



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

04/13/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Coos Bay Plan Amendment  
DLCD File Number 001-12

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: Friday, April 27, 2012

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

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

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

Cc: Laura Barron, City of Coos Bay  
Angela Lazarean, DLCD Urban Planner  
Dave Perry, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

DATE  
STAMP

DEPT OF

APR 09 2012

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **City of Coos Bay**

Local file number: **ZON2012-00007**

Date of Adoption: **4/3/2012**

Date Mailed: **4/6/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 1/26/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The subject .12 acre is proposed to be redesignated in order to assemble it with the remainder of the block which is to be used as the site of the new wastewater treatment plant. The subject property and the remainder of the block is owned by the city.

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

Plan Map Changed from: **Residen. Low-density** to: **Commercial**

Zone Map Changed from: **Single fam-duplex resid.** to: **General Commercial**

Location: **T. 25, R. 13, S. 19DA, TL2601**

Acres Involved: **.12 acres**

Specify Density: Previous: **1/5000 sq ft**

New: **0**

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD File No. 001-12 (19157) [16997]

**DLCD file No.** \_\_\_\_\_

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

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Local Contact: **Laura Barron**

Phone: (541) 269-8918 Extension:

Address: **500 Central Avenue**

Fax Number: **541-269-8916**

City: **Coos Bay**

Zip: **97420-**

E-mail Address: **lbarron@coosbay.org**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

## ORDINANCE NO. 445

### AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP DESIGNATION FOR CERTAIN REAL PROPERTY FROM "RESIDENTIAL LOW-DENSITY" TO "COMMERCIAL"

**WHEREAS**, the applicant, the City of Coos Bay, has filed an application, hereinafter referred to as the Application to amend the Coos Bay Comprehensive Plan, Comprehensive Plan Map, Volume I, Plan Policy Document, Chapter 9, Map 9.11, Land Use Plan Map 2000, to redesignate certain real property, T. 25, R. 13, S. 19DA, Tax Lot 2601, also described as First Addition to Empire, Block 98, Lot 2, from "Residential Low-density (R-L)" to "Commercial (C)."

**WHEREAS**, notice that public hearing would be held before the city of Coos Bay Planning Commission (the Commission) on March 13, 2012 and public hearing would be held before the Coos Bay City Council on April 3, 2012 was published in "The World," a newspaper of general circulation within Coos County, Oregon, on March 1, 2012 and March 22, 2012;

**WHEREAS**, notice of public hearings was mailed on February 17, 2012 to all landowners within 250 feet of the designated area;

**WHEREAS**, provisions in the Coos Bay Municipal Code relating to notice have been complied with; and,

**WHEREAS**, public hearing was held on the Application on March 13, 2012, and after receiving evidence and hearing testimony, the Commission recommended approval of the Application; and,

**WHEREAS**, public hearing was held before the City Council on April 3, 2012.

**NOW THEREFORE**, the City Council of City of Coos Bay ordains as follows:

**Section 1.** The Commission's Findings and Conclusions supporting its recommended approval of the Application are attached hereto as "Exhibit A" and incorporated herein by reference.

**Section 2.** The City Council of the City of Coos Bay, after considering the Commission's Findings and Conclusions, hereby adopts the Findings and Conclusions, and finds the change should be granted.

**Section 3.** The designation in the City of Coos Bay Comprehensive Plan, Volume I, Plan Policies, Chapter 9, Map 9.11, Land Use Plan Map 2000 of certain real property located within the corporate limits of the City of Coos Bay, is hereby changed from "Residential Low-density (R-L)" to "Commercial (C)" for the subject property described above.

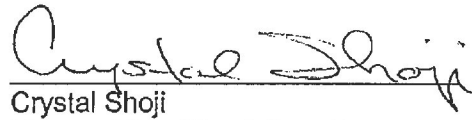
**Section 4.** The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 3<sup>rd</sup> day of April 2012.

Yes: Mayor Crystal Shoji and Councilors Jennifer Groth, Jon Hanson, Gene Melton, John Muenchrath, and Mike Vaughan.

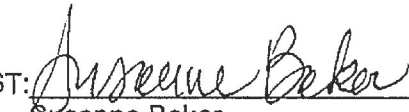
No:

Absent: Councilor Stephanie Kramer.



Crystal Shoji  
Mayor of the City of Coos Bay  
Coos County, Oregon

ATTEST:



Susanne Baker,  
City Recorder of City of Coos Bay  
Coos County, Oregon



# City of Coos Bay

## Public Works & Development Dept.

500 Central Ave., Coos Bay, Oregon 97420 • Phone (541) 269-8918  
Fax (541) 269-8916

### FINAL ORDER AMENDMENT TO THE COOS BAY COMPREHENSIVE PLAN AND COOS BAY MUNICIPAL CODE

**APPLICATION:** ZON2012-00007

**APPLICANT/OWNER:** City of Coos Bay, 500 Central Avenue  
Coos Bay, Oregon 97420

**LOCATION:** 490 Fulton Avenue; T. 25, R. 13, S. 19DA, Tax Lot 2601  
Block 98, Lot 2, First Addition to Empire  
Located on the southeast corner of Fulton Avenue and  
S. Marple Street.

**ORDER:** Tuesday, April 3, 2012, City Council approved the plan  
map and zone change and enacted Ordinance Nos. 445  
and 446, respectively.  
City Council final vote:  
**Yea:** Mayor Chrystal Shoji, Councilors, Jennifer Groth,  
Mike Vaughan, Gene Melton, John Hanson, and John  
Muenchrath.  
**Nay:** None                      **Abstain:** None

**APPEAL PROVISIONS:** See page 2.

**DECISION CRITERIA AND THE ADOPTED FINDINGS OF FACT AND  
CONCLUSIONS:** See pages 3-15.

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#### FINAL ACTION

Based on the findings and conclusions as set forth at Exhibit A, and the applicant's submitted evidence at Attachment A, the City Council enacted Ordinance Nos. 445 and 446, approving the plan map amendment and zone change (ZON2012-00007) redesignating the subject property from "Residential Low-density (R-L)" plan map designation to "Commercial (C)" and from "Single-family and Duplex Residential (R-2)" to "General Commercial (C-2)" zone designation.

The decision to approve will become final at **5:00 P.M. on April 27, 2012** unless an appeal is filed.


## APPEAL PROVISION

Any person with standing to appeal has the right to request review of this land use decision by filing a Notice of Intent to Appeal with:

Oregon Land Use Board of Appeals  
Public Utility Commission Bldg.  
550 Capitol St.  
Salem, OR 97310

Notice of Intent to Appeal must be filed no later than 21 days from the date of mailing of this decision. Therefore, appeals must be filed no later than **April 27, 2012**. Notice of Intent to Appeal must be filed and served in accordance with the Oregon Land Use Board of Appeals Rules of Procedure.

Sincerely,  
CITY OF COOS BAY

  
Laura Barron  
Planning Administrator

Date: April 6, 2012

Attachments: Exhibit A, Ordinance Nos. 445 and 446

c: Gloria Kiryuta, OR Department of State Lands  
Matt Wadlington, Civil West  
Dave Perry, OR Dept. of Land Conservation & Development

## EXHIBIT A

### I. PLAN MAP AMENDMENT

#### DECISION CRITERIA, JUSTIFICATION, FINDINGS & CONCLUSIONS

The following is the decision criteria applicable to the request as set forth in Coos Bay Municipal Code Chapter 17.380.040(2). Findings and conclusions accompanying the criteria support the Commission's recommendation to the City Council.

The Commission may recommend approval or approval with conditions to the City Council, or, the Commission may deny the request.

Staff has prepared the following information based on the applicant's submittal and information that is available in City Hall. This information may be used by the Commission to justify their final decision.

#### **DECISION CRITERIA A: Identification of new planning problems and issues.**

##### STATEMENTS OF FACT AND FINDINGS:

A1. The .12 acre subject property is proposed to be redesignated from Residential Low-density (R-L) to Commercial (C) plan designation and from Single-family and Duplex Residential (R-2) to General Commercial (C-2) zone designation. The remainder of the city block (Tax Lots 2600, 2700 and 2800), which abuts S. Empire Boulevard between undeveloped Webster Avenue and Fulton Avenue, is currently planned and zoned for commercial uses, and is undeveloped. The entire block, including the subject property, contains approximately 2 acres. It is intended to assemble the subject property with the remainder of the block. Northern-most Tax Lot 2800 is currently used for drainage and will likely remain so.

A2. The purpose of assembling the property is to provide a viable long-term location for wastewater treatment improvements and allow for future growth if necessary. Existing Wastewater Treatment Plant 2 (WWTP2), located at 100 Fulton Avenue at the west end of Fulton and west of S. Empire Boulevard serves the west side of Coos Bay and the Charleston area. Analysis of historical plant operating data reveals ongoing performance deficiencies.

A3. The existing treatment plant was built in the early 1970s and upgraded in 1990. Regardless of exposure to harsh elements of the weather, a treatment plant is expected to last about 20 years. Existing WWTP2 is in need of repairs and is currently unable to consistently meet the discharge requirements established in the National Pollution Discharge Elimination System (NPDES) permit of 2004. The City and the Oregon Department of Environmental Quality (DEQ) have entered into a Mutual Agreement and Order which describes the actions the City will take to bring the city into compliance with state and federal requirements. The current location of WWTP2 does not have adequate space to implement the improvements to satisfy the requirements.

A.4 Investigation of the site adjacent to the south of the existing plant resulted in finding wetland impacts which would negatively impact the proposed location for the



improvements that would bring the existing facility into compliance. In addition, the site is not large enough for the needed improvements even if the wetlands were filled. For these reasons, the area south of the existing plant is not viable and a different location is required.

A5. The subject property is .12 acre of the 2 acres proposed for the new wastewater treatment plant that will bring the operation into compliance with EPA (Environmental Protection Agency) and DEQ requirements and to provide adequate space for long-term growth. Cost for the development of the new facility will be reduced because of the close proximity of the 2 acres to the existing wastewater plant. Minimal changes will be required to redirect wastewater collection systems from the existing plant to the location east of S. Empire Boulevard.

CONCLUSION: Space at existing WWTP2 is inadequate to implement the improvements required to bring the City into compliance with state and federal requirements for wastewater management. The subject property will be assembled with the remainder of the block to provide adequate space for a new facility and to provide space for long-term growth. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA B: Collection and analysis of inventories and other pertinent factual information.**

STATEMENTS OF FACT AND FINDINGS:

B1. The subject property (Lot 2) was created from Tax Lot 2600 (then Lots 1 and 2). Tax Lot 2600 (now just Lot 1), zoned C-2, had a single-family dwelling from 1926 to 2004 when it was demolished. In 1997, a single-family dwelling was established on Tax Lot 2601, the subject property, currently zoned R-2.

B2. WWTP2 serves the west side of the City and the Charleston area. The new treatment plant will serve the same area. The elevation of the entire block proposed for the new facility is advantageous based on the area that is serviced. Eliminating the need to pump sewage to a higher elevation, or a different location, to be processed is a cost saving feature.

B3. It is proposed that the subject property be used with the remainder of the city block in order to provide a viable area for a new facility that will correct on-going deficiencies in wastewater treatment at WWTP2. The footprint and area available for upgrades at WWTP2 are inadequate to satisfy DEQ regulations. The proposed wastewater treatment improvements will be designed to meet the NPDES requirements for treatment of the municipal waste through 2035.

B4. The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource.

B5. Improvements for wastewater facilities are required to meet stricter treatment standards set forth by the EPA and DEQ and to accommodate planned growth in the service area. The following information is taken from the "Facilities Plan for Wastewater Treatment Plant No. 2," Chapter 6, dated October 2007:

The regulatory environment surrounding water quality protection in Oregon is relatively complex requiring interaction and cooperation between a number of federal, state, and local agencies. The first step in the process is to assign beneficial uses to the water body which is the responsibility of the Oregon Water Resources department. A water body's beneficial uses depend on characteristics such as its size and location. It is the responsibility of the DEQ to establish and enforce water quality and waste treatment standards that ensure the Bay's beneficial uses are preserved. The DEQ's general policy is one of antidegradation of surface water quality. Discharges from wastewater treatment plants are regulated through the National Pollutant Discharge Elimination System (NPDES). All discharges of treated wastewater to a receiving stream must comply with the conditions of a NPDES permit.

While the treatment plant is producing a high quality effluent most of the year, the existing facility will not consistently meet the requisite DEQ effluent discharge limits as documented in the "Wastewater Treatment Plant #2 Facilities Plan Amendment (draft-September 2011).

B6. The subject property along with the remainder of the block is in a unique location since it is in close proximity to the existing plant, about 500 feet from the subject property. Collection systems directed to the existing plant can be redirected to the proposed facility with minimal changes.

B7. The Buildable Lands Inventory was completed in 2009 for the City of Coos Bay. The resulting statistics indicate there is an abundance of residentially-zoned property while a shortage of commercially-zoned property. The proposed zone change will help balance the need for commercially-zoned property.

**CONCLUSION:** Redesignating the .12 acre subject property in order to be used in conjunction with the remainder of the block will result in the ability of the city to be successful in complying with EPA and DEQ requirements for wastewater treatment and to plan for long-term growth. The close proximity of the subject property to the existing plant allows cost savings that would be otherwise unrealized. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA C: Evaluation of alternative courses of action and ultimate policy choices.**

**STATEMENTS OF FACT AND FINDINGS:**

C1. An alternative course of action is to maintain the current R-2 zoning of the subject property. Property available for future growth and improvements for compliance with water quality standards and future growth would be reduced by the .12 acre. A facility in the C-2 zone is not required to have a setback from the property line; therefore, the facility could be located on the shared property line of the existing dwelling currently located on the subject property.

C2. The City of Coos Bay's 2009 Buildable Lands Inventory found there are 200 plus acres of surplus residential land in the city and a shortage of commercial-zoned property.

C3. The purpose of the redesignation of the subject property is to provide the space and location for a wastewater treatment system that is unable to be provided at existing WWTP2 and for future growth. An alternative site was investigated in 2010 on the North Spit, across the bay and northeast of the existing treatment plant because of the existing lagoon facility on the North Spit. In order to make use of the lagoon facility, wastewater would have to be pumped under the bay and along the North Spit access road to the lagoon site. The complete system would cost significantly more than the current site being considered for the improvements which is estimated at \$18-24 million. This would lead to higher sewer rates for the consumer than the increase expected with the preferred alternative.

C4. A cursory review of the possibility of pumping wastewater from WWTP2 to Treatment Plan 1 on Ivy Avenue was also done. However, costs for transmission of the wastewater alone surpassed \$30 million. In addition to these costs, Plant 1 would have to be completely rebuilt to handle the additional flows.

C5. In 2007 it was found that the existing treatment plant site was not sufficient in size to accommodate the additional equipment needed to meet EPA and DEQ requirements. Unfortunately, the property to the south of the plant is encumbered by wetlands for which mitigation would be costly and is too small for the City's needs.

C6. The preferred course of action is to redesignate the subject property to Commercial in order to assemble it with the remainder of the block to provide a viable location and adequate area to establish the necessary improvements to meet wastewater treatment quality requirements set forth by the EPA and DEQ and to accommodate growth in the service area.

C7. Plan Strategy PFS.9: Coos Bay shall continue to recognize and follow its 20-year comprehensive sewer, sanitary sewer, and storm sewer plans, recognizing that these master plans will provide for the most cost-effective development.

Plan Strategy EC.8: Coos Bay shall encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved" undeveloped areas.

Economic Development, Policy 1.2: Encourage and support assembly of small, contiguous industrial and commercial parcels into suitable sizes utilizing city-initiated efforts, such as the use of urban renewal, public private partnerships and real estate negotiation, site clearance assistance and brownfield remediation.

CONCLUSION: The preferred alternative for the new facility includes the subject property. Adequate space for long-term growth and the required improvements for water quality treatment require the assembly of the subject property with the remainder of the city block. The decision criterion has been adequately addressed and approval of the preferred alternative can be supported.

**DECISION CRITERIA D: Selection of appropriate policy directives based upon consideration of social, economic, energy, and environmental needs.**

**STATEMENTS OF FACT AND FINDINGS:**

D1. 7.6 Housing, Policy 1.1: Coos Bay will continue to update its zoning provisions to allow for construction to provide a wide range of housing available at varied prices and rent ranges and allow for flexible site and architectural design.

The change in plan designation for the .12 acre subject property is unlikely to harm the opportunities for a wide range of housing. The remainder of the block is zoned for commercial uses. The 2009 Buildable Land Inventory indicated an excess of residentially-zoned property and a shortage of commercially-zoned property.

D2. 7.5 Economic Development, Policy 1.2: Encourage and support assembly of small, contiguous industrial and commercial parcels into suitable sizes utilizing city-initiated efforts, such as the use of urban renewal, public private partnerships and real estate negotiation, site clearance assistance and brownfield remediation.

It is proposed that the subject property be assembled with the remainder of the block to form a viable location for a wastewater treatment facility. The cost of improvements, including the ability to reroute collection systems, increases with the distance between the existing plant and the improvements. The closer the improvements the more cost savings can be realized.

D3. Energy Conservation, Plan Strategy EC.8: Coos Bay shall encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved:" undeveloped areas.

The subject property will be assembled with the remainder of the block to provide adequate space for growth. The close proximity of the block to the existing plant enables collection systems to be redirected at minimal cost.

D4. 7.1 Natural Resources and Hazards, Plan Strategy NRH.4: Coos Bay shall continue to endorse existing applicable state and federal environmental quality statutes, rules, and standards with respect to the quality of air, land and water resources and noise levels recognizing that this acknowledgement will assure the continued stability and integrity of these resources.

The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource. The change in plan designation for the subject property will assist the City in assembling property to establish a facility in compliance with the state, local and federal requirements for wastewater discharge.

**CONCLUSION:** Policies and Strategies from the Comprehensive Plan support the change in designation of the subject property and the assembly of the property with the remainder of the block. Protecting the water quality of Coos Bay is necessary to assure the continued stability and integrity of this resource. Keeping costs to the consumer at a minimum by locating the improvements in close proximity to the existing plant facility is necessary for the stability of our local economy. The decision criterion has been adequately addressed and approval of the proposal can be supported.

## **STATEWIDE PLANNING GOALS**

### **1. Citizen Involvement**

The application is being reviewed according to the public review process established by the City. The City's Plan is acknowledged to be in compliance with this goal. Notice of the proposal will be provided to property owners and published in the newspaper. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision-making process. These procedures meet the requirements of Statewide Planning Goal 1.

### **2. Land Use Planning**

Facts and evidence have been provided that support and justify the proposed Comprehensive Plan and zone change.

### **3. Housing Goal**

The proposal is for C-2 (General Commercial) zoning for the .12 acre site. The 2009 Buildable Lands Inventory concluded there are over 200 acres of undeveloped land designated for residential development. The Inventory also concluded a shortage of commercially-zoned property.

### **4. Air, Water and Land Resources Goal**

The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource. The wastewater treatment plant project will provide Coos Bay with an upgraded treatment plant that will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements. Additionally, the new site, which includes the subject property, has the space available for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

Future development will be required to meet the standards in effect at the time to maintain or improve the quality of the air, water and land resources. The provision of public services to the property will serve to protect the air, water and land. All necessary public services are or will be available to this property at adequate levels to serve the new facility.

There will be no withdrawal of subsurface groundwater resources. Local, state and federal requirements will be followed prior to and during the construction phase of the development. Site grading and drainage must comply with the City's Engineering Design and Construction Standards. The north side of the property, Tax Lot 2800 is currently an open channel for water from the drainage basin. This open channel is

expected to remain as part of the development and collect a portion of the runoff from the development site.

There is expected to be no impacts to air quality from the subject property even after it is assembled with the remainder of the block.

No significant adverse impacts to the quality of the air, water or land are expected as a result of the zone change which is a small portion of the entire expansion project.

5. Economic Development Goal (Goal 9)

WWTP2 serves the west side of the City and the Charleston area; the new facility will service the same area as well as accommodate for future growth through 2035. The elevation of the entire block is advantageous based on the area that is serviced.

The subject property, along with the remainder of the block gives us the allowable footprint for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

In this way the property is set aside for future sewer plant capacity which will enable growth which is consistent with this Goal. The development will provide a short term economic boost during the construction phase.

6. Statewide Public Facilities and Services Goal

All necessary public services and facilities are or will be provided to this property by the developer and providers of public and private service providers at levels that are adequate to serve the proposed use. More importantly, wastewater treatment improvements on the subject property, along with the remainder of the block, will assist in providing long-term public sewer treatment services that will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements. Additionally, the subject property, along with the remainder of the block has the allowable footprint for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

By providing the necessary public services and facilities for the proposed use, the requirements of this Goal will be met.

7. Statewide Transportation Goal

Access to the .12 acre subject property is provided by local streets, Fulton Avenue and S. Marple Street. The subject property is proposed to be assembled with the remainder of the city block, currently undeveloped, zoned for commercial uses and lying adjacent to S. Empire Boulevard. No new streets are needed.

Coos Bay's Energy Strategies, as part of the Comprehensive Plan, encourage the location of facilities along traffic corridors and in areas that are already served by public and private facilities.

The subject property is a small portion of the wastewater facility project. The undeveloped property it will be assembled with is currently zoned commercial. Any traffic generated by the .12 acre subject property will be minimal.

8. Statewide Energy Conservation Goal

Coos Bay's Energy Plan Strategies encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved" undeveloped areas.

The location of the subject property, in close proximity to the existing wastewater treatment plant, minimizes the changes needed for redirecting wastewater collection systems from the existing plant to the expansion location which will include the subject property.

New construction for the expansion project provides the opportunity for improved construction and building techniques which conserves energy uses via current building codes. The City of Coos Bay upholds current building codes which benefit energy saving new construction.

9. Statewide Urbanization Goal

The subject property is within the corporate limits of Coos Bay and has a full complement of public and private services that are either on the property or abutting the land or provided by the city such as fire, police protection, government management and library services. This proposal does not materially affect the size or location of the city limits or urban growth boundary. A single-family dwelling currently occupies the subject property.

10. Statewide Areas Subject to Natural Disasters and Hazards; Estuarine

Resources; Coastal Shorelands; Beaches and Dunes; and Ocean Resources Goals  
There is no special agriculture, ocean beaches, dunes, destination areas or forest lands impacted by this proposal. No natural hazards have been identified that are specific to the subject property site or which would prevent the proposed use. There are no estuaries, floodways, flood plains, identified slide areas, mines, sand dunes, rivers or streams, or other beach resource areas impacted by this proposal.

The Oregon Department of Geology and Mineral Industries current tsunami map for the Coos Bay area indicates a chance of impacts from a tsunami as a result of an earthquake that is far away from the Oregon Coast. Design engineers for the new sewer plant will take this into consideration when planning the facility.

11. Statewide Recreational Needs Goal

The proximity of the coastal beaches, schools and parks provides local and regional recreational opportunities. It is unlikely the proposed project on the subject property will impact the nearby recreational amenities.

**CONCLUSION:** The change from a low-intensity residential designation to a commercial designation allows the subject property to be assembled with the remainder of the block to provide adequate space for an improved wastewater treatment facility and long-term growth while keeping the cost down for users because of the close proximity of the assembled property to the existing treatment plant.

Therefore, the proposal complies with the Statewide Planning Goals. The plan map change is warranted and should be granted.

## II. ZONE CHANGE

### DECISION CRITERIA, JUSTIFICATION, FINDINGS & CONCLUSIONS

The following is the decision criteria applicable to the request as set forth in Coos Bay Municipal Code Chapter 17.360.050(2). Findings and conclusions accompanying the criteria support the Commission's recommendation to the City Council.

The Commission may recommend approval or approval with conditions to the City Council, or, the Commission may deny the request.

Staff has prepared the following information based on the applicant's submittal and information that is available in City Hall. This information may be used by the Commission to justify their final decision.

**DECISION CRITERIA #1: The existing zone designation is the product of a mistake.**

#### STATEMENTS OF FACT AND FINDINGS:

1a. The subject property is zoned "Single-family and Duplex Residential (R-2)" and developed with a single-family dwelling. The area to the east is also zoned R-2 and mostly developed with single-family dwellings. The small parcel to the west is zoned C-2 and contained a single-family dwelling from 1926 to 2004 when it was demolished. The area to the south, west and north of the subject property is zoned C-2. To the north and west is vacant property proposed to be used for the wastewater treatment plant expansion. To the west, across S. Empire Boulevard, are single-family dwellings and existing WWTP2. To the south is the Fulton Avenue right of way and Lighthouse Grocery with a paved parking lot.

**CONCLUSION:** There is no documentation indicating the zoning of the subject property is the product of a mistake. The decision criterion has not been satisfied. Therefore, Decision Criteria #2 through 6 must be satisfied in order to justify the rezone of the property.

**DECISION CRITERIA #2: The change in zone will conform to the policies and objectives of the comprehensive plan.**

#### STATEMENTS OF FACT AND FINDINGS:

2a. The purpose of the proposed zone change is to assist in assembling an area adequate in size and in an appropriate location for an upgraded wastewater treatment plant. The subject property is proposed to be used in conjunction with the remainder of the block (Tax Lots 2600 and 2700). The new facility will provide Coos Bay with an upgraded treatment plant that will satisfy current regulations, bring the City back into compliance with state and federal water quality requirements, and provide the space for future growth.



2b. Coos Bay Comprehensive Plan Volume 1, Chapter 7.7, Public Facilities and Services, Goal, states the following:

The City of Coos Bay shall encourage the timely, orderly, and efficient development of public facilities and services deemed adequate by the community. Therefore, to the maximum extent financially possible the city's growth shall be guided and supported by types and levels of public facilities and services appropriated for the current and long-range needs of Coos Bay's present and future residents.

Strategy PGS.9 (Public Facilities Services) states:

Coos Bay shall continue to recognize and follow its 20-year comprehensive sewage, sanitary sewer, and storm sewer plans, recognizing that these master plans will provide for the most cost-effective development.

2c. Existing WWTP2, located at the west end of Fulton Avenue and west of S. Empire Boulevard, is exhibiting age and condition related deficiencies in addition to water quality and capacity issues and is in need of upgrades and repairs. The plant is currently unable to consistently meet the discharge requirements established in the National Pollution Discharge Elimination System (NPDES) permit of 2004. The City and the Oregon Department of Environmental Quality (DEQ) have entered into a Mutual Agreement and Order (MAO) which describes the actions the City will perform to upgrade the existing treatment facility.

2d. "A Facilities Plan for Wastewater Treatment Plant #2," prepared in October 2007, reviewed alternate treatment options and provided recommended improvements. However, the plan did not address additional parameters which will be added to the discharge permit. Subsequent investigation of the site adjacent to the existing plant resulted in finding wetlands negatively impacting the proposed location for new facilities/improvements and that the site was not adequate in size. For these reasons, the area south of the existing plant is not viable and a new location is required.

2e. The Buildable Lands Inventory, adopted as part of the Comprehensive Plan in 2009, concluded there is an abundance of residential-zoned property and a shortage of commercial-zoned property.

**CONCLUSION:** The proposed rezone is intended to allow the property to be used as part of the land needed for the new wastewater treatment facility. The City strives to follow its 20-year comprehensive sewage and sanitary sewer plans, recognizing that these master plans will provide for the most cost-effective development and provide for long-term growth. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #3: The overall change in the zone district will result in development which is compatible with development authorized in the surrounding districts.**

STATEMENTS OF FACT AND FINDINGS:

3a. Approval of a conditional use is required for the establishment of the treatment plant on property that includes the .12 acre subject property. The existing treatment facility, across S. Empire Boulevard at the west end of Fulton Avenue has adjacent and nearby uses that are residential and commercial in nature.

Existing Wastewater Treatment Plant 1, which serves the east side of the City is surrounded by residential, commercial and industrial uses, including Motel 6 to the east and Red Lion Motel to the south. The existence of the sewer treatment plants do not appear to inhibit other development in the surrounding areas.

3b. To the south of the subject property is commercially-zoned Lighthouse Grocery with a parking lot that has been there for many years. To the east of the subject property is R-2 zoned property with single-family residences and to the west is S. Empire Boulevard. To the north of undeveloped Webster Avenue is a mobile home park also zoned commercial.

CONCLUSION: The requirement of approval of a conditional use for the development of the treatment plant expansion allows the opportunity to place conditions on the development. Different types of uses around the existing sewer plants on the east and west sides of Coos Bay have shown the plants to be compatible with surrounding development. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #4: The change will not prevent the use of other land in the vicinity.**

STATEMENTS OF FACT AND FINDINGS:

4a. For the most part the area surrounding the subject property is developed. The same types of uses around the subject property are also around the existing sewer treatment plants.

CONCLUSION: The proposed change will not prevent the use of other land in the vicinity. The decision criterion has been adequately addressed and approval of the proposed zone change can be supported.

**DECISION CRITERIA #5: It is appropriate at this time to permit the specific type of development or change in zone of the area which had not previously existed.**

STATEMENTS OF FACT AND FINDINGS:

5a. The City finds this is the appropriate time to permit the zone change. Existing WWTP2 is currently unable to consistently meet the discharge requirements set by state and federal regulations, nor does the current plant have adequate space to implement improvements to satisfy the requirements. The subject property is to be assembled with

the remaining property on the block for development of a new treatment facility and infrastructure. The close proximity of the new facility to the existing plant will be a cost saving factor since collection systems may be redirected to the expansion facility. The new facility will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements.

5b. The intent of the Comprehensive Plan which implements the zoning designations is to recognize the need to remain responsive to changing and evolving land demands within the context of plan policies and implementing measures. The intent of this approach is to retain flexibility in order to remain responsive to changing conditions, and to recognize the legitimacy of existing zoning and plan implementation. The Plan recognizes that land use and zoning are expected to change as conditions change.

CONCLUSION: The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #6: The change will be consistent with the functions, capacities and levels of service of facilities identified in the adopted Coos Bay Transportation System Plan (TSP).**

STATEMENTS OF FACT AND FINDINGS:

6a. The subject property contains .12 acres (5,227 square feet) and is currently occupied with a single-family dwelling. The average daily traffic for a single-family dwelling is approximately 10 vehicles per day. The subject property, if it were to be developed as a commercial use, would be required to provide off-street parking. The area available for the establishment of the use would be very limited.

6b. Oregon land use law requires that the Transportation Planning Rule be met whenever a comprehensive plan map amendment is undertaken. It is required that the land use action not "significantly effect" an existing or planned transportation facility. The zone change does not trigger a "significant effect" if it 1) does not have the effect of allowing more trip generation than the existing planning/zoning; or, 2) is supported by adequately planned transportation facilities.

6c. It is proposed to use the subject property in conjunction with the remainder of the block which is currently zoned for commercial uses. The wastewater treatment plant facility is expected to be a low intensity use for the city block. The future plant will not be open to the public; therefore, the proposed use will generate much less traffic than if commercial uses, such as retail or restaurant uses, were established on the block.

6d. It is likely that the traffic generated by the existing treatment plant will now be "transferred" to the new plant with little or no increase to the total amount of traffic.

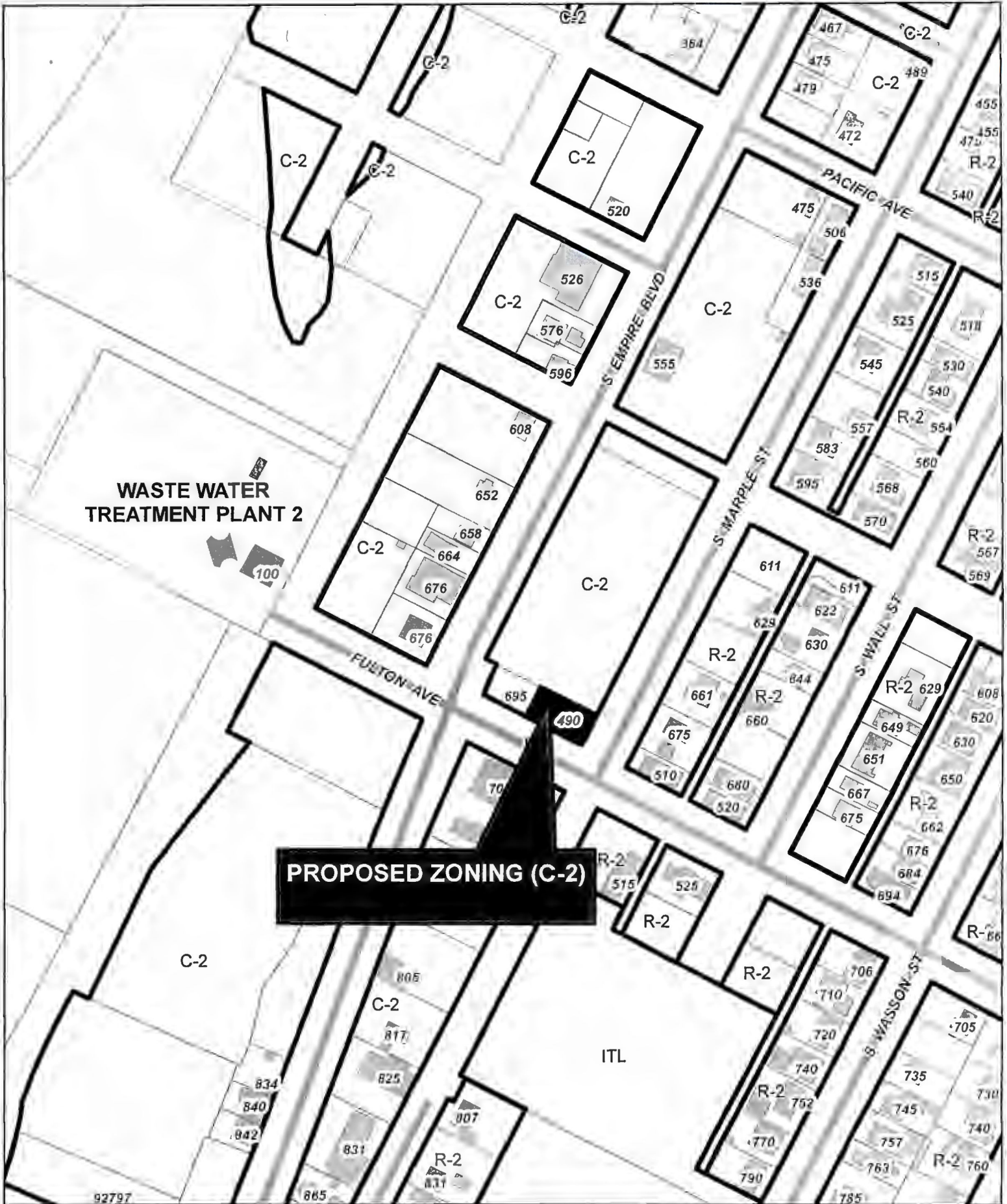
6e. A letter dated February 23, 2012 from Thomas Guevara, Oregon Department of Transportation, Region 3, was received stating that they had reviewed the proposed project and determined that it does not significantly affect state transportation facilities under Oregon's Transportation Planning Rule or Access Management Rule. Mr. Guevara's letter is at Attachment B.

CONCLUSION: Any change in the amount of vehicular traffic generated from the subject property due to the change in zoning is expected to be negligible because of the size of the property. The amount of traffic generated will “transfer” from the west side of S. Empire Boulevard to the east side of S. Empire Boulevard. There will be no significant effect to the existing transportation facility caused by the rezone of the .12 acre subject property.

dcs\plan\landuseap\fo12-007WWTP

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**PROPOSED ZONING (C-2)**

**WASTE WATER  
TREATMENT PLANT 2**

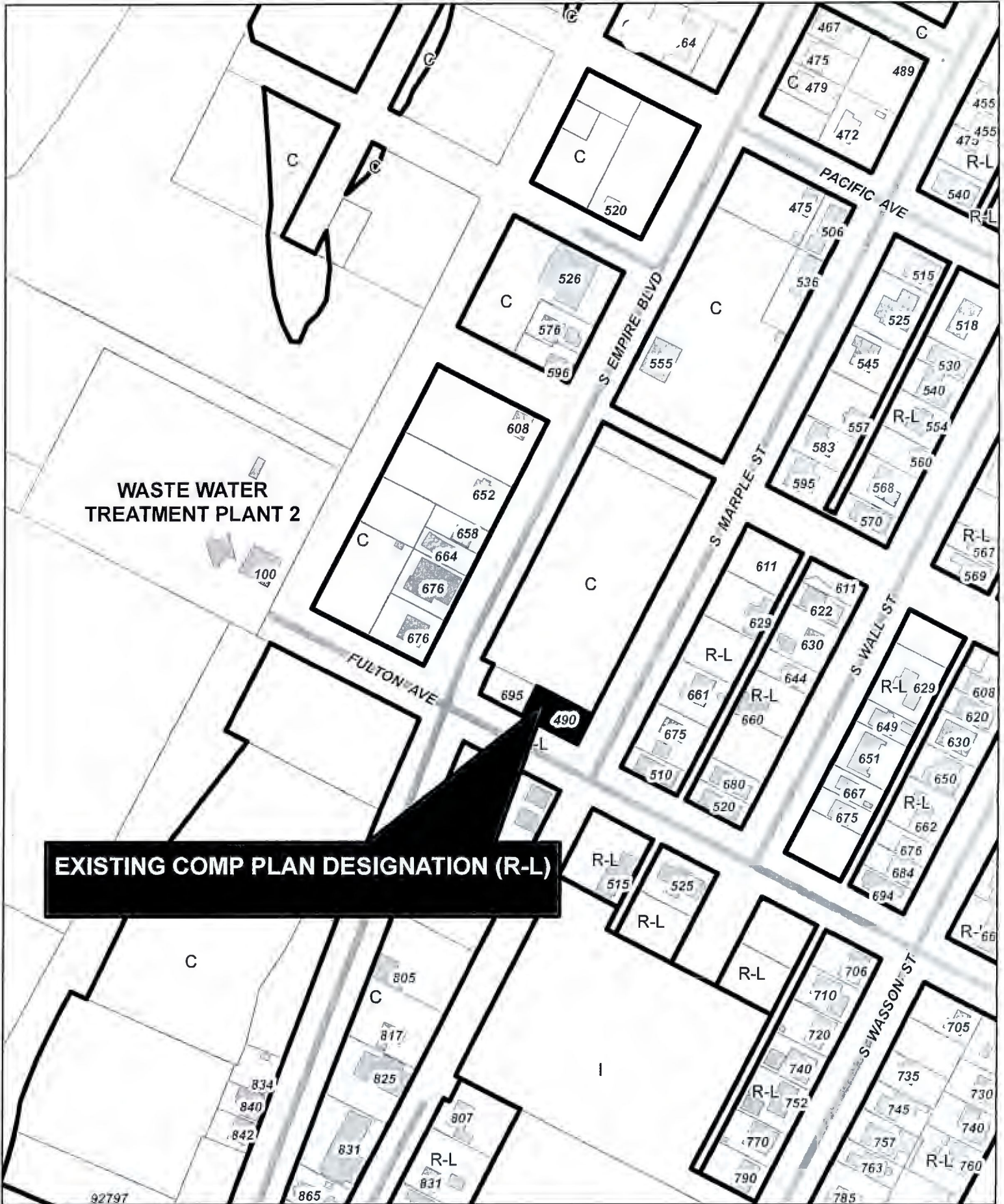
**PROPOSED ZONING**



1 inch = 200 feet



Date: 1/25/2012



**EXISTING COMP PLAN DESIGNATION (R-L)**

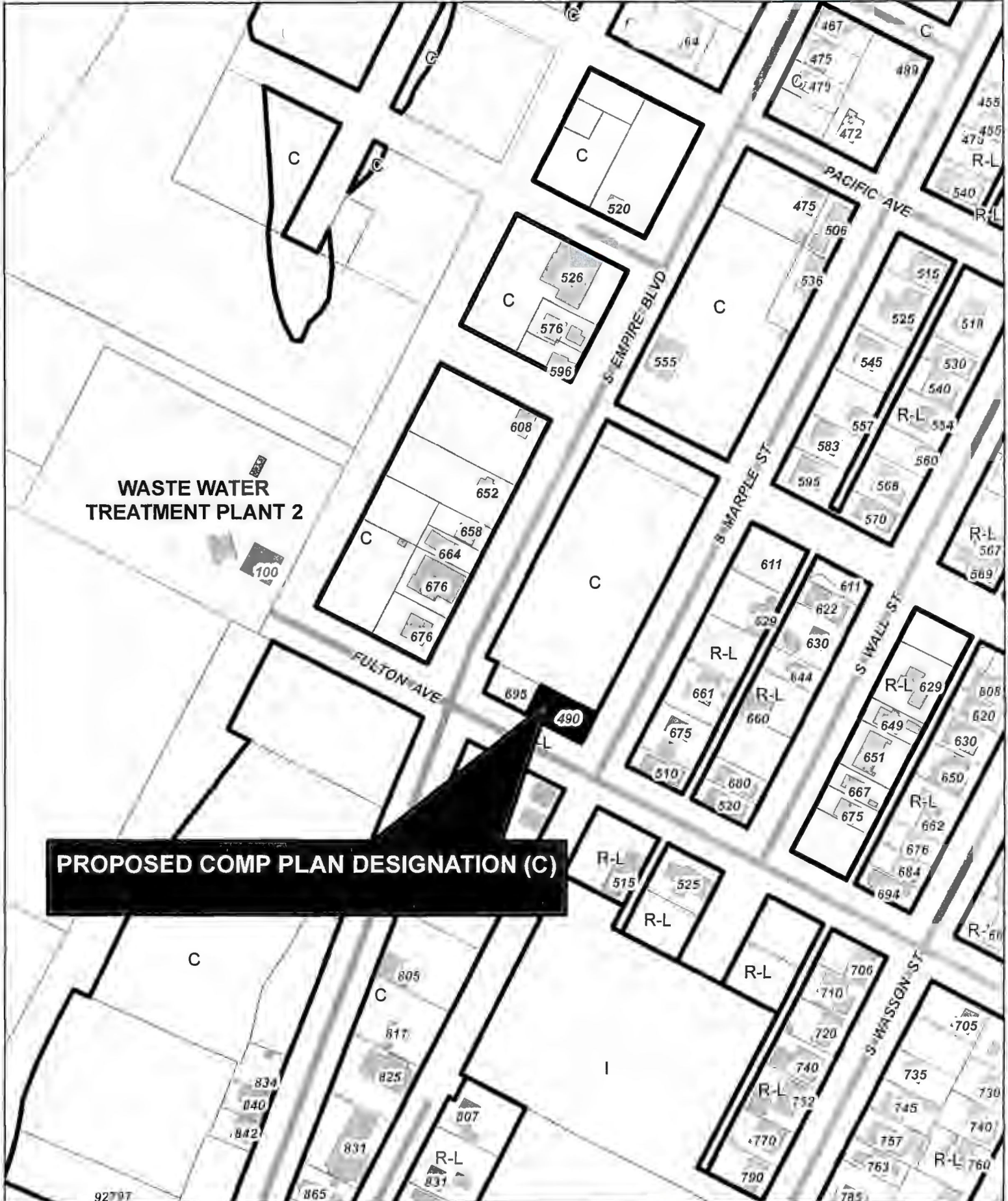


Date: 1/25/2012

**EXISTING COMP PLAN DESIGNATION**



1 inch = 200 feet



WASTE WATER  
TREATMENT PLANT 2

**PROPOSED COMP PLAN DESIGNATION (C)**

**PROPOSED COMP PLAN  
DESIGNATION**



Date: 1/25/2012



1 inch = 200 feet



THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

NE1/4 SE1/4 SEC. 19 T25S R 13W W.M.  
COOS COUNTY

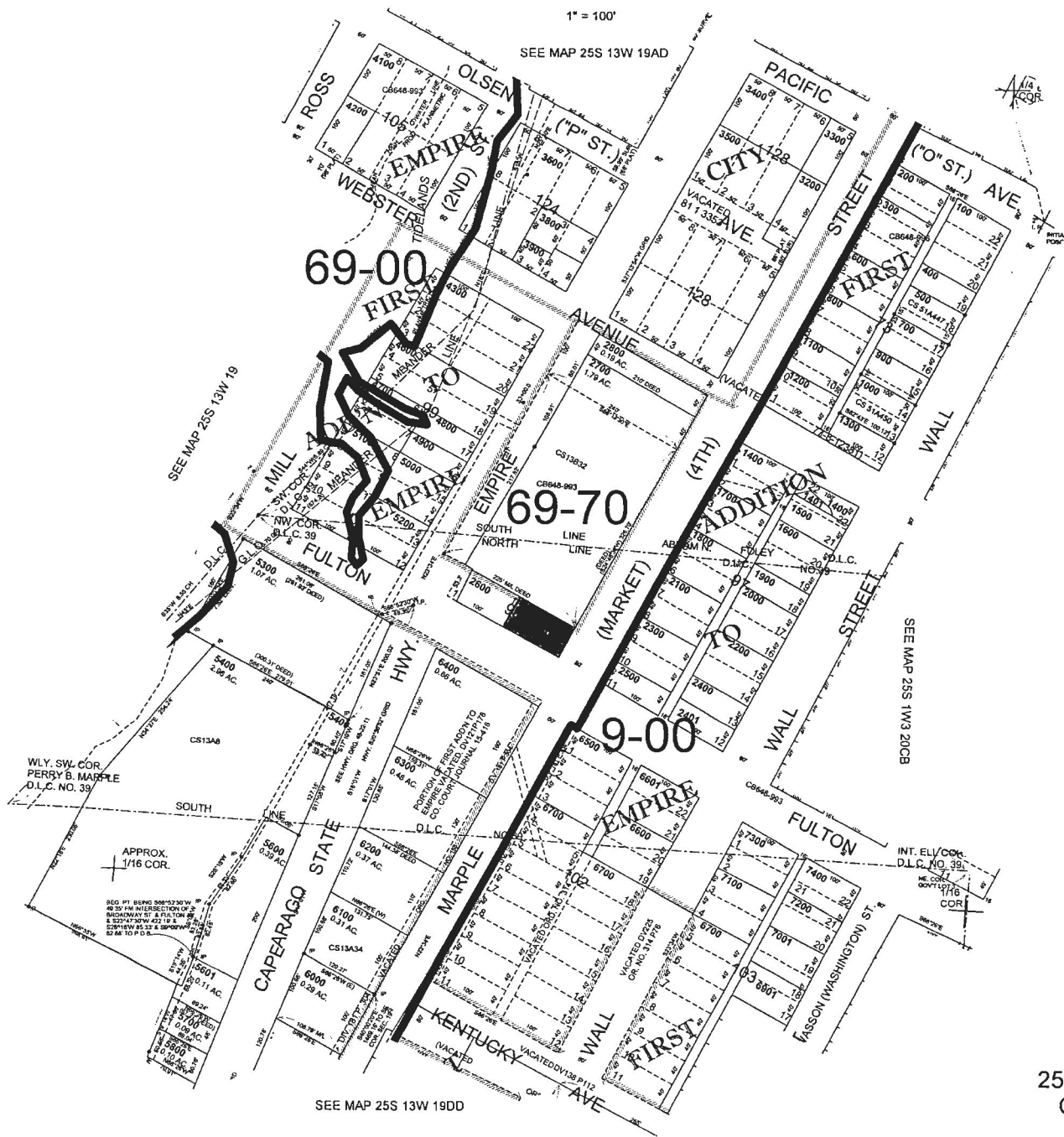
25S 13W 19DA  
COOS BAY

1" = 100'

SEE MAP 25S 13W 19AD

CANCELLED NO.

- 301 5900
- 7000 6900
- 3000 6800
- 3100 6802
- 2900 5502
- 6801 5503
- 3700 4400
- 4000 4500
- 1001
- 701



SEE MAP 25S 13W 19DD

5-17-2004

25S 13W 19DA  
COOS BAY



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Region 3

3500 NW Stewart Parkway

Roseburg, OR 97470

Phone: (541) 957-3692/Fax: (541) 957-3547

Thomas.Guevara@odot.state.or.us

February 23, 2012

FEB 27 2012

Laura Barron, Planning Administrator  
City of Coos Bay Planning  
500 Central Ave.  
Coos Bay, OR 97420

**Re: City of Coos Bay Comprehensive Plan Amendment and Zone Change (ZON2012-00007)**

*Laura*  
Dear Ms. ~~Barron~~:

Thank you for sending public notice on the proposed commercial Comprehensive Plan Amendment and C-2 (General Commercial) Zone Change to assemble property with the remainder block lying between Webster and Fulton Avenues and S. Empire Boulevard and S. Marple Street. We reviewed the proposed project and determined that it does not significantly affect state transportation facilities under Oregon's Transportation Planning Rule or Access Management Rule. We have no further comments at this time.

You may contact me at 541-957-3692 if you have questions or require additional information.

Sincerely,

*Thomas Guevara Jr.*

**THOMAS GUEVARA JR.**  
Development Review Planner

**B**

## EXHIBIT A

### PLAN MAP AMENDMENT

Below is the decision criteria specified in Coos Bay Municipal Code (CBMC) Chapter 17.380.040(2). Findings and conclusions accompanying each of the criteria may apply to more than one criterion and may be used to support the Commission's recommendation to the City Council.

Staff has prepared the following information based on the applicant's submittal and information that is available in City Hall.

#### **DECISION CRITERIA A: Identification of new planning problems and issues.**

##### **STATEMENTS OF FACT AND FINDINGS:**

- A1. The .12 acre subject property is proposed to be redesignated from Residential Low-density (R-L) to Commercial (C) plan designation and from Single-family and Duplex Residential (R-2) to General Commercial (C-2) zone designation. The remainder of the city block (Tax Lots 2600, 2700 and 2800), which abuts S. Empire Boulevard between undeveloped Webster Avenue and Fulton Avenue, is currently planned and zoned for commercial uses, and is undeveloped. The entire block, including the subject property, contains approximately 2 acres. It is intended to assemble the subject property with the remainder of the block. Northern-most Tax Lot 2800 is currently used for drainage and will likely remain so.
- A2. The purpose of assembling the property is to provide a viable long-term location for wastewater treatment improvements and allow for future growth if necessary. Existing Wastewater Treatment Plant 2 (WWTP2), located at 100 Fulton Avenue at the west end of Fulton and west of S. Empire Boulevard serves the west side of Coos Bay and the Charleston area. Analysis of historical plant operating data reveals ongoing performance deficiencies.
- A3. The existing treatment plant was built in the early 1970s and upgraded in 1990. Regardless of exposure to harsh elements of the weather, a treatment plant is expected to last about 20 years. Existing WWTP2 is in need of repairs and is currently unable to consistently meet the discharge requirements established in the National Pollution Discharge Elimination System (NPDES) permit of 2004. The City and the Oregon Department of Environmental Quality (DEQ) have entered into a Mutual Agreement and Order which describes the actions the City will take to bring the city into compliance with state and federal requirements. The current location of WWTP2 does not have adequate space to implement the improvements to satisfy the requirements.
- A.4 Investigation of the site adjacent to the south of the existing plant resulted in finding wetland impacts which would negatively impact the proposed location for the improvements that would bring the existing facility into compliance. In addition, the site is not large enough for the needed improvements even if the wetlands were filled. For these reasons, the area south of the existing plant is

not viable and a different location is required.

- A5.** The subject property is .12 acre of the 2 acres proposed for the new wastewater treatment plant that will bring the operation into compliance with EPA (Environmental Protection Agency) and DEQ requirements and to provide adequate space for long-term growth. Cost for the development of the new facility will be reduced because of the close proximity of the 2 acres to the existing wastewater plant. Minimal changes will be required to redirect wastewater collection systems from the existing plant to the location east of S. Empire Boulevard.

**CONCLUSION:** Space at existing WWTP2 is inadequate to implement the improvements required to bring the City into compliance with state and federal requirements for wastewater management. The subject property will be assembled with the remainder of the block to provide adequate space for a new facility and to provide space for long-term growth. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA B: Collection and analysis of inventories and other pertinent factual information.**

**STATEMENTS OF FACT AND FINDINGS:**

- B1.** The subject property (Lot 2) was created from Tax Lot 2600 (then Lots 1 and 2). Tax Lot 2600 (now just Lot 1), zoned C-2, had a single-family dwelling from 1926 to 2004 when it was demolished. In 1997, a single-family dwelling was established on Tax Lot 2601, the subject property, currently zoned R-2.
- B2.** WWTP2 serves the west side of the City and the Charleston area. The new treatment plant will serve the same area. The elevation of the entire block proposed for the new facility is advantageous based on the area that is serviced. Eliminating the need to pump sewage to a higher elevation, or a different location, to be processed is a cost saving feature.
- B3.** It is proposed that the subject property be used with the remainder of the city block in order to provide a viable area for a new facility that will correct on-going deficiencies in wastewater treatment at WWTP2. The footprint and area available for upgrades at WWTP2 are inadequate to satisfy DEQ regulations. The proposed wastewater treatment improvements will be designed to meet the NPDES requirements for treatment of the municipal waste through 2035.
- B4.** The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource.
- B5.** Improvements for wastewater facilities are required to meet stricter treatment standards set forth by the EPA and DEQ and to accommodate planned growth in the service area. The following information is taken from the "Facilities Plan for Wastewater Treatment Plant No. 2," Chapter 6, dated October 2007:

The regulatory environment surrounding water quality protection in Oregon is relatively complex requiring interaction and cooperation between a number of federal, state, and local agencies. The first step in the process is to assign beneficial uses to the water body which is the responsibility of the Oregon Water Resources department. A water body's beneficial uses depend on characteristics such as its size and location. It is the responsibility of the DEQ to establish and enforce water quality and waste treatment standards that ensure the Bay's beneficial uses are preserved. The DEQ's general policy is one of anti-degradation of surface water quality. Discharges from wastewater treatment plants are regulated through the National Pollutant Discharge Elimination System (NPDES). All discharges of treated wastewater to a receiving stream must comply with the conditions of a NPDES permit.

While the treatment plant is producing a high quality effluent most of the year, the existing facility will not consistently meet the requisite DEQ effluent discharge limits as documented in the "Wastewater Treatment Plant #2 Facilities Plan Amendment (draft-September 2011).

- B6. The subject property along with the remainder of the block is in a unique location since it is in close proximity to the existing plant, about 500 feet from the subject property. Collection systems directed to the existing plant can be redirected to the proposed facility with minimal changes.
- B7. The Buildable Lands Inventory was completed in 2009 for the City of Coos Bay. The resulting statistics indicate there is an abundance of residentially-zoned property while a shortage of commercially-zoned property. The proposed zone change will help balance the need for commercially-zoned property.

**CONCLUSION:** Redesignating the .12 acre subject property in order to be used in conjunction with the remainder of the block will result in the ability of the city to be successful in complying with EPA and DEQ requirements for wastewater treatment and to plan for long-term growth. The close proximity of the subject property to the existing plant allows cost savings that would be otherwise unrealized. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA C: Evaluation of alternative courses of action and ultimate policy choices.**

**STATEMENTS OF FACT AND FINDINGS:**

- C1. An alternative course of action is to maintain the current R-2 zoning of the subject property. Property available for future growth and improvements for compliance with water quality standards and future growth would be reduced by the .12 acre. A facility in the C-2 zone is not required to have a setback from the property line; therefore, the facility could be located on the shared property line of the existing dwelling currently located on the subject property.
- C2. The City of Coos Bay's 2009 Buildable Lands Inventory found there are 200 plus acres of surplus residential land in the city and a shortage of commercial-zoned property.

- C3. The purpose of the redesignation of the subject property is to provide the space and location for a wastewater treatment system that is unable to be provided at existing WWTP2 and for future growth. An alternative site was investigated in 2010 on the North Spit, across the bay and northeast of the existing treatment plant because of the existing lagoon facility on the North Spit. In order to make use of the lagoon facility, wastewater would have to be pumped under the bay and along the North Spit access road to the lagoon site. The complete system would cost significantly more than the current site being considered for the improvements which is estimated at \$18-24 million. This would lead to higher sewer rates for the consumer than the increase expected with the preferred alternative.
- C4. A cursory review of the possibility of pumping wastewater from WWTP2 to Treatment Plan 1 on Ivy Avenue was also done. However, costs for transmission of the wastewater alone surpassed \$30 million. In addition to these costs, Plant 1 would have to be completely rebuilt to handle the additional flows.
- C5. In 2007 it was found that the existing treatment plant site was not sufficient in size to accommodate the additional equipment needed to meet EPA and DEQ requirements. Unfortunately, the property to the south of the plant is encumbered by wetlands for which mitigation would be costly and is too small for the City's needs.
- C6. The preferred course of action is to redesignate the subject property to Commercial in order to assemble it with the remainder of the block to provide a viable location and adequate area to establish the necessary improvements to meet wastewater treatment quality requirements set forth by the EPA and DEQ and to accommodate growth in the service area.
- C7. Plan Strategy PFS.9: Coos Bay shall continue to recognize and follow its 20-year comprehensive sewer, sanitary sewer, and storm sewer plans, recognizing that these master plans will provide for the most cost-effective development.

Plan Strategy EC.8: Coos Bay shall encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved" undeveloped areas.

Economic Development, Policy 1.2: Encourage and support assembly of small, contiguous industrial and commercial parcels into suitable sizes utilizing city-initiated efforts, such as the use of urban renewal, public private partnerships and real estate negotiation, site clearance assistance and brownfield remediation.

**CONCLUSION:** The preferred alternative for the new facility includes the subject property. Adequate space for long-term growth and the required improvements for water quality treatment require the assembly of the subject property with the remainder of the city block. The decision criterion has been adequately addressed and approval of the preferred alternative can be supported.

**DECISION CRITERIA D: Selection of appropriate policy directives based upon consideration of social, economic, energy, and environmental needs.**

**STATEMENTS OF FACT AND FINDINGS:**

- D1. 7.6 Housing, Policy 1.1:** Coos Bay will continue to update its zoning provisions to allow for construction to provide a wide range of housing available at varied prices and rent ranges and allow for flexible site and architectural design.

The change in plan designation for the .12 acre subject property is unlikely to harm the opportunities for a wide range of housing. The remainder of the block is zoned for commercial uses. The 2009 Buildable Land Inventory indicated an excess of residentially-zoned property and a shortage of commercially-zoned property.

- D2. 7.5 Economic Development, Policy 1.2:** Encourage and support assembly of small, contiguous industrial and commercial parcels into suitable sizes utilizing city-initiated efforts, such as the use of urban renewal, public private partnerships and real estate negotiation, site clearance assistance and brownfield remediation.

It is proposed that the subject property be assembled with the remainder of the block to form a viable location for a wastewater treatment facility. The cost of improvements, including the ability to reroute collection systems, increases with the distance between the existing plant and the improvements. The closer the improvements the more cost savings can be realized.

- D3. Energy Conservation, Plan Strategy EC.8:** Coos Bay shall encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved:" undeveloped areas.

The subject property will be assembled with the remainder of the block to provide adequate space for growth. The close proximity of the block to the existing plant enables collection systems to be redirected at minimal cost.

- D4. 7.1 Natural Resources and Hazards, Plan Strategy NRH.4:** Coos Bay shall continue to endorse existing applicable state and federal environmental quality statutes, rules, and standards with respect to the quality of air, land and water resources and noise levels recognizing that this acknowledgement will assure the continued stability and integrity of these resources.

The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource. The change in plan designation for the subject property will assist the City in assembling property to establish a facility in compliance with the state, local and federal requirements for wastewater discharge.

**CONCLUSION:** Policies and Strategies from the Comprehensive Plan support the change in designation of the subject property and the assembly of the property with the remainder of the block. Protecting the water quality of Coos Bay is necessary to assure the continued stability and integrity of this resource. Keeping costs to the consumer at a minimum by locating the improvements in close proximity to the existing plant facility is necessary for the stability of our local economy. The decision criterion has been adequately addressed and approval of the proposal can be supported.

## **STATEWIDE PLANNING GOALS**

### **1. Citizen Involvement**

The application is being reviewed according to the public review process established by the City. The City's Plan is acknowledged to be in compliance with this goal. Notice of the proposal will be provided to property owners and published in the newspaper. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision-making process. These procedures meet the requirements of Statewide Planning Goal 1.

### **2. Land Use Planning**

Facts and evidence have been provided that support and justify the proposed Comprehensive Plan and zone change.

### **3. Housing Goal**

The proposal is for C-2 (General Commercial) zoning for the .12 acre site. The 2009 Buildable Lands Inventory concluded there are over 200 acres of undeveloped land designated for residential development. The Inventory also concluded a shortage of commercially-zoned property.

### **4. Air, Water and Land Resources Goal**

The City of Coos Bay recognizes the importance of protecting the water quality of Coos Bay. The estuary provides recreational opportunities for tourists and local residents, serves as wildlife habitat, and is an important fisheries and harbor resource. The wastewater treatment plant project will provide Coos Bay with an upgraded treatment plant that will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements. Additionally, the new site, which includes the subject property, has the space available for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

Future development will be required to meet the standards in effect at the time to maintain or improve the quality of the air, water and land resources. The provision of public services to the property will serve to protect the air, water and land. All necessary public services are or will be available to this property at adequate levels to serve the new facility.

There will be no withdrawal of subsurface groundwater resources. Local, state and federal requirements will be followed prior to and during the construction phase of the development. Site grading and drainage must comply with the City's Engineering Design and Construction Standards. The north side of the property, Tax Lot 2800 is currently an open channel for water from the drainage basin. This open channel is



expected to remain as part of the development and collect a portion of the runoff from the development site.

There is expected to be no impacts to air quality from the subject property even after it is assembled with the remainder of the block.

No significant adverse impacts to the quality of the air, water or land are expected as a result of the zone change which is a small portion of the entire expansion project.

**5. Economic Development Goal (Goal 9)**

WWTP2 serves the west side of the City and the Charleston area; the new facility will service the same area as well as accommodate for future growth through 2035. The elevation of the entire block is advantageous based on the area that is serviced.

The subject property, along with the remainder of the block gives us the allowable footprint for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

In this way the property is set aside for future sewer plant capacity which will enable growth which is consistent with this Goal. The development will provide a short term economic boost during the construction phase.

**6. Statewide Public Facilities and Services Goal**

All necessary public services and facilities are or will be provided to this property by the developer and providers of public and private service providers at levels that are adequate to serve the proposed use. More importantly, wastewater treatment improvements on the subject property, along with the remainder of the block, will assist in providing long-term public sewer treatment services that will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements. Additionally, the subject property, along with the remainder of the block has the allowable footprint for future growth and improvements as the Coos Bay population grows and regulatory requirements change over upcoming years.

By providing the necessary public services and facilities for the proposed use, the requirements of this Goal will be met.

**7. Statewide Transportation Goal**

Access to the .12 acre subject property is provided by local streets, Fulton Avenue and S. Marple Street. The subject property is proposed to be assembled with the remainder of the city block, currently undeveloped, zoned for commercial uses and lying adjacent to S. Empire Boulevard. No new streets are needed.

Coos Bay's Energy Strategies, as part of the Comprehensive Plan, encourage the location of facilities along traffic corridors and in areas that are already served by public and private facilities.

The subject property is a small portion of the wastewater facility project. The undeveloped property it will be assembled with is currently zoned commercial. Any traffic generated by the .12 acre subject property will be minimal.

**8. Statewide Energy Conservation Goal**

Coos Bay's Energy Plan Strategies encourage the "infilling" development of undeveloped parcels of land, within the city limits for residential and commercial purposes, recognizing that such development, located in the vicinity of established traffic corridors and in areas already serviced by electrical, sewer, and water lines, are more energy efficient than new construction in "unserved" undeveloped areas.

The location of the subject property, in close proximity to the existing wastewater treatment plant, minimizes the changes needed for redirecting wastewater collection systems from the existing plant to the expansion location which will include the subject property.

New construction for the expansion project provides the opportunity for improved construction and building techniques which conserves energy uses via current building codes. The City of Coos Bay upholds current building codes which benefit energy saving new construction.

**9. Statewide Urbanization Goal**

The subject property is within the corporate limits of Coos Bay and has a full complement of public and private services that are either on the property or abutting the land or provided by the city such as fire, police protection, government management and library services. This proposal does not materially affect the size or location of the city limits or urban growth boundary. A single-family dwelling currently occupies the subject property.

**10. Statewide Areas Subject to Natural Disasters and Hazards; Estuarine Resources; Coastal Shorelands; Beaches and Dunes; and Ocean Resources Goals**

There is no special agriculture, ocean beaches, dunes, destination areas or forest lands impacted by this proposal. No natural hazards have been identified that are specific to the subject property site or which would prevent the proposed use. There are no estuaries, floodways, flood plains, identified slide areas, mines, sand dunes, rivers or streams, or other beach resource areas impacted by this proposal.

The Oregon Department of Geology and Mineral Industries current tsunami map for the Coos Bay area indicates a chance of impacts from a tsunami as a result of an earthquake that is far away from the Oregon Coast. Design engineers for the new sewer plant will take this into consideration when planning the facility.

**11. Statewide Recreational Needs Goal**

The proximity of the coastal beaches, schools and parks provides local and regional recreational opportunities. It is unlikely the proposed project on the subject property will impact the nearby recreational amenities.

**CONCLUSION:** The change from a low-intensity residential designation to a commercial designation allows the subject property to be assembled with the remainder of the block to provide adequate space for an improved wastewater treatment facility and long-term growth while keeping the cost down for users because of the close proximity of the assembled property to the existing treatment plant.

Therefore, the proposal complies with the Statewide Planning Goals. The plan map change is warranted and should be granted. ///

## ORDINANCE NO. 446

### AN ORDINANCE CHANGING THE ZONING DESIGNATION FOR CERTAIN REAL PROPERTY FROM "SINGLE-FAMILY AND DUPLEX RESIDENTIAL" TO "GENERAL COMMERCIAL"

**WHEREAS**, the City of Coos Bay has filed an application, hereinafter referred to as the Application, to amend the Coos Bay Municipal Code for certain real property located within the corporate limits of the City of Coos Bay described as: First Addition to Empire, Block 98, Lot 2.

**WHEREAS**, notice that public hearing upon the Application would be held before the city of Coos Bay Planning Commission (the Commission) on March 13, 2012 and public hearing would be held before the Coos Bay City Council on April 3, 2012 was published in "The World," a newspaper of general circulation within Coos County, Oregon, on March 1, 2012 and March 22, 2012;

**WHEREAS**, notice of public hearings was mailed on February 17, 2012 to all landowners within 250 feet of the area being rezoned;

**WHEREAS**, provisions in the Coos Bay Municipal Code relating to notice have been complied with; and,

**WHEREAS**, public hearing was held on the Application on March 13, 2012, and after receiving evidence and hearing testimony, the Commission recommended approval of the Application.

**WHEREAS**, public hearing was held before the City Council on April 3, 2012.

**NOW THEREFORE**, the City Council of City of Coos Bay ordains as follows:

**Section 1.** The Commission's Findings and Conclusions supporting its recommended approval of the Application are attached hereto as "Exhibit A" and incorporated herein by reference.

**Section 2.** The City Council of the City of Coos Bay, after considering the Commission's Findings and Conclusions, hereby adopts the Findings and Conclusions, and finds the Application should be granted.

**Section 3.** The designation in the Coos Bay Municipal Code of certain real property located within the corporate limits of the City of Coos Bay as described above is hereby changed from "Single-family and Duplex Residential (R-2)" to "General Commercial (C-2)."

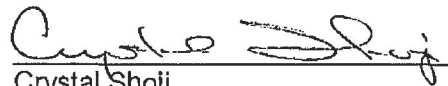
**Section 4.** The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 3<sup>rd</sup> day of April 2012.

Yes: Mayor Crystal Shoji and Councilors Jennifer Groth, Jon Hanson, Gene Melton, John Muenchrath, and Mike Vaughan.

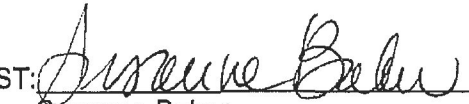
No:

Absent: Councilor Stephanie Kramer.



Crystal Shoji  
Mayor of the City of Coos Bay  
Coos County, Oregon

ATTEST:



Susanne Baker,  
City Recorder of City of Coos Bay  
Coos County, Oregon

EXHIBIT A

**ZONE CHANGE**

**DECISION CRITERIA, JUSTIFICATION, FINDINGS & CONCLUSIONS**

The following is the decision criteria applicable to the request as set forth in Coos Bay Municipal Code Chapter 17.360.050(2). Findings and conclusions accompanying the criteria support the Commission's recommendation to the City Council. The Commission may recommend approval or approval with conditions to the City Council, or, the Commission may deny the request.

Rezone requests must be supported by criteria #1 OR-- by criteria #2-6. The applicant has provided information to support criteria #2-6.

Staff has prepared the following information based on the applicant's submittal and information that is available in City Hall.

**DECISION CRITERIA #1: The existing zone designation is the product of a mistake.**

**STATEMENTS OF FACT AND FINDINGS:**

- 1a. The subject property is zoned "Single-family and Duplex Residential (R-2)" and developed with a single-family dwelling. The area to the east is also zoned R-2 and mostly developed with single-family dwellings. The small parcel to the west is zoned C-2 and contained a single-family dwelling from 1926 to 2004 when it was demolished. The area to the south, west and north of the subject property is zoned C-2. To the north and west is vacant property proposed to be used for the wastewater treatment plant expansion. To the west, across S. Empire Boulevard, are single-family dwellings and existing WWTP2. To the south is the Fulton Avenue right of way and Lighthouse Grocery with a paved parking lot.

**CONCLUSION:** There is no documentation indicating the zoning of the subject property is the product of a mistake. The decision criterion has not been satisfied. Therefore, Decision Criteria #2 through 6 must be satisfied in order to justify the rezone of the property.

**DECISION CRITERIA #2: The change in zone will conform to the policies and objectives of the comprehensive plan.**

**STATEMENTS OF FACT AND FINDINGS:**

- 2a. The purpose of the proposed zone change is to assist in assembling an area adequate in size and in an appropriate location for an upgraded wastewater treatment plant. The subject property is proposed to be used in conjunction with the remainder of the block (Tax Lots 2600 and 2700). The new facility will provide Coos Bay with an upgraded treatment plant that will satisfy current regulations, bring the City back into compliance with state and federal water quality requirements, and provide the space for future growth.

- 2b. Coos Bay Comprehensive Plan Volume 1, Chapter 7.7, Public Facilities and Services, Goal, states the following:

The City of Coos Bay shall encourage the timely, orderly, and efficient development of public facilities and services deemed adequate by the community. Therefore, to the maximum extent financially possible the city's growth shall be guided and supported by types and levels of public facilities and services appropriated for the current and long-range needs of Coos Bay's present and future residents.

Strategy PGS.9 (Public Facilities Services) states:

Coos Bay shall continue to recognize and follow its 20-year comprehensive sewage, sanitary sewer, and storm sewer plans, recognizing that these master plans will provide for the most cost-effective development.

- 2c. Existing WWTP2, located at the west end of Fulton Avenue and west of S. Empire Boulevard, is exhibiting age and condition related deficiencies in addition to water quality and capacity issues and is in need of upgrades and repairs. The plant is currently unable to consistently meet the discharge requirements established in the National Pollution Discharge Elimination System (NPDES) permit of 2004. The City and the Oregon Department of Environmental Quality (DEQ) have entered into a Mutual Agreement and Order (MAO) which describes the actions the City will perform to upgrade the existing treatment facility.
- 2d. "A Facilities Plan for Wastewater Treatment Plant #2," prepared in October 2007, reviewed alternate treatment options and provided recommended improvements. However, the plan did not address additional parameters which will be added to the discharge permit. Subsequent investigation of the site adjacent to the existing plant resulted in finding wetlands negatively impacting the proposed location for new facilities/improvements and that the site was not adequate in size. For these reasons, the area south of the existing plant is not viable and a new location is required.
- 2e. The Buildable Lands Inventory, adopted as part of the Comprehensive Plan in 2009, concluded there is an abundance of residential-zoned property and a shortage of commercial-zoned property.

**CONCLUSION:** The proposed rezone is intended to allow the property to be used as part of the land needed for the new wastewater treatment facility. The City strives to follow its 20-year comprehensive sewage and sanitary sewer plans, recognizing that these master plans will provide for the most cost-effective development and provide for long-term growth. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #3:** The overall change in the zone district will result in development which is compatible with development authorized in the surrounding districts.

**STATEMENTS OF FACT AND FINDINGS:**

- 3a.** Approval of a conditional use is required for the establishment of the treatment plant on property that includes the .12 acre subject property. The existing treatment facility, across S. Empire Boulevard at the west end of Fulton Avenue has adjacent and nearby uses that are residential and commercial in nature.

Existing Wastewater Treatment Plant 1, which serves the east side of the City is surrounded by residential, commercial and industrial uses, including Motel 6 to the east and Red Lion Motel to the south. The existence of the sewer treatment plants do not appear to inhibit other development in the surrounding areas.

- 3b.** To the south of the subject property is commercially-zoned Lighthouse Grocery with a parking lot that has been there for many years. To the east of the subject property is R-2 zoned property with single-family residences and to the west is S. Empire Boulevard. To the north of undeveloped Webster Avenue is a mobile home park also zoned commercial.

**CONCLUSION:** The requirement of approval of a conditional use for the development of the treatment plant expansion allows the opportunity to place conditions on the development. Different types of uses around the existing sewer plants on the east and west sides of Coos Bay have shown the plants to be compatible with surrounding development. The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #4:** The change will not prevent the use of other land in the vicinity.

**STATEMENTS OF FACT AND FINDINGS:**

- 4a.** For the most part the area surrounding the subject property is developed. The same types of uses around the subject property are also around the existing sewer treatment plants.

**CONCLUSION:** The proposed change will not prevent the use of other land in the vicinity. The decision criterion has been adequately addressed and approval of the proposed zone change can be supported.

**DECISION CRITERIA #5:** It is appropriate at this time to permit the specific type of development or change in zone of the area which had not previously existed.

**STATEMENTS OF FACT AND FINDINGS:**

- 5a. The City finds this is the appropriate time to permit the zone change. Existing WWTP2 is currently unable to consistently meet the discharge requirements set by state and federal regulations, nor does the current plant have adequate space to implement improvements to satisfy the requirements. The subject property is to be assembled with the remaining property on the block for development of a new treatment facility and infrastructure. The close proximity of the new facility to the existing plant will be a cost saving factor since collection systems may be redirected to the expansion facility. The new facility will satisfy current regulations and bring the City back into compliance with state and federal water quality requirements.
- 5b. The intent of the Comprehensive Plan which implements the zoning designations is to recognize the need to remain responsive to changing and evolving land demands within the context of plan policies and implementing measures. The intent of this approach is to retain flexibility in order to remain responsive to changing conditions, and to recognize the legitimacy of existing zoning and plan implementation. The Plan recognizes that land use and zoning are expected to change as conditions change.

**CONCLUSION:** The decision criterion has been adequately addressed and approval of the proposal can be supported.

**DECISION CRITERIA #6:** The change will be consistent with the functions, capacities and levels of service of facilities identified in the adopted Coos Bay Transportation System Plan (TSP).

**STATEMENTS OF FACT AND FINDINGS:**

- 6a. The subject property contains .12 acres (5,227 square feet) and is currently occupied with a single-family dwelling. The average daily traffic for a single-family dwelling is approximately 10 vehicles per day. The subject property, if it were to be developed as a commercial use, would be required to provide off-street parking. The area available for the establishment of the use would be very limited.
- 6b. Oregon land use law requires that the Transportation Planning Rule be met whenever a comprehensive plan map amendment is undertaken. It is required that the land use action not "significantly effect" an existing or planned transportation facility. The zone change does not trigger a "significant effect" if it 1) does not have the effect of allowing more trip generation than the existing planning/zoning; or, 2) is supported by adequately planned transportation facilities.



- 6c. It is proposed to use the subject property in conjunction with the remainder of the block which is currently zoned for commercial uses. The wastewater treatment plant facility is expected to be a low intensity use for the city block. The future plant will not be open to the public; therefore, the proposed use will generate much less traffic than if commercial uses, such as retail or restaurant uses, were established on the block.
- 6d. It is likely that the traffic generated by the existing treatment plant will now be "transferred" to the new plant with little or no increase to the total amount of traffic.
- 6e. A letter dated February 23, 2012 from Thomas Guevara, Oregon Department of Transportation, Region 3, was received stating that they had reviewed the proposed project and determined that it does not significantly affect state transportation facilities under Oregon's Transportation Planning Rule or Access Management Rule. Mr. Guevara's letter is at Attachment B.

**CONCLUSION:** Any change in the amount of vehicular traffic generated from the subject property due to the change in zoning is expected to be negligible because of the size of the property. The amount of traffic generated will "transfer" from the west side of S. Empire Boulevard to the east side of S. Empire Boulevard. There will be no significant effect to the existing transportation facility caused by the rezone of the .12 acre subject property.

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**CITY OF COOS BAY**  
Dept. of Community Services  
500 Central Avenue  
Coos Bay, OR 97420

**TO**

ATTN: PLAN AMENDMENT SPECIALIST  
DEPT LAND CONSERV + DEVELOPMENT  
635 CAPITOL ST NE, STE 150  
SALEM, OR 97301-2540

DEPT OF

APR 09 2012

LAND CONSERVATION  
AND DEVELOPMENT