



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

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

### NOTICE OF ADOPTED AMENDMENT

September 18, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Pendleton Plan Amendment  
DLCD File Number 002-06



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: October 2, 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  
Darren Nichols, DLCD Regional Representative  
Mike Muller, City of Pendleton

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FORM 2

D L C D 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

SEP 13 2006

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: CITY OF PENDLETON Local File No.: ZC 06-02 (If no number, use none)

Date of Adoption: 09-05-06 (Must be filled in) Date Mailed: 09-11-06 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 06-12-06

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

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

ZONE CHANGE FROM R-2 (MED. DENSITY RESIDENTIAL) TO C-1 (CENTRAL COMMERCIAL) FOR A 0.13 ACRE (5800 SF) PARCEL LOCATED ON THE WEST SIDE OF SE 5TH STREET. (EXHIBIT MAP ATTACHED)

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

(SAME)

Plan Map Changed from : MED DENSITY RESIDENTIAL to COMMERCIAL

Zone Map Changed from: R-2 to C-1

Location: WEST SIDE OF SE 5TH AVENUE, NORTH OF COURT Acres Involved: 0.13 ACRES

Specify Density: Previous: 5-10 DWELLINGS/ACRE New: MAX 160 DWELLING/ACRE

Applicable Statewide Planning Goals: 2, 10

Was an Exception Adopted? Yes: No: X

DLCD File No.: 002-06 (15304)

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: HOUSING DIVISION  
(NEED FOR ADDITIONAL SPECIAL NEEDS HOUSING)

Local Contact: MIKE MULLER Area Code + Phone Number: 541-966-0261

Address: 500 SW DORION AVENUE City: PENDLETON

Zip Code+4: 97801-2090 Email Address: mike.muller@ci.pendleton.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 "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Mara.Ulloa@state.or.us](mailto:Mara.Ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 3737**

**AN ORDINANCE AMENDING ORDINANCES NO. 3442 AND 3250 (THE 1990 COMPREHENSIVE PLAN, AND THE OFFICIAL ZONING MAP) BY REZONING A CERTAIN DESCRIBED AREA FROM R-2, MEDIUM DENSITY RESIDENTIAL TO C-1, CENTRAL COMMERCIAL AND ADOPTING FINDINGS OF FACT**

WHEREAS, the Pendleton Planning Commission received a request from Rex Heidt to rezone a .13 acre parcel of property located on the west side of SE 5<sup>th</sup> Street, legally described below:

The southerly 15 foot portion of Lot #2 and Lot # 3, Block #10, Original Town of Pendleton, Umatilla County, State of Oregon.

All lands subject to this rezoning are further depicted on Exhibit "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, the Pendleton Planning Commission has conducted a public hearing on said request August 3, 2006, and recommended the adoption of findings of fact and conclusions of law attached hereto as Exhibit "B" and incorporated herein by this reference; and,

WHEREAS, the City Council has held a public hearing on said request and accepts the recommendation of the Planning Commission to approve the request; and,

WHEREAS, the Oregon Department of Land Conservation and Development has been given a 45 day period before the first evidentiary hearing in which to review and comment on the request.

**NOW THEREFORE, CITY OF PENDLETON ORDAINS AS FOLLOWS:**

SECTION 1. The official zoning map (established by Ordinance #3250) is hereby amended to change the zoning of the property described herein from R-2, Medium Density Residential to C-1, Central Commercial.

SECTION 2. The official Land Use Map (Map I) of the Comprehensive Plan (established by Ordinance #3442) is hereby amended to change the land use designation of the property described herein from Medium Density Residential to Central Commercial.

SECTION 3. The City Council hereby adopts the Findings of Fact and Conclusions of Law as recommended by the Planning Commission (Exhibit "B") and grants said comprehensive plan map change and rezone.

PASSED by the vote of the Council members present and approved by the Mayor on this  
05 day of September, 2006.

APPROVED: Philly W. Houk  
Mayor

ATTEST: Medi G. Boske  
City Recorder

APPROVED AS TO FORM: \_\_\_\_\_  
City Attorney

LEGAL DESCRIPTION APPROVED: [Signature]  
Engineering Dept.

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**PLANNING COMMISSION  
FINDINGS AND DECISION**

**August 3, 2006**

Consideration of a recommendation to the City Council regarding a Comprehensive Plan Map change and rezoning of a .13 acre (5800 sq. ft) parcel of property located on the west side of SE 5<sup>th</sup> Street (identified as Lot 3 and a 15 foot portion of Lot 2, Block 10, Original Town of Pendleton, Tax Lot 2900, Map 2N 32 02 CC, Umatilla County, Oregon) from R-2 (Medium Density Residential) to C-1 (Central Commercial) zone; Rex Heidt, applicant. (File No. ZC06-02).

**REVIEWED BY:** Michael W. Muller, City Planner

**RELEVANT CRITERIA:**

1. Zoning Ordinance No. 3250, Section 147, 148 and 149 states the following:

**SECTION 147. AUTHORIZATION TO INITIATE AMENDMENTS.** An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the Planning Commission or by application of the property owner for an amendment by filing an application with the City Manager using forms prescribed pursuant to Section 157 of this Ordinance.

**SECTION 148. COMPLIANCE WITH COMPREHENSIVE PLAN.** An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Comprehensive Plan text and Comprehensive Land Use Map. Any deviation from this section shall be preceded by an amendment to the Comprehensive Plan Text or to the Comprehensive Land Use Map.

**SECTION 149. PUBLIC HEARING ON AMENDMENTS.** The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of Section 161 of this Ordinance at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment and render a final decision within one hundred twenty (120) days after application submittal unless longer review is agreed upon by the City and applicant. Public hearings on amendments encompassing lands of a mobile home park shall be conducted after notification of park tenants at least twenty (20) but no more than forty (40) days prior to the hearing.

**FINDINGS OF FACT:**

1. The subject parcel of property described as Lot 3 and a 15 foot portion of Lot 2, Block 10, Original Town of Pendleton, (Tax Lot 2900, Map 2N 32 02 CC) Umatilla County, Oregon, totaling .13 acres is contiguous to property to the south, zoned C-1, Central Commercial. The southerly property (Lots 9, 8, 7, 6, 5, 4 and a 7 foot portion of Lot 3 of Block 10, Original Town of Pendleton) zoned C-1 is developed as a parking lot for the Umatilla County Court House to the southeast. Since the parcel is contiguous to existing commercial property, it is appropriate and makes sense to rezone the parcel to conform with the predominate neighborhood land use characteristics to the south and west.
2. The property owner has indicated that he has the opportunity to develop, the now vacant parcel, into a 5-plex apartment complex in conjunction with Horizon Projects. Parcels that meet the special housing location requirements for such low income and reintegration programs are very difficult to find in the City. Several other projects such as Eastern Oregon Alcohol Foundation have had great difficulty finding suitable properties upon which to build in the recent past. Therefore this proposed rezoning will help meet a critical need in the community for special needs housing.
3. The subject .13 acre parcel is currently zoned R-2 (Medium Density Residential) and allows a maximum of 1.95 dwelling units @ 15 dwelling units/acre. The proposed rezone to C-1 (Central Commercial) will allow 160 dwelling units/acre for both Multi-Family and Residential Facilities. Since the balance of the adjacent lots to the north and west (Lots 1, 2, 10, 11 and 12, Block 10, Original Town of Pendleton) contain older residences, of which several have been converted to apartments it is appropriate, and makes sense to rezone the parcel to allow development in conformance with the predominate neighborhood land use characteristics of Block 10, Original Town of Pendleton.

4. If this request is recommended for approval by the Planning Commission, the City Council will be presented with an ordinance amendment that would be considered in public hearing for enactment that would redesignate and rezone the subject property on the Comprehensive Plan Map and the Zoning Map from R-2 (Medium Density Residential) zone to C-1 (Central Commercial) zone.

4. The Department of Land Conservation and Development (DLCD) have been provided notice of this proposal. This notice is provided pursuant to ORS 197.610 and OAR Chapter 660, Division 18, and must be sent at least 45 days prior to the initial evidentiary hearing date to allow the DLCD staff the opportunity to file an objection and/or attend the hearing if they have a concern. The final hearing date before the City Council will be scheduled for the September 5, 2006 meeting.

5. On December 16, 1980, the City Council adopted a standard condition to be placed upon all land use requests to protect the city taxpayer from any costs of potential appeals to the decisions. This condition shall be applied in this case as well.

**CONCLUSIONS:** The proposed redesignation and rezone is valid for the following reasons, as well as those that are presented above:

1. The proposal recognizes the need for applying the appropriate zoning that is compatible with and matches the land use of the properties in the vicinity.
2. The C-1 zoning is contiguous to the subject property and would represent a logical extension thereof.

**RECOMMENDATION:** The Planning Commission forwards a favorable recommendation to the City Council to enact an ordinance that would accomplish to redesignate and rezone the subject parcel from R-2 (Medium Density Residential) zone to C-1 (Central Commercial) zone, subject to the following condition:

1. The applicant(s) have the burden of proof regarding all requests affecting this subject property, and the applicant(s) recognize that it is the sole obligation of the applicant(s) to substantiate this request.

If any administrative review, suit or action is instituted in connection with any appeal of this decision, the applicant(s) shall be required to: (1) reimburse the city of all costs incurred in defending this action, including, but not limited to, attorneys fees, staff costs, and materials and other related cost; (2) notify the city that the applicant(s) do not desire to undertake such costs and will drop the request; or (3) defend the city's actions on behalf of the city.

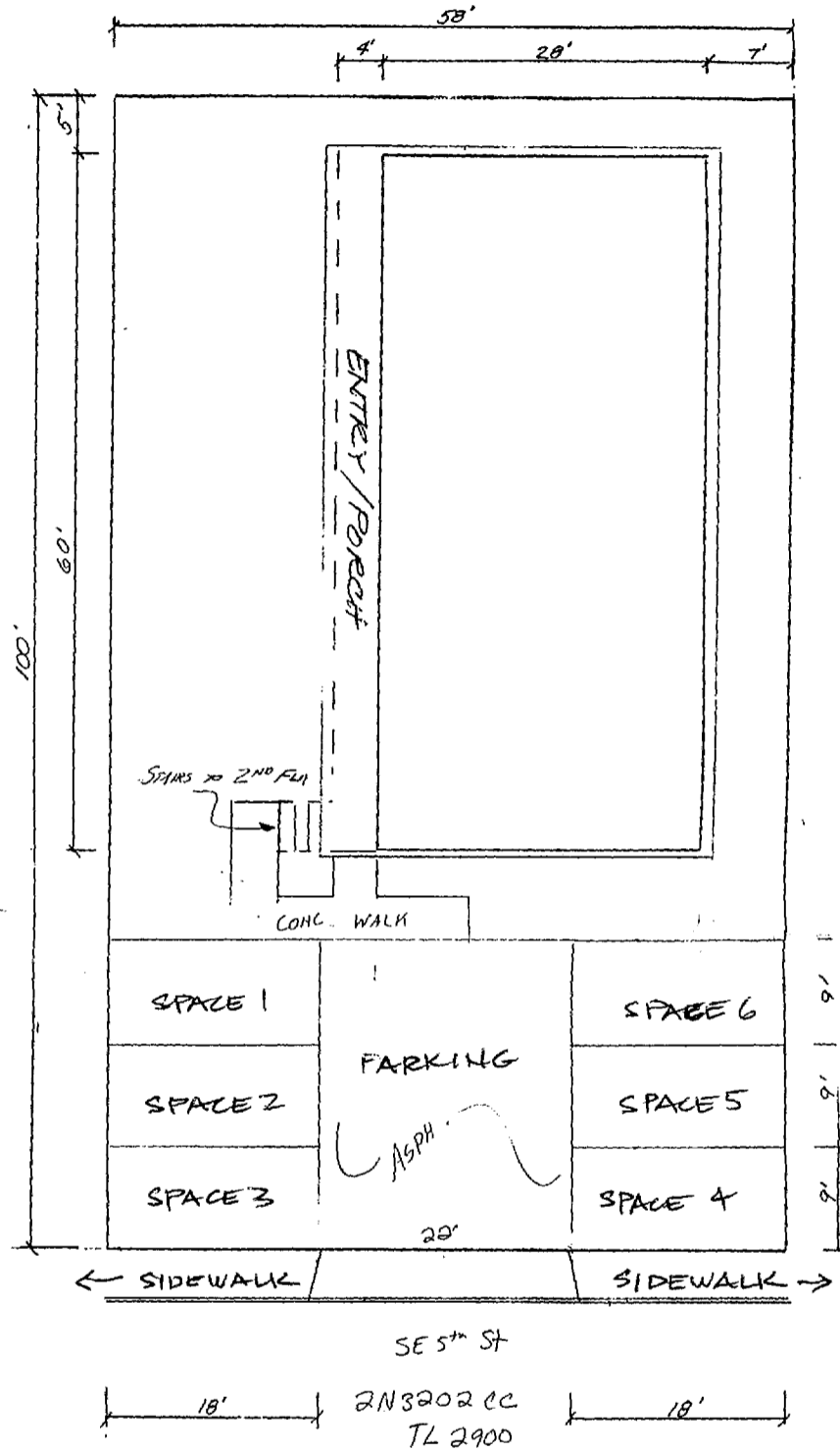
The applicant(s) shall notify the City Manager within five days from the city's receipt of any notice of appeal by delivering a written statement to the City Manager advising the City Manager whether the applicant(s) will reimburse the City for all costs as described above; desires to drop the request; or intends to defend the City's actions on behalf of the City.

In the absence of written communication from the applicant(s) within the allotted five days, the City may, at its option, presume the applicant(s) desire to drop the request and the City shall have no obligation to defend the appeal.

In appeals involving questions of City wide significance, the City may participate in the proceedings described herein at its own expense. Nothing in this condition affects the applicant's right to retain independent counsel in making its own legal appearance on appeal.

If any proceeding, including recession, is instituted by the applicant(s), in which the City is a party, in connection with any controversy arising out of this request, the applicant(s) will indemnify and hold the City harmless from any costs of the action, including a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and on appeal.

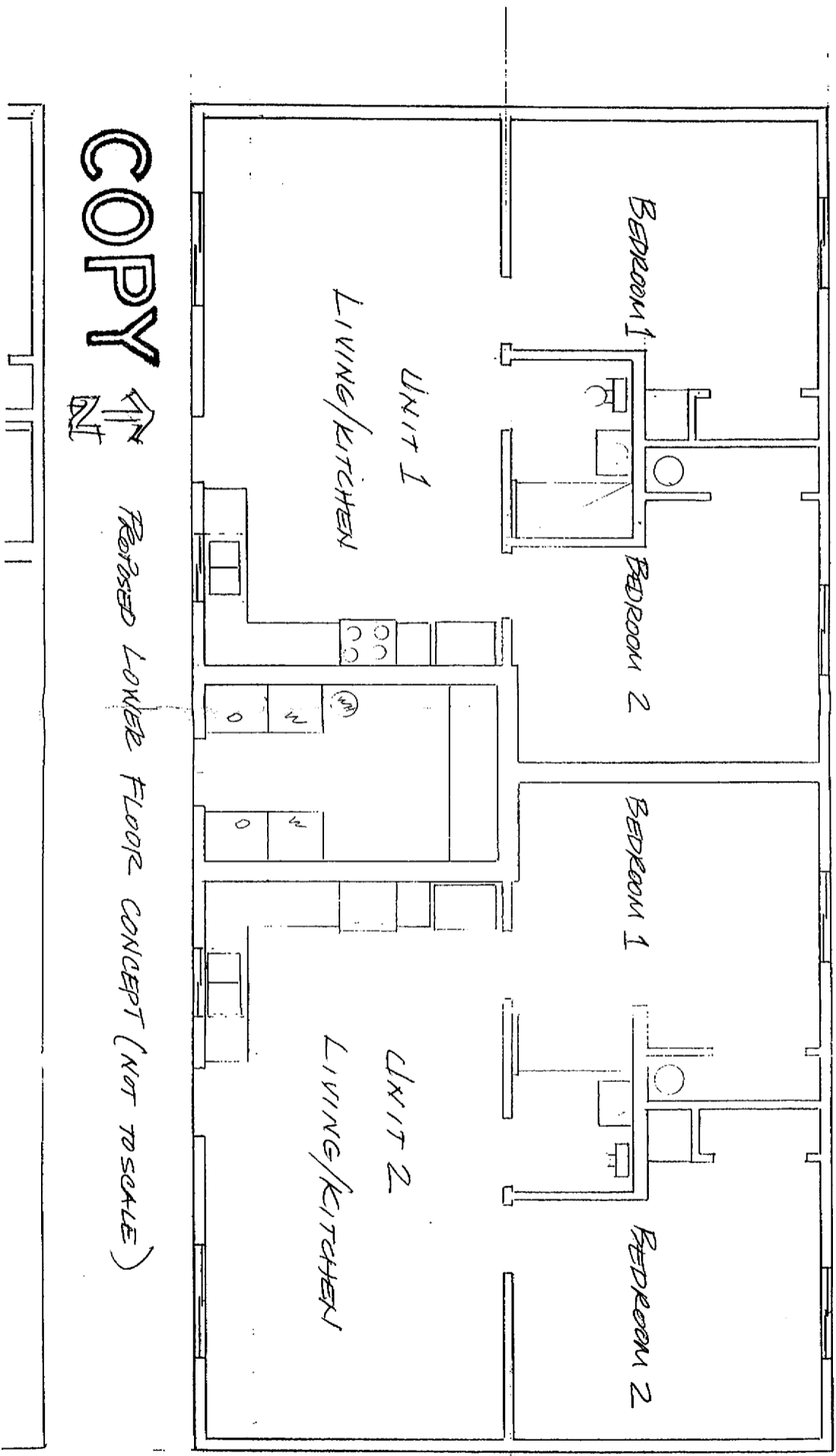
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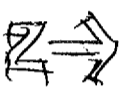
SITE PLAN SCALE: 1"=10' N →

**COPY**  
 (REDUCED NOT TO SCALE)

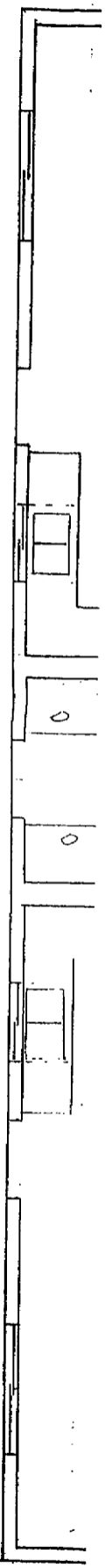




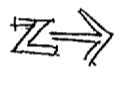
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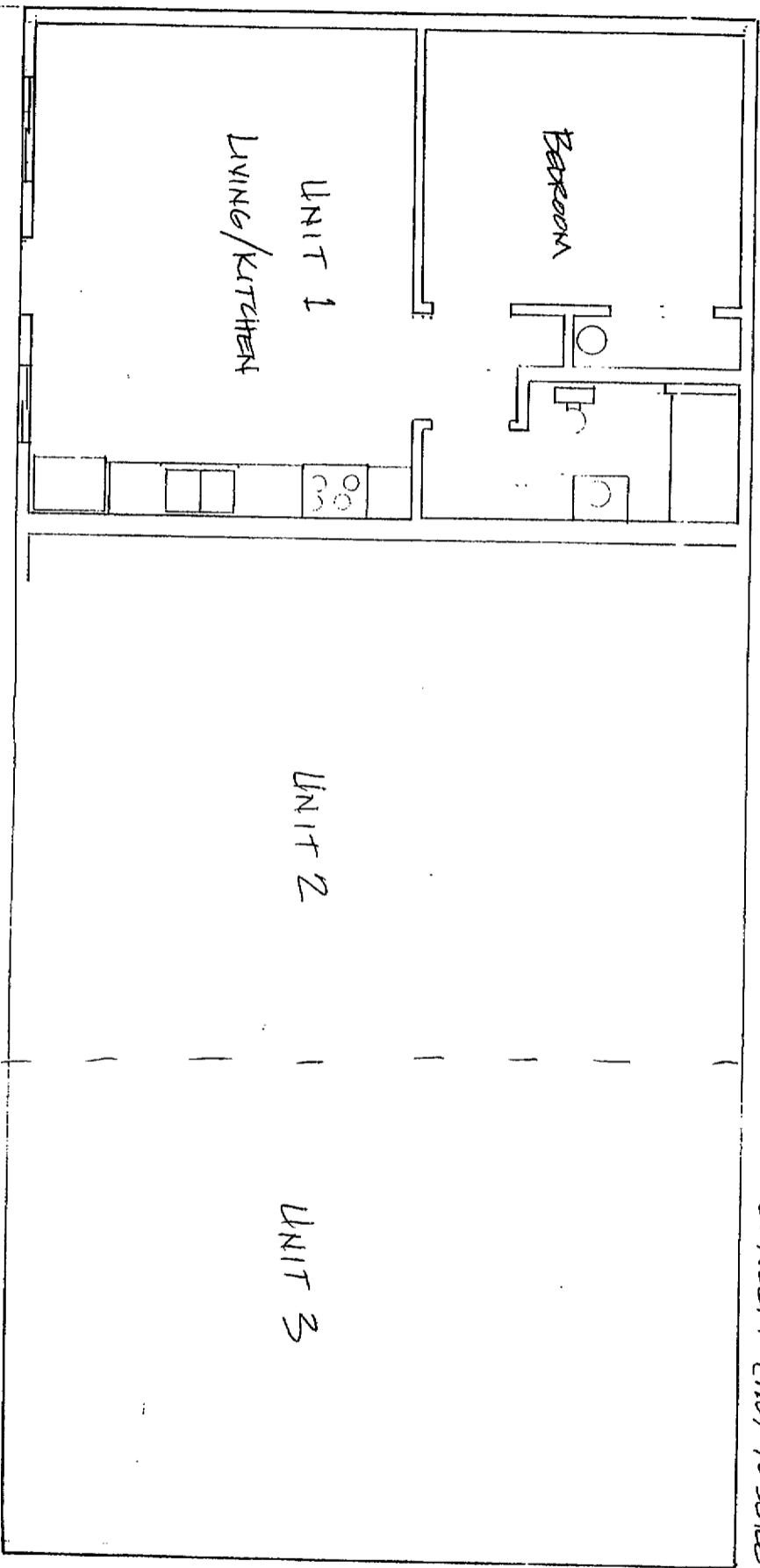
Revised Lower Floor Concept (Not to Scale)



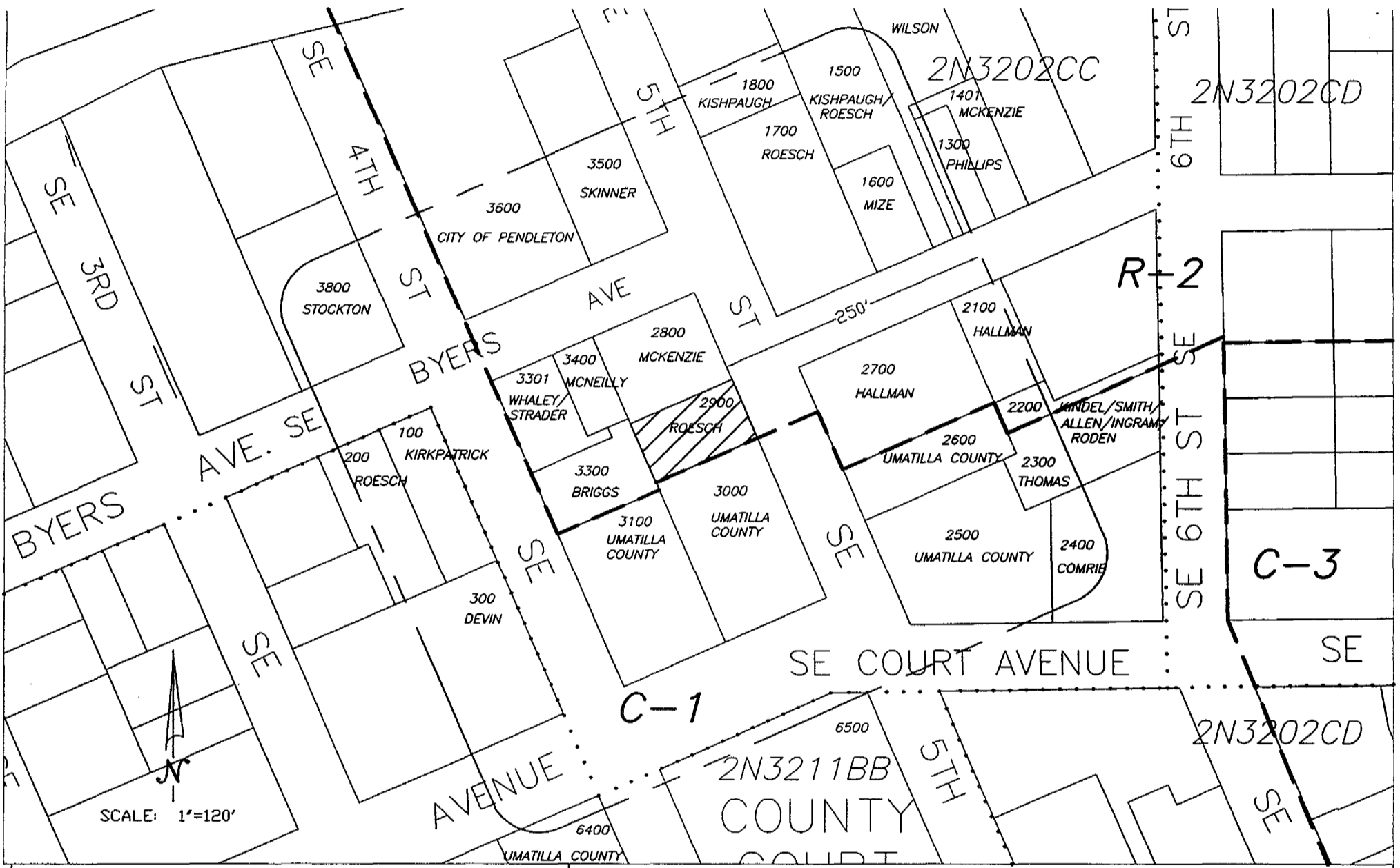
COPY



PROPOSED UPPER FLOOR CONCEPT (NOT TO SCALE)



ENTRY PORCH AREA



- ZONES
- ..... INDICATES UMATILLA ASSESSORS BOUNDARY
- PROPERTY OWNER NOTICE AREA
- AREA OF PROPOSED ZONE CHANGE

CITY OF PENDLETON - PLANNING DEPT

EXHIBIT "A"

ZONE CHANGE FROM R-2 TO C-1

APPLICANT: REX HEIDT    FILE NO: ZC06-02(HEIDT)    DRAFTER: MWM    REVISED: 7/25/06

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