Constitution Way.
- The North Chetco River Road access shall be as far as physically possible from the Constitution Way/North Chetco River Road intersection.

Please contact Jeff Waddington, Permit Specialist at (541) 396-1151 for information regarding access to state highways. Please contact me at (541) 957-3692 for information regarding ODOT comments on the proposed project.

Thomas Guevara Jr., Development Review Planner
 ODOT Region 3
 3500 NW Stewart Parkway
 Roseburg, OR 97470
 (541) 957-3692

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SEP 14 2006

CITY OF BROOKINGS

B-2

Dianne Snow

From: GUEVARA Thomas [Thomas.GUEVARA@odot.state.or.us]
Sent: Friday, July 21, 2006 11:07 AM
To: Dianne Snow
Subject: RE: Cadwalader Zone Change - US 101/Constitution Way Intersection

No. the rezone will generate less than C-4 would have generated. So it is considered a benefit to the highway. Second, it may be a while before we have agreement on the intersection improvement.

-----Original Message-----

From: Dianne Snow [mailto:dsnow@brookings.or.us]
Sent: Friday, July 21, 2006 10:17 AM
To: GUEVARA Thomas
Subject: RE: Cadwalader Zone Change - US 101/Constitution Way Intersection

Hi Tom. Are you going to respond to the zone change with the comment that mitigation for the intersection needs to be in place prior to issuing development permits though???

Dianne Snow, Planning Director
 City of Brookings, Oregon
 541-469-1136
 www.brookings.or.us
 dsnow@brookings.or.us

-----Original Message-----

From: GUEVARA Thomas [mailto:Thomas.GUEVARA@odot.state.or.us]
Sent: Friday, July 21, 2006 10:04 AM
To: Dianne Snow
Cc: HUGHES Ronald H * Ron; OLTMAN John W
Subject: Cadwalader Zone Change - US 101/Constitution Way Intersection

Dianne, Calwalader's Zone Change from C-4 to R-3 is considered a down zone not subject to the TPR provisions. The R-3 land uses will generate less traffic than the C-4 land uses. ODOT is not recommending a traffic impact study for the proposed project. We recommend that the site have no access onto US 101 or Constitution Way to preserve the intersection's safety and operation.

Please be advised the Brookings C.A.R.S. Short-Term Alternative shows a portion of Calwalader's property is needed for the N. Bank Rd./Constitution Way intersection realignment. We encourage Mr. Cadwalader to attend in the Brookings C.A.R.S. Public Advisory Committee on July 27, 2006 to give his input. Please call me at 541-957-3692 if you have any questions.

-----Original Message-----

From: OLTMAN John W
Sent: Thursday, July 20, 2006 5:52 PM
To: GUEVARA Thomas
Subject: RE: Cadwalader Zone Change - US 101/Constitution Way Intersection

7/21/2006

City of Brookings -- Public Works Dept
898 Elk Drive, Brookings, OR 97415
(541) 469-1150 Fax: 469-3650
dwilcox@brookings.or.us
www.brookings.or.us



Memo

To: Dianne Snow, Planning Director
From: Donald Wilcox, PE, PW Director/City Engineer
Date: August 24, 2006
Re: Cadwalader - Water/Sewer Service Availability Information Request

I have received your request and reviewed our infrastructure toward availability of water and sewer service to the above site for ~70 EDU's and have the following comments:

WATER:

Water distribution service could likely be provided to serve water demands from this development with average day and maybe maximum day demands from the adjacent 10-inch PVC water line in North Bank Chetco River Road. However, this 10-inch line is fed by an 8-inch line which also already serves a large area. I have attached system maps for this area. Current static water pressure is ~90 PSI. Peak hour and fire flow would not likely be provided from our existing water system and water storage may be required to provide these demands. A simultaneous pressure and flow test and hydraulic analyses based on test results would need to be performed to be able to make these determinations. Water production required for this development is ~55,000 gallons for the maximum day demand (peak hour demand and fire demand is provided by storage). This is about 2% of our current WTP production capability. It is my understanding that WTP expansion costs for this type of development would be covered in the SDC's assessed but all distribution and storage improvements would be at the expense of the developer.

The City's past practice has been to simply allow all new development to connect to the nearest water line without a determination of adequacy of pressure and flow to provide average day, maximum day, peak hour or fire flow at the minimum required pressures. To determine adequacy of service for a development of this size, it is common practice that a simultaneous flow and pressure test be performed and use that information and the information provided by the developer on the attached system analysis forms to determine what water service could be provided by the existing system, and what additional infrastructure would be necessary (if any) to provide full service. This also allows the developer to plan for and reserve adequate land area

C-2

to place water storage facilities (if needed) compliant with the criteria established in our land development code for any needed facilities.

I believe that there may be adequate water infrastructure in place to serve this development for average and maximum day demands, but additional infrastructure will be required to serve peak hour and fire demands. Additional information is needed to final determinations.

WASTEWATER:

Wastewater Collection service could likely be provided to receive flows from this development for all average day and maximum day flows via the adjacent 8-inch (material unknown) sanitary sewer line, lift station and 4-inch force main in the ODOT ROW (US HWY 101/Chetco Avenue). However, a wastewater system analysis would need to be performed to see if the wet-well and pumps serving this line are large enough and/or if the new flows would trigger DEQ required back-up generators to be installed. Wastewater treatment required for this development is ~70,000 gallons for the maximum day flows. This is about 4% of our current WWTP capability. It is my understanding that WWTP expansion costs for this type of development would be covered in the SDC's assessed but all collection and pumping improvements would be at the expense of the developer.

The City's past practice has been to simply allow all new development to connect to the nearest sewer line without a determination of adequacy to convey maximum day flows to our wastewater treatment plant. However, to determine adequacy of service for a development of this size it is common practice to use the information provided by the developer on the attached system analysis forms to determine what sewer service could be provided by the existing system and what additional infrastructure would be necessary (if any) to provide full service. This also allows the developer to plan for and reserve adequate land area to place manholes, wet wells, lift stations (if needed) compliant with the criteria established in our land development code for any needed facilities.

I believe that there may be adequate wastewater infrastructure to serve this development already in place; however additional information is needed to final this determination.

Please let me know if you have any questions.

Attachments

c: Richard Christensen, John Cowan, file