



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

January 2, 2007

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 006-06



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: January 3, 2007

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
Matthew Crall, DLCD Transportation Planner
Dianne Morris, 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
DEC 26 2006
LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Brookings Local File No.: CPZ-2-06
(If no number, use none)

Date of Adoption: Dec 18, 2006 Date Mailed: Dec 20, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: Oct. 16, 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 amendment approved a Comprehensive Plan Change and a Zone
change from General Commercial (C-3) to Multiple-family
Residential (R-3).

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: C-3 to R-3

Location: At the terminus of Lucky Lane Acres Involved: 2.2 acres

Specify Density: Previous: N/A New: _____

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

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 006-06 (15631)

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: 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: _____

Local Contact: Dianne Morris Area Code + Phone Number: 541-469-1138

Address: 898 Elk DR. City: Brookings, Or

Zip Code+4: 97415 Email Address: dmorris@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.

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)
ADJACENT TO LUCKY LANE AND)
NORTH OF CHETCO AVE. FROM) *ORDINANCE NO. 06-O-579*
COMMERCIAL TO RESIDENTIAL AND)
THE ZONING FROM C-3 (GENERAL)
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 December 5, 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-3 (General Commercial) to R-3 (Multi-family Residential) on a 2.21 acre parcel of land located on adjacent to Lucky Lane and north of Chetco Ave.; identified as Assessor's Map No. 41-13-06BD; Tax Lot 2000.

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 meeting of December 18, 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 Dianne Morris, Planning Director for the City of Brookings; 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: December 18, 2006

Second Reading: December 18, 2006

Passage: December 18, 2006


Effective Date: January 18, 2006

Signed by me in authentication of its passage this 18th day of December, 2006.



Pat Sherman, Mayor

ATTEST:



Paul Hughes, Finance Director/Recorder

EXHIBIT A

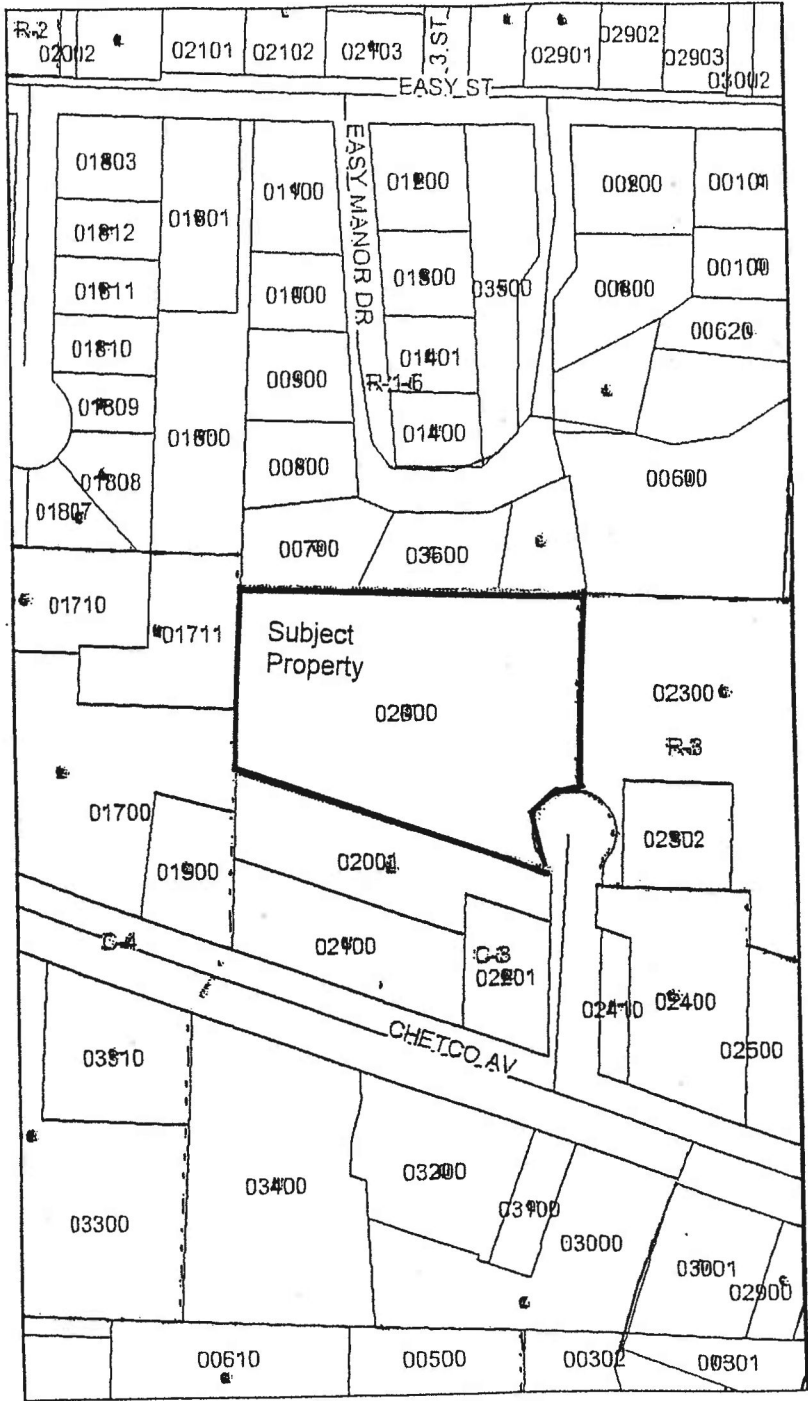
Real property in the County of Curry, State of Oregon, described as follows:

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 41 SOUTH, RANGE 13 WEST, WILLAMETTE MERIDIAN, IN THE CITY OF BROOKINGS, OREGON, BEGINNING AT A POINT WHICH BEARS WEST A DISTANCE OF 15.0 FEET FROM THE NORTHEASTERLY CORNER OF THE BROOKINGS SUPPLY, INC. PROPERTY AS DESCRIBED IN VOLUME 71, PAGE 682, DEED RECORDS OF CURRY COUNTY, OREGON, SAID POINT BEING NORTH 494.7 FEET AND WEST 594.7 FEET FROM THE INTERIOR CENTER QUARTER SECTION CORNER OF SAID SECTION 6; THENCE NORTH 72° 54' WEST, FOLLOWING THE NORTHERLY LINE OF SAID BROOKINGS SUPPLY, INC. PROPERTY, A DISTANCE OF 398.7 FEET; THENCE NORTH, A DISTANCE OF 198.1 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF THE ALDRICH MANOR SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 27, CURRY COUNTY RECORDS; THENCE EAST, FOLLOWING THE SOUTH LINE OF SAID ALDRICH MANOR SUBDIVISION, A DISTANCE OF 381.1 FEET (RECORD DISTANCE IS 367.0 FEET); THENCE SOUTH, A DISTANCE OF 315.3 FEET MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 2.25 ACRES, MORE OR LESS;

EXCEPTING THEREFROM THAT PORTION CONVEYED BY DEDICATION DEED TO CITY OF BROOKINGS IN INSTRUMENT NO. 2004-6125 CURRY COUNTY OFFICIAL RECORDS.

Tax Parcel Number: R21806

EXHIBIT B



Applicant:	South Curry Development LLC	
Assessor's No:	41-13-06 BD Tax Lot 2000	
Size:	2.15 acre parcel	
Location:	Lucky Lane	
Zone:	C-3 (General Commercial) to R-3 (Multi-family Residential)	

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

**In the matter of Planning Commission File No.) Final ORDER
CPZ-2-06; application for a Comprehensive Plan/) and Findings of
Zone Change; South Curry Development, LLC,) Fact
applicant.**

(As amended by the City Council on Dec. 18, 2006)

ORDER approving an application for a Comprehensive Plan designation change from Commercial to Residential and a zone change from C-3 (General Commercial) to R-3 (Multi-family Residential), and subject to conditions of approval as stated in this document, on a 2.21 acre parcel located northwest and adjacent to Lucky Lane and north of Chetco Avenue; Assessor's Map 41-13-06BD, Tax Lot 2000; Zoned C-3 (General Commercial).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with Chapter 17.140, Amendments, of the Brookings Municipal Code; and,
2. The Brookings Planning Commission duly considered the above described application on the agenda of its regularly scheduled public hearing on December 5, 2006; and,
3. Recommendations were presented by Craig Stone, contracted Planner for the City of Brookings, in the form of a written Staff Report dated November 27, 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 December 18, 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 condition 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. Applicant which is also the record owner of the 2.21-acre subject property has properly filed complete applications that seek to amend the comprehensive plan map from Commercial to Residential and zoning map from C-3 to R-3. The applications are supported by proposed findings of fact and conclusions of law and evidence submitted by Applicant through its agent, Maize & Associates (**Attachment A**).
2. Proper public notice has been given in accordance with the LDC and law and the Planning Commission is scheduled and will hear these matters in public hearing to be conducted on December 5, 2006. During the public hearing and the time the record of the proceedings are open, all interested parties will be given an opportunity to present evidence and argument.
3. The subject property is within the corporate jurisdiction of the City of Brookings and its Urban Growth Boundary.
4. Other than the provisions of Statewide Planning Goals 9 and 12 and their implementing administrative rules (which are recited verbatim above) these applications involve no other state provisions which produce a substantial burden for Applicant.
5. City of Brookings Public Works Director John Cowan provided a separate staff report dated October 18, 2006 which establishes:
 - A. The property can be served with potable water by way of an existing 8-inch water main in Lucky Lane.
 - B. The property can be served with public sanitary sewer from an existing 8-inch line in Lucky Lane.
 - C. The property will be served by a 12-inch storm drain in Lucky Lane which will require extension to the subject property.

PROPOSED CONCLUSIONS OF LAW

1. The City of Brookings herewith incorporates by reference and adopts the Findings of Fact and Conclusions of Law prepared by Maize & Associates ("Applicant's findings"), dated November 14, 2006, which address relevant goals and policies of the comprehensive plan, and relevant provisions of OAR Chapter 660, Divisions 9 and 12.
2. Regarding goals and policies of the comprehensive plan, according to *Bennett v. City of Dallas*, 17 Or. LUBA 450, 456, aff'd 96 Or. App. 645 (1989) and subsequent cases, the fact that the relevant substantive criteria requires plan map amendments (or zone changes) to comply with the plan's goals and policies do not automatically transform all comprehensive plan goals and policies into decisional criteria. A determination of whether particular plan goals/policies are

approval criteria must be based on the language used in the goals/policies and the context in which they appear. The City of Brookings concludes that only the goals and policies of the comprehensive plan which are cited and addressed in the Maize findings were intended by the City to function as independent approval criteria for plan map amendments. Applicant's findings demonstrate consistency with the relevant plan goals and policies in the context of these amendment applications.

3. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 9 (Economic Development) in the context of post acknowledgment plan amendments — OAR 660-009-0010 (4) — the City of Brookings concludes, based upon Applicant's findings, that the proposed amendment will not adversely impact the amount of vacant commercial land needed over the planning period. The amendment will not produce commercial land shortages over this period because (after the change) there will remain sufficient vacant and underutilized acreage planned and zoned for commercial purposes to satisfy the City's commercial requirements. This determination is based upon the existing ratio of developed commercial land to population and a projection of this ratio into the future based upon the City's acknowledged population forecast. Moreover, the City of Brookings takes notice of other comprehensive plan map amendments which have been approved in recent months that more than offsets the reduction in commercial acreage that would result from approval of this amendment. For these reasons the City of Brookings concludes that this application is consistent with OAR 660-009-0010 (4).
4. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 12 (Transportation) in the context of this post acknowledgment plan amendment — OAR 660-012-0060 — the City of Brookings concludes, based upon Applicant's findings, that the proposed plan and zoning map amendments will not significantly affect any existing or planned transportation facility because the amendments will *not*:
 - A. change the functional classification of any existing or planned transportation facility,
 - B. change standards implementing a functional classification system, and
 - C. at the end of the planning period, permit land uses or development that are inconsistent with the functional classification of any transportation facility, reduce the performance of any existing transportation facility below the performance standards in set forth in the Brookings TSP, nor worsen the performance of any existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

The City of Brookings reaches these conclusions of law based upon the analysis in Applicant's findings at page 29 which demonstrate that the potential traffic impacts produced by commercial development of the property will be substantially greater than if the property is developed, as intended, with housing. The City of Brookings also concludes that the analysis of traffic in Applicant's findings properly considers reasonable worst-case impacts in comparing commercial versus residential traffic levels. Therefore, based upon the foregoing findings of fact and conclusions of law, the City of Brookings concludes that the application is consistent with the requirements of OAR 660-012-0060 because the proposed amendment will not significantly affect any existing or planned transportation facility.

5. To mitigate concerns expressed by the Public Works Department in a letter dated October 18, 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. 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 *a proportionate cost* paid for by the property owner. The City must review and approve all plans.
(As amended by the City Council on Dec. 18, 2006)

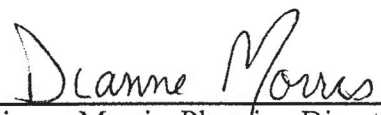
LET IT FURTHER BE OF RECORD that the City Council APPROVED the requested Comprehensive Plan and Zone Change subject to the above stated Conditions of Approval.

Dated this 18th day of December, 2006.



Pat Sherman, Mayor

ATTEST:



Dianne Morris, Planning Director

FINDINGS OF FACT AND CONCLUSIONS OF LAW

BEFORE THE CITY OF BROOKINGS PLANNING COMMISSION
AND CITY COUNCIL

IN THE MATTER OF AN APPLICATION FOR AN)
AMENDMENT TO THE CITY OF BROOKINGS) APPLICANT'S
ZONING MAP IN CHANGING THE ZONING FROM) EXHIBIT "1"
C-3 TO R-3 AND CHANGING THE COMPREHENSIVE)
PLAN MAP FROM COMMERCIAL TO RESIDENTIAL)

APPLICANT/
OWNER: South Curry Development, LLC

APPLICATION: Request for an amendment to the City of Brookings Zoning Map from C-3 (Multiple-Family Residential District) to R-3 (General Commercial District) on a 2.21-acre parcel located at the northwest terminus of Lucky Lane, approximately 200 feet north of Chetco Avenue (U.S. Highway 101).

A. SUBMITTAL REQUIREMENTS:

Chapter 17.140 of the Brookings Municipal Code (BMC) specifies the review procedures and approval process for an amendment to the comprehensive plan map or zoning map, as follows:

17.140.020 *Initiation of amendments*

An amendment to the text of this code or to the zoning map and/or 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.*

17.140.030 *Application*

The property owner or his authorized agent may make application for an amendment by filing an application, or a land use application form, with the city manager or his designee for review by the site plan committee pursuant to BMC 17.80.030(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.

M-3

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.

- Policy 2. The burden of proving the need for a change in land uses shall be borne by the proponent of the land use request.*
- Policy 4. Planning decisions generally and amendments to this Plan particularly, will be consistent with applicable State Planning Goals.*
- Policy 5. Planning related decisions of the City will be in accord with the policies of the Comprehensive Plan.*

GOAL 3 AGRICULTURAL LANDS

To cooperate with the County in the preservation and maintenance of agricultural lands.

GOAL 4 FOREST LANDS

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

GOAL 5 OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES

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

- Policy 5. It is the City's policy to protect the fish bearing streams within the city limits through the establishment of a riparian setback corridor along each.*
- Policy 6. It is the policy of the City to require a cultural (archaeological) survey of any property under application for development, which is known to contain cultural artifacts, suspected to contain cultural artifacts or is of sufficient size to suspect the presence of cultural artifacts.*
- Policy 7. It is the policy of the City to require a biological survey of any property under application for development, which is known to contain endangered species, suspected to contain endangered species or is of sufficient size or contains qualities so as to suspect the presence of endangered species.*

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.

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.

Policy 8. City shall, in light of increasing demand for multifamily housing, provide suitable and adequate areas for such development.

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.

1. Public Works

Policy b. Water distribution, pumping and storage. New development requiring extension of water mains, pumping and storage facilities will be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Policy e. Wastewater collection facilities. New development requiring extension of sewer mains and new pumping stations will be paid for and constructed by the developer City of Brookings Standard Specifications document dated August 1988.

Policy f. Streets and other infrastructure facilities. The City's Public Works Department will inspect and maintain all public street and subsurface infrastructure facilities. The extension of existing streets for new development shall be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Policy g. Storm drain facilities. New development requiring storm drain systems or the extension of existing systems including provision of retention basins, will be paid for and constructed by the developer pursuant to the provision of the City of Brookings Standard Specifications document dated August 1988.

GOAL 12 TRANSPORTATION

To provide and encourage safe, convenient and economic transportation system.

Policy 3. The City will make provisions for pedestrian traffic in residential areas and provide bike paths and walkways in other appropriate areas.

A-1

Goal 3 Agricultural Lands

To preserve and maintain agricultural lands.

Goal 4 Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

Goal 6 Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

Goal 7 Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

Goal 8 Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 9 Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Goal 10 Housing

To provide for the housing needs of citizens of the state.

Goal 11 Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Goal 12 Transportation

To provide and encourage a safe, convenient and economic transportation system.

Section 17.28.050 Minimum Lot Area "The minimum lot area shall be 6,000 square feet. For each additional dwelling unit, the lot area shall be increased by 1500 square feet."

Section 17.100.020(B) Hazard Building Site Protection Hillside Development Standards
 "... the planning commission shall review land use applications proposed within areas identified as having average slopes of greater than 15 percent grade."

OREGON TRANSPORTATION PLANNING RULE (OAR 660-012-0060)

Transportation Planning – Plan and Land Use Regulation Amendments Section 660-012-0060

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

C. PURPOSE AND SCOPE OF THE APPLICATION:

The purpose of the proposed application is to change the zoning on the 2.21-acre subject parcel from General Commercial to Multi-Family Residential. The zone change will require an amendment to the City's Comprehensive Plan Map by changing the land use designation from Commercial to Residential. The applicant has provided findings as part of the application showing that the application is in conformance with the City's Comprehensive Plan and Code, and the State's Planning Goals. It is the property owners' intention upon approval of this request, to assemble the subject property with approximately 3.3 additional acres of property zoned R-3 (Multiple-Family Residential) adjoining to the east, and submit to the City, an application for the development of a multiple-family residential PUD on the approximate 5.5 acre site.

D. PROPERTY INFORMATION:

The subject property, identified as Tax Lot No. 2000 on Assessor's Map No. 41-13-6BD, is located in the western portion of the City of Brookings near Highway 101. The parcel is vacant of structures and is vegetated with both deciduous and evergreen trees and shrubs. The parcel is bisected in a general north/south direction by a drainage swale. The west half of the parcel has an average slope of approximately 7 percent rising from the south property line to the northwest corner of the parcel, while the average slope of the east half is approximately 4 percent rising from the south property line to the northeast corner. The parcel fronts on Lucky Lane, an improved public street.

As shown on Applicant's Exhibit "2", the properties abutting to the west are within a C-4 (Tourist Commercial) zone, with one developed parcel and two vacant parcels. To the north are parcels zoned R-1-6 with existing single-family residences. Abutting the east is a vacant parcel zoned R-3, which is also owned by the applicant. To the south is one parcel also zoned C-3 and is developed with an automobile repair facility.

E. APPLICANT'S SUBMITTALS:

Exhibit "1"	Findings of Fact and Conclusions of Law
Exhibit "2"	Zoning Map showing subject parcel
Exhibit "3"	Assessor's Map showing subject parcel
Exhibit "4"	Geologic Hazard Map of the Cape Ferrelo Quadrangle (Section)
Exhibit "5"	DOGAMI Tsunami Map
Exhibit "6"	Orthographic Map

Conclusion of Law

The applicant's application submittals, most particularly the Findings of Fact (Exhibit "1"), provide the proof that the change in land uses is needed by the City of Brookings.

Policy 4. Planning decisions generally and amendments to this Plan particularly, will be consistent with applicable State Planning Goals.

Findings of Fact

The Statewide Planning Goals consist of 19 goals that express the State of Oregon's policies on land use and on related topics, such as citizen involvement, housing, and transportation. Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan, which must be consistent with the Statewide Planning Goals. The Plans are reviewed for such consistency by the State's Land Conservation and Development Commission. The State has "acknowledged" Brookings' Comprehensive Plan as being consistent with the Statewide Planning Goals.

The applicant has reviewed the Goals and Policies of the Brookings Comprehensive Plan, and the Statewide Planning Goals and Policies, and finds that there are no inconsistencies between the two. Additionally, the applicant finds that there are neither Statewide Planning Goals nor Policies that provide a more specific direction than the Comprehensive Plan. Each of the Statewide Planning Goals has been included.

Conclusion of Law

The Findings of Fact show that the proposed amendment is consistent with the applicable Statewide Planning Goals.

Policy 5. Planning related decisions of the City will be in accord with the policies of the Comprehensive Plan.

Findings of Fact

The City Council's approval of the requested amendment to the Comprehensive Plan Map and Zoning Map is based upon the finding that the applicant's proposal is in compliance and conformance with the relevant policies of Brookings' Comprehensive Plan.

Conclusion of Law

The proposed amendment is in compliance and conformance with all relevant policies of the Comprehensive Plan.

H-1

Conclusion of Law

There are no riparian corridors that will affect the future residential development.

Policy 6. It is the policy of the City to require a cultural (archaeological) survey of any property under application for development, which is known to contain cultural artifacts, suspected to contain cultural artifacts or is of sufficient size to suspect the presence of cultural artifacts.

Findings of Fact

The Brookings area has two sites that have been identified in the Comprehensive Plan as cultural areas. Neither area is located on or immediately adjacent to the subject site.

Conclusion of Law

As there is no identified cultural area located on the subject property, an archeological survey is not necessary and has therefore, not been submitted.

Policy 7. It is the policy of the City to require a biological survey of any property under application for development, which is known to contain endangered species, suspected to contain endangered species or is of sufficient size or contains qualities so as to suspect the presence of endangered species.

Findings of Fact

There is not evidence or an indication that the subject property is known to contain any species listed as endangered. The relatively small size of the subject property is not typically conducive to habitation of listed endangered species.

Conclusion of Law

A biological study is not required by the City, as a listed endangered species is not known to reside, suspected to reside, or is of sufficient size, or contains qualities for endangered species habitation.

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 Oregon Department of Geology and Mineral Industries Tsunami Map (Applicant's Exhibit "5") shows the estimated level of impact due to an offshore-generated tsunami, indicated by the solid line at an elevation considerably lower than the subject property.

Bulletin 90 also shows that the subject property is not located in an area susceptible to headland, wind, sea cliff, beach critical stream bank, or slope erosion.

The study clearly shows that the subject property is not in an area susceptible to mass movement due to steep slopes or earth flow and slump topography.

Conclusion of Law

The subject area is not located in an area with known natural hazards and, therefore, the density of the future development will not be limited and the developer will not be required to show that future development will not be endangered by one of the listed hazards.

Goal 8 Recreational Needs

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

Findings of Fact

The City endeavors to establish city parks for the recreational needs of the City in locations that are easily accessible by well-traveled public streets.

The subject parcel is only accessible to the public by Lucky Lane, a 200-foot long cul-de-sac.

The City of Brookings' Public Open Space (P/OS) zoning district allows for publicly owned recreation facilities and "to ensure adequate provision for open spaces consistent with the policies of the city."

The subject parcel is proposed to be rezoned to Multiple-Family Residential (R-3), which only will allow a recreational use as a conditional use. A use allowed as a conditional use, typically means that there are potential negative impacts that the use may generate upon the surrounding area.

Conclusion of Law

The subject parcel does not provide a good site for recreational purposes as it is only accessible from a single cul-de-sac street, and the parcel is not proposed to be zoned to allow recreation as a permitted use.

Conclusion of Law

Approval of the requested amendment and zone change will result in a zoning interface along the northern property line that should result in lesser impacts upon the single-family residential neighborhood, and will create more concentrated grouping of commercial development which can include a "grouping" of retail, service, and office uses.

Policy e. New commercial areas and new development in existing commercial districts shall be designed in a manner that mitigates traffic, noise and visual impacts on surrounding residential uses.

Finding of Fact

If the subject property were to be developed commercially, the Comprehensive Plan recognizes and requires mitigation of impacts on the surrounding residential uses, resulting from the vehicular traffic, noise, and visual aspects generated by that commercial development. The mitigation is required because commercial impacts upon residential uses are typically greater than those generated by those of other residential development.

Implementation 3. The City will utilize the zoning ordinance to provide commercial and industrial lands for development.

Findings of Fact

Chapter 17.140 of the Brookings Municipal Code specifies the review and approval process for an amendment to allow for changes to the City's land designations.

Conclusion of Law

The proposed application, requesting a change of the land use designation from Commercial to Residential follows and meets all applicable provisions of the Brookings zoning ordinance.

Goal 10 Housing

Provision of varied housing types that are 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.

Findings of Fact

Upon approval of the proposed amendment, it is the property owner's intention to submit an application for a multiple-family residential PUD to the City covering the subject parcel and three adjoining parcels.

Bud Cross Park is located approximately 2 blocks north of the subject parcel. Kalmiopsis Elementary School, Azalea Middle School, and Brookings Harbor High School are located approximately one-half mile east of the subject parcel. The City Hall facilities are located approximately one-quarter mile east of the subject parcel.

Abiding by the City's site requirements, and following the principals of good design, the residential development will provide a multiple-family neighborhood that is attractive and will be easily accessible with the existing and future urban development in the area.

Conclusion of Law

Developed as multiple-family residential land, the subject parcel will provide a safe and aesthetically pleasing residential neighborhood that is efficiently integrated and within a short distance to the downtown business and commercial properties, schools, parks, and other public facilities

Policy 8. City shall, in light of increasing demand for multifamily housing, provide suitable and adequate areas for such development.

Findings of Fact

The proposed amendment will provide land for multi-family residential development in a location that is easily accessible to the downtown area.

Bud Cross Park is located approximately 2 blocks north of the subject parcel. Kalmiopsis Elementary School, Azalea Middle School, and Brookings Harbor High School are located approximately one-half mile east of the subject parcel. The City Hall facilities are located approximately one-quarter mile east of the subject parcel.

The existing single-family residential/commercial zoning interface will be replaced with a single-family residential/multiple-family residential zoning interface, upon approval of the proposed application.

Conclusion of Law

The subject parcel is of sufficient size and in an area suitable for multiple-family residential development.

Findings of Fact

The subject property has frontage on Lucky Lane, an improved public street, that intersects Chetco Avenue (Highway 101) and runs north to terminate in a cul-de-sac bulb at the subject property. It is anticipated that all access to the subject property will be taken from the existing Lucky Lane right-of-way, with no additional street extensions required.

Conclusion of Law

All street extensions, if required at the time of development, will be paid for and constructed by the developer in accordance with the City of Brookings Standard Specifications.

Policy g. Storm drain facilities. New development requiring storm drain systems or the extension of existing systems including provision of retention basins, will be paid for and constructed by the developer pursuant to the provision of the City of Brookings Standard Specifications document dated August 1988.

Findings of Fact

There is an existing 12-inch storm drain line in the Lucky Lane right-of-way, which may need to be extended, in conjunction with any future development, to gather all storm drainage from the property. There is also an existing 18-inch storm drain line, which transects the subject property from north to south.

Conclusion of Law

All storm water facilities to serve the development will be constructed by the developer in accordance with the City of Brookings Standard Specifications.

Goal 12 Transportation

To provide and encourage safe, convenient and economic transportation system.

Policy 3. The City will make provisions for pedestrian traffic in residential areas and provide bike paths and walkways in other appropriate areas.

Findings of Fact

Lucky Lane, the street that provides public access to the subject parcel, has existing concrete sidewalks along both sides that connect with public sidewalks along Chetco Avenue (Highway 101).

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

Findings of Fact

The last amendment to the City of Brookings Urban Growth Boundary added lands to provide for the City's projected growth for the planning period to 2015. The City of Brookings has recognized that the newly established ratio between industrial, commercial, and residential lands was affected by 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 the variables. The formula used for the UGB expansion was based on the per-capita income and thus the aggregate buying power of the community. The City of Brookings staff realized that the formula did not necessarily provide an accurate determination of commercial land needs.

Staff has stated that the loss of small amounts 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 of Brookings has increased lands within the Commercial land use designation by approximately 3 acres with the approval of two recent changes.

The proposed amendment will provide land for multi-family residential development in a location that is easily accessible to the downtown area and is located close to public facilities, such as schools, parks, and City Hall.

Conclusion of Law

The proposed amendment will provide an area that is adequate to accommodate multiple-family development. The land-use designation is also appropriate for the planned use.

Policy 4. The extension of water and sewer mains to support future growth shall be funded by the development served by the mains or by the formation of "Local Improvement Districts" which agree to assess property owners within the district for the extension of service.

Findings of Fact

In order for permits to be issued for the residential development of the subject parcel, provision will need to be made for the extension of water and sewer mains to serve the subject parcel. The property owner will be responsible for providing those services to the future development.

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STATEWIDE LAND USE PLANNING GOALS

Section 17.140.050(D) states that, "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." A comparison of the Statewide Planning Goals with Brookings' Comprehensive Plan indicates that there are no relevant Statewide Planning Goals that give a more specific direction than those of the Comprehensive Plan. A discussion of each of the Statewide Goals is not, therefore necessary in accordance with the above cited Code section.

CONSISTENCY WITH THE BROOKINGS MUNICIPAL CODE

Section 17.28.050 Minimum Lot Area "The minimum lot area shall be 6,000 square feet. For each additional dwelling unit, the lot area shall be increased by 1500 square feet."

Findings of Fact

The size of the subject parcel is 2.21 acres or approximately 96,267 square feet, which meets the 6,000 square-foot minimum size. Subtracting 6,000 square feet, the resulting 90,267 square feet will allow area up to an additional 60 dwelling units, or a maximum of 61 dwelling units on the subject parcel.

Conclusion of Law

The proposed amendment on the subject parcel will in conformance with the minimum lot area standard of Section 17.28.050.

Section 17.100.020(B) Hazard Building Site Protection Hillside Development Standards "...the planning commission shall review land use applications proposed within areas identified as having average slopes of greater than 15 percent grade."

Findings of Fact

The average slope on the western half of the subject parcel is approximately 7 percent, while the average slope on the eastern half is approximately 4 percent.

Conclusion of Law

As the average slope of the subject parcel is less than 15 percent, the Hazard Building Site Protection Hillside Development Standards do not apply to this amendment.

With the current C-3 zoning on the 2.21-acre parcel, the maximum amount of commercial building space can be conservatively estimated at approximately 56,000 square feet, based upon the vehicular parking and maneuvering requirements dictated by the building's size and use. Figuring one parking space per 400 square feet of building space, the 56,000 square foot building will result in approximately 40,000 square feet of area, for a total of 96,000 square feet (2.21 acres). It could be reasonably assumed that development would result in a mix of permitted retail and office uses, conservatively mixed at 75 percent office uses and 25 percent retail uses. Using trip generation factors from the Institute of Transportation Engineers, *Trip Generation*, 6th edition, the following commercial trip generations would occur:

Use	Square Feet	ADT/1000 sq. ft.	Total ADT
Office Use	42,000	11.01	462
Specialty Retail	14,000	40.67	569
Total	56,000		1031 ADT

The City of Brookings does not have a maximum residential density factor for development in the Multiple-Family Residential zone, but based upon Section 17.28.050 of the BMC, a maximum total of 61 dwelling units can be built on the 2.21-acre parcel. Developed as a Residential PUD, the *Trip Generation* manual gives a generation rate of 7.5 ADT per dwelling unit, resulting in the following:

Use	Dwelling Units	ADT/Unit	Total ADT
Multiple-Family Residential	61	7.5	457
Total			457 ADT

Base upon those totals, based on a conservative development scenario for the current General Commercial zoning, and a very high density rate for the proposed Multiple-Family Residential zone, the traffic generation that can be expected from the proposed zone is less than the traffic generation from the proposed zone.

Conclusion of Law

Based upon the above findings, the City Council concludes that that there will not be a significant effect on an existing or planned transportation facility and therefore, the application is consistent with the Oregon Transportation Planning Rule.

Findings of Fact

There are no specific provisions of Brookings' acknowledged Comprehensive Plan, which individually address the requirements of Division 9 - Industrial and Commercial Development. However, one of the primary objectives of a city's Comprehensive Plan is to establish sufficient amounts of developable lands within its Urban Growth Boundary for each of the major categories of use, and to assure that those amounts will not be diminished within each category during the planning period.

The City of Brookings recently added lands to its Urban Growth Boundary to satisfy the City's needs for all of its land use categories during the planning period to 2015. The City must find that the reduction of its commercial land supply by 2.21 acres will not reduce that supply below what is necessary to provide lands for commercial development in the planning period.

In order to conclude that the proposed reduction of 2.21 acres of commercially zoned and designated land is consistent with the City's land use needs, a determination needs to be made as to whether a sufficient supply of developable commercially zoned land will remain in the City and its Urban Growth Boundary after the subject property is removed from the commercial land inventory and placed in the residential category.

Based upon the last population figures from Portland State University's Population Research Center, Brookings' 2005 population was estimated to be 6185 persons. The City's Comprehensive Plan's Housing element states that the projected population for the planning period (2015) is 9340 persons.

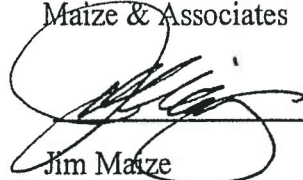
According to the Curry County Assessor's Department GIS department, there are currently 109.24 acres of commercially zoned (C-3 and C-4) acres of land that is developed. The ratio of commercial land to the 2005 population is approximately .018 acres per person. Applying that ratio to the projected population estimate at the end of the planning period, results in a need for 168 acres of commercial land for the City in 2015. An additional 59 acres of developable commercial land is, therefore, needed in the planning period.

There are 16.44 acres of commercial land that are currently vacant and without improvements in the City's boundaries.¹ In addition, there are several parcels within the City that are not vacant and although have improvements, the value of those improvements in relation to the value of the land, shows that they can be considered as parcels that are likely candidates for redevelopment, or additional development in the near future. They are typically larger parcels that have a small amount of developed square footage and can, therefore, be further developed, or they are parcels that have existing improvements, but the age and condition of those buildings, indicated by their low improvement assessed values in relation to their underlying

the Oregon Administrative Rules) and the Industrial and Commercial Development
Section 660-009-0010 of the Oregon Administrative Rules.

Respectively Submitted,

Maize & Associates



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Dated: November 14, 2006