



# 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

December 14, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Crook County Plan Amendment  
DLCD File Number 001-06



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: December 29, 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: Doug White, DLCD Community Services Specialist  
Jon Jinings, DLCD Regional Representative  
Bill Zelenka, Crook County

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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  
LAND CONSERVATION  
AND DEVELOPMENT  
DEC 11 2006

Jurisdiction: Crook County Local File No.: C-MA-010-06  
(If no number, use none)

Date of Adoption: December 6, 2006 Date Mailed: December 8, 2006  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: July 25, 2006

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

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

An ordinance for a Comprehensive Plan Map Amendment based upon an Irrevocably  
Committed Exception to a Statewide Planning Goal 3, and a change in the  
zone classification of the subject property from EFU-2 to R-5

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

Same

Plan Map Changed from : \_\_\_\_\_ to \_\_\_\_\_

Zone Map Changed from: EFU-2 to R-5

Location: 14-15-27 TL 204 Acres Involved: 57

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: 3 & 14

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 001-06 (15414)



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: DLCD, Crook County Fire & Rescue, Crook County Road Department, County Landfill, Prineville Airport  
Local Contact: Bill Zelenka Area Code + Phone Number: (541) 447-8156  
Address: 300 NE Third Street, Rm. 11 City: Prineville  
Zip Code+4: 97754 Email Address: bill.zelenka@co.crook.or.us

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### **ADOPTION SUBMITTAL REQUIREMENTS**

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

1. **Send this Form and TWO (2) Copies** of the Adopted Amendment to:  

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



STATE OF OREGON } ss 2006-275  
COUNTY OF CROOK }  
I CERTIFY THAT THE WITHIN INSTRUMENT WAS  
RECEIVED FOR RECORD ON THE 6th DAY OF  
December 20, 2006 AT 12:20 P. M.  
AND RECORDED IN CJRN1  
RECORDS OF SAID COUNTY MF NO. 2006-275  
DEANNA E. BERMAN, CROOK COUNTY CLERK  
BY Chase B. Wallace DEPUTY

N/c

IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

AN ORDINANCE AMENDING THE  
COMPREHENSIVE PLAN MAP AND  
CHANGING THE ZONE DESIGNATION                      ORDINANCE 183  
FOR PROPERTY IDENTIFIED AS  
MAP NO. T 14S R 15E SEC. 27 TL 204

WHEREAS, the Crook County Planning Commission has recommended a Comprehensive Plan Map Amendment based upon an Irrevocably Committed Exception to Statewide Planning Goal 3, and a change in the zone classification of the subject property from EFU-2 to R-5; and

WHEREAS, the Crook County Planning Commission has held public hearings on September 13, 2006 and September 27, 2006 to receive comments and input from the general public and other agencies;

NOW, THEREFORE, the Crook County Court ordains and enacts as follows:

SECTION ONE: That portion of the Comprehensive Plan Map pertaining to property identified as Township 14 South, Range 16 East Section 27 Tax Lot 204, and indicated on the attached Exhibit A, shall be amended to change the land designation of the subject property from agricultural to residential.

SECTION TWO: The zone classification of the subject property shall be changed from Exclusive Farm Use EFU-2 to Rural Residential R-5.

SECTION THREE: In compliance with the Crook County Comprehensive Plan, which describes the provisions for plan amendment, the applicant has submitted a proper burden



of proof and the planning Commission has forwarded findings that support approval of the application for plan amendments. The County Court adopts the Planning Commissions recommendations, attached hereto as Exhibit B.

DATE of First Reading and Approval: November 22, 2006.

DATE of Second Reading and Approval: December 6, 2006.

CROOK COUNTY COURT

Scott R L  
Judge Scott R. Cooper

Absent  
Commissioner Mike McCabe

Michael J. Mohan  
Commissioner Michael J. Mohan

CROOK COUNTY  
1" = 400'

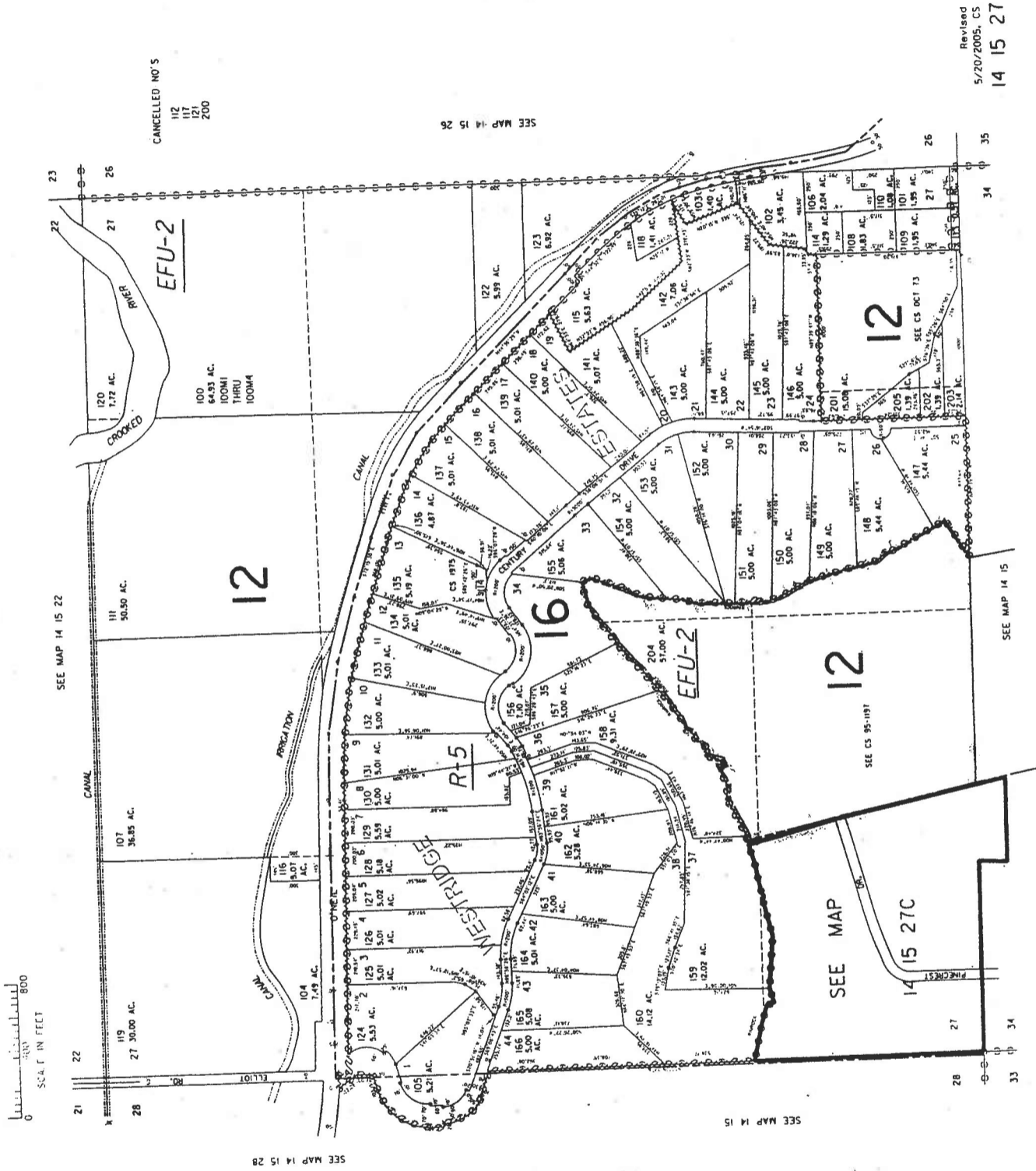


EXHIBIT A



CROOK COUNTY

BEFORE THE PLANNING COMMISSION

NO. CPA-010-06  
RECOMMENDATION

APPLICANTS: Jim Chauncey/Rick Coffin  
c/o Sun Terra Homes  
PO Box 5278  
Bend OR 97708

AGENT: Jeff Wilson  
446 NW Third Street Ste #230  
Prineville OR 97754

PROPERTY LOCATION: T 14 S R 15 EWM Sec 27 TL 204

PROPOSAL: Recommendation to the Crook County Court on a request for approval of a Comprehensive Plan Map Amendment based upon an "Irrevocably Committed" exception to Statewide Planning Goal 3, and a change of the zone classification of the subject property from EFU-2 to R-5.

CONCLUSIONS: The Commission finds that the applicant has met the burden of demonstrating compliance with all local codes and state statutes. The County also finds that the applicant supplied adequate evidence and testimony showing that the subject parcel does not meet the definitional requirements to sustain a designation of the property as "Agricultural Land".

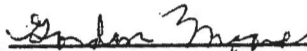
RECOMMENDATION: The Commission hereby recommends by a 7-0 vote that the proposed non-resource designation and zoning change be approved. The above recommendation is based on the applicable legal criteria, applicants' burden of proof, applicants' findings, and Commission findings and conclusions.

EXHIBIT B

CHAUNCEY/COFFIN, RECOMMENDATION  
C-MA-010-06  
Page 2

DATED THIS 11<sup>th</sup> Day of October, 2006

  
\_\_\_\_\_  
W. R. Gowen  
COMMISSION CHAIRMAN

  
\_\_\_\_\_  
Gordon Moore  
COMMISSION SECRETARY

**LEGAL CRITERIA**

**ZONING:** The property is presently zoned Exclusive Farm Use EFU-2. Chapter 18.20 of the Crook County Code contains requirements for this zone.

The property is not in a critical wildlife area.

**COMPREHENSIVE PLAN:** Pages 51-57 of the Crook County Comprehensive Plan contain policies for agricultural areas of the County.

Pages 229-230 of the Comprehensive Plan set forth policies for Review and Revision.

**OREGON STATEWIDE PLANNING GOALS:**

**Goal 1 - Citizen Involvement** is applicable to the proposed amendment, because this Goal requires citizen participation in amending the Comprehensive Plan. Citizen involvement is provided for in the approval process.

**Goal 2 - Land Use Planning** is applicable, because this Goal requires that the land use planning process be the basis for all decisions and actions relating to land use. The approval process meets the requirements for land use planning.

**Goal 3 - Agricultural Lands** is applicable, because this goal defines agricultural lands in Eastern Oregon as lands with predominantly SCS Class I-VI soils, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy requirements, and accepted farming



CHAUNCEY/COFFIN, RECOMMENDATION

C-MA-010-06

Page 3

practices. Lands in other classes, which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural land in any event.

**Goal 4 - Forest Lands** is not applicable because there are no such lands impacted by this proposal.

**Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces** is not applicable. The property is adjacent to rimrocks on the east and northwest, but these will be adequately protected under the existing provisions of the Comprehensive Plan and the Crook County Code for protection of rimrocks.

**Goal 6 - Air, Water, and Land Resources Quality** is not applicable, because there is no indication that the proposed uses will significantly impact these resources.

**Goal 7 - Natural Resources and Hazards** is not applicable, as there is no indication of any natural hazards in the vicinity of the property.

**Goal 8 - Recreational Needs** is not applicable. The property is not designated as an eligible site for a destination resort, and is not presently zoned or used for recreation. There is no likelihood of a negative impact on recreation.

**Goal 9 - Economy of the State** is not applicable, as the proposal does not conflict with any of the policies under this Goal, and any impacts on the economy of the state are almost certain to be positive.

**Goal 10 - Housing** is not applicable, as the proposal does not conflict with any of the policies under this Goal, and impacts on the housing stock will be positive.

**Goal 11 - Public Facilities and Services** is not applicable, as the proposal does not conflict with any of the policies under this goal.

**Goal 12 - Transportation** is not applicable, as the proposal does not conflict with any of the policies under this Goal.

CHAUNCEY/COFFIN, RECOMMENDATION

C-MA-010-06

Page 4

Goal 13 - Energy Conservation is not applicable, as the proposal does not conflict with any of the policies under this Goal.

Goal 14 - Urbanization is not applicable to Non-Resource lands, in accordance with OAR 660-004-0040(F).

Goal 15 - Willamette Greenway; Goal 16 - Estuarine Resources; Goal 17 - Coastal Shorelands; Goal 18 - Beaches and Dunes; and Goal 19 - Ocean Resources are not applicable, as Crook County does not have any such areas or resources, and no such areas or resources will be impacted by the proposal.

OREGON ADMINISTRATIVE RULES: OAR 660-004-005(3) defines Non-Resource lands as lands not subject to Goal 3 - Agricultural Lands, Goal 4 - Forest Lands, or Goals 16-19 (Not applicable to Crook County).

Goal 3 defines Agricultural Lands in Eastern Oregon as lands with predominantly SCS Class I-VI soils, and other lands which are suitable for farm use, taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy requirements, and accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural land in any event.

OAR 660-004-0015 states that a local government approving a proposed exception must adopt as part of its comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met, supported by substantial evidence.

The above OAR states that a local government denying a proposed exception must adopt findings of fact and a statement of reasons why the standards for an exception have not been met, but need not incorporate them in its comprehensive plan.

OAR 660-004-0020 states that the four factors under Statewide Planning Goal 2 Part II (c) which must be addressed when taking an exception are:



CHAUNCEY/COFFIN, RECOMMENDATION

C-MA-010-06

Page 5

(a) Reasons justify why the state policy embodied in the applicable goals should not apply;

(b) Areas which do not require a new exception cannot reasonably accommodate the use;

(c) The long-term environmental, economic, social, and energy consequences resulting from the uses at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same uses being located in other areas requiring a Goal Exception.

(d) The uses at the proposed site will not conflict with adjacent or area uses, or conflicts can be mitigated through appropriate measures.

OAR 660-004-0028 states that an exception may be adopted when the subject site is irrevocably committed to uses not allowed by the applicable goal, because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable. It states that the findings for a committed exception must address:

(a) The characteristics of the exception area;

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

(d) Other relevant factors including existing adjacent uses, existing public facilities and services, parcel size and ownership patterns of the exception area and adjacent lands, neighborhood and regional characteristics, and physical factors.

APPLICANTS' BURDEN OF PROOF

SITE DESCRIPTION: The subject property measures 61 acres. It is presently vacant, and is not used for any active agricultural activity, or livestock or crop production. The property is essentially flat, but is surrounded by rimrocks on the east and northwest. Vegetation on the site consists primarily of sagebrush, grasses, and junipers. There are no

CHAUNCEY/COFFIN, RECOMMENDATION

C-MA-010-06

Page 6

commercial timber trees. The property is not irrigated, and has no water rights.

**SURROUNDING LAND USES:** The applicants state that areas zoned Rural Residential R-5 are located on the north, east, and west sides of the property. The Crook County landfill, zoned Heavy Industrial H-M, adjoins the property on the south.

The applicants have submitted an analysis of current land uses within one mile of the property. The analysis has been summarized by Planning staff as follows:

**SURROUNDING PLANNING AND LAND USE:** Westridge Estates, a residential subdivision zoned Rural R-5, adjoins the property below the rimrocks on the east and northwest. Westwood Subdivision, also zoned R-5, adjoins the property on the west. The Crook County Landfill, a rural Exception Area zoned Heavy Industrial H-M, and other county-owned lands adjoin the property on the south. Westridge Estates, Westwood Subdivision, and other lands zoned R-5 separate the property from lands zoned EFU-2 to the east, north, and northwest, and from lands zoned EFU-3 to the west. Lands zoned Heavy Industrial H-M, and industrial lands within the City of Prineville, are located beyond about one mile to the south of the property.

**SOILS:** Soils on the property consist of Redmond-Stuckmond Complex, Class VII if non-irrigated (54%); Stuckmond-Lickskillet-Redmond Complex, Class VI if non-irrigated (43%); and Argenticia-Era Complex, Class VI if non-irrigated (3%), according to Crook County GIS.

**ACCESS:** Access is available from Pinecrest Drive, a public road in the Westwood Subdivision on the west. Pinecrest Drive connects to Houston Lake Road, a county road to the southwest, by way of Rosewood Drive and Westwood Drive, both public roads. Use of this access would require traffic to pass through the Westwood Subdivision from north to south. It would also require the access roads to be improved and maintained to county standards, and a joint maintenance agreement with property owners in the Westwood Subdivision would be required.

**CHAUNCEY/COFFIN, RECOMMENDATION**

**C-MA-010-06**

**Page 7**

There is no feasible access across the rimrocks on the north and east, and access through the county landfill on the south would also not be feasible.

**UTILITIES:** Electrical and telephone lines are present on Pinecrest Drive in the Westwood subdivision on the west. No natural gas lines are available.

**FLOOD ZONE:** The property is in Flood Zone X, outside the 500 year flood zone.

**WETLAND:** There are no designated wetlands on the property.

**WILDLIFE:** The property is not in a critical wildlife area.

**FIRE AND AMBULANCE:** Fire and ambulance service are available from Crook County Fire and Rescue.

**APPLICANTS' FINDINGS**

Planning staff has summarized the applicants' findings in relation to the applicable OAR's as follows:

**OAR 660-004-28(6) (a) Existing Adjacent Uses**

Surrounding properties are committed to rural residential use on the north, east, and west, and to industrial use on the south.

**OAR 660-004-28(6) (b) Existing Public Facilities**

Electricity, land line telephone service, access roads, and fire protection are all available to the property.

**OAR 660-004-28(6) (c) Parcel Sizes and Ownership Patterns**

The property is surrounded on the north, east, and west by platted residential subdivisions zoned R-5. It is adjacent to the Crook County Landfill on the south.

**OAR 660-004-28(6) (d) Neighborhood and Regional Characteristics**

The area is not suitable for agriculture because of steep terrain, poor soils, and lack of irrigation water. There is little evidence of its being used for grazing, and no



**CHAUNCEY/COFFIN, RECOMMENDATION**

**C-MA-010-06**

**Page 8**

evidence of forestry. The property is surrounded on three sides by rural residential development, which would make aerial spraying and other intensive farming practices impracticable.

**OAR 660-004-28(6)(e) Natural or Manmade Features and Other Impediments Separating the Property from Resource Lands**

The property is bordered by rimrocks on the east and northwest. It is surrounded by existing residential subdivisions on three sides, and by the Crook County Landfill and other public lands on the south.

**OAR 660-004-28(6)(f) Physical Development According to OAR 660-05-025**

The adjacent lands on the east, north, and west are physically committed to rural residential use. There are 63 existing residences in the Westwood and West Ridge subdivisions.

**OAR 660-004-28(6)(g) Other Relevant Factors**

The applicants state that the proposal is in accordance with the Agricultural Policies of the Comprehensive Plan. The Plan states that the county may permit subdivisions on non-productive agricultural lands such as the property (see neighborhood and regional characteristics, above). The Comprehensive Plan states that PUD development is preferable to standard subdivision design. The applicants state that the property will not adversely impact surrounding land uses, and that surrounding land uses make intensive agricultural practices on the property infeasible.

The applicants state that the proposal is in accordance with policies for the preservation of agricultural lands and the protection of agriculture in such areas.

**APPLICANTS' SUMMARY OF THE COMPREHENSIVE PLAN RELATIVE TO THE PROPOSAL**

- (1) The property is located on existing road patterns serving an existing subdivision.
  - (2) The value of the property for forest or grazing
-

**CHAUNCEY/COFFIN, RECOMMENDATION**

**C-MA-010-06**

**Page 9**

uses is doubtful at this time.

(3) The property is surrounded on three sides by subdivisions zoned R-5.

(4) The property is not adjacent to farmland which the Comprehensive Plan attempts to conserve and hold free from pressure of urban development.

**CONCLUSION OF APPLICANTS' BURDEN OF PROOF STATEMENT**

The applicants state that they believe that their burden of proof statement contains sufficient findings necessary to approve a Comprehensive Plan amendment based upon an Irrevocably Committed Exception to Statewide Planning Goal 3, and a change in zoning from Exclusive Farm Use EFU-2 to Rural Residential R-5.

**COMMISSION FINDINGS AND CONCLUSIONS**

**(1) Does the applicants' Burden of Proof Statement address the required issues relating to the proposed Map Amendment and zoning change?**

The statement submitted by the applicants addresses those issues which are required to be addressed by OAR 660.004 (Interpretation of Goal to Exception Process), ORS 197.732 (Goal Exceptions Criteria; rules; review); Crook County Code Chapter 18.20 (Exclusive Farm Use zone EFU-2), and the Agriculture policies of the Crook County Comprehensive Plan.

**(2) Are the applicants' findings in accordance with the characteristics of the property and the surrounding area?**

On the basis of the data submitted and Planning staff knowledge of the area, the applicants' findings are in accordance with the characteristics of the property and the surrounding area.

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# Crook County

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300 N.E. 3rd Street • Prineville, Oregon 97754  
Phone (541) 447-6555 • FAX (541) 416-3891

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER,  
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT  
MUST PROMPTLY BE FORWARDED TO THE PURCHASER.**

*Dear Property Owner,*

*Notice is hereby given that the Crook County Court will hold Two Public Hearings on Wednesday, November 22, 2006 (1<sup>st</sup> Hearing) and Wednesday December 6, 2006 (2<sup>nd</sup> Hearing) in the Crook County Meeting Room, 320 NE Court Street, Prineville, Oregon to consider the following:*

**MAP AMENDMENT**

***C-MA-010-06: The two public hearings for a Comprehensive Plan Map amendment requested by Jim Chauncey and Rick Coffin to change the Comprehensive Plan designation of a 57 acre parcel from Agricultural to Residential, and to change the Zoning designation from Exclusive Farm Use EFU-2 to Rural Residential R-5 in accordance with OAR 660-004-028. The property is identified as Township 14 South, Range 15 East WM, Section 27, Tax lot 204.***

*A notice of public hearing and a map of the request area are being mailed to all property owners within 750 feet of the parcel, and to other appropriate agencies at least 10 days prior to the County Court rendering a decision on this request.*

*Statements will be heard at the hearing. Written testimony may be submitted to the Crook County Court, 300 N.E. 3<sup>rd</sup> Street, Room 10, Prineville, Oregon 97754 prior to 5:00 p.m. on November 16, 2006, or at the hearing. NOTE: If submitting written testimony after November 16, 2006, or at the public hearing please bring 5 copies. Please contact the Crook County Court if you have any questions.*

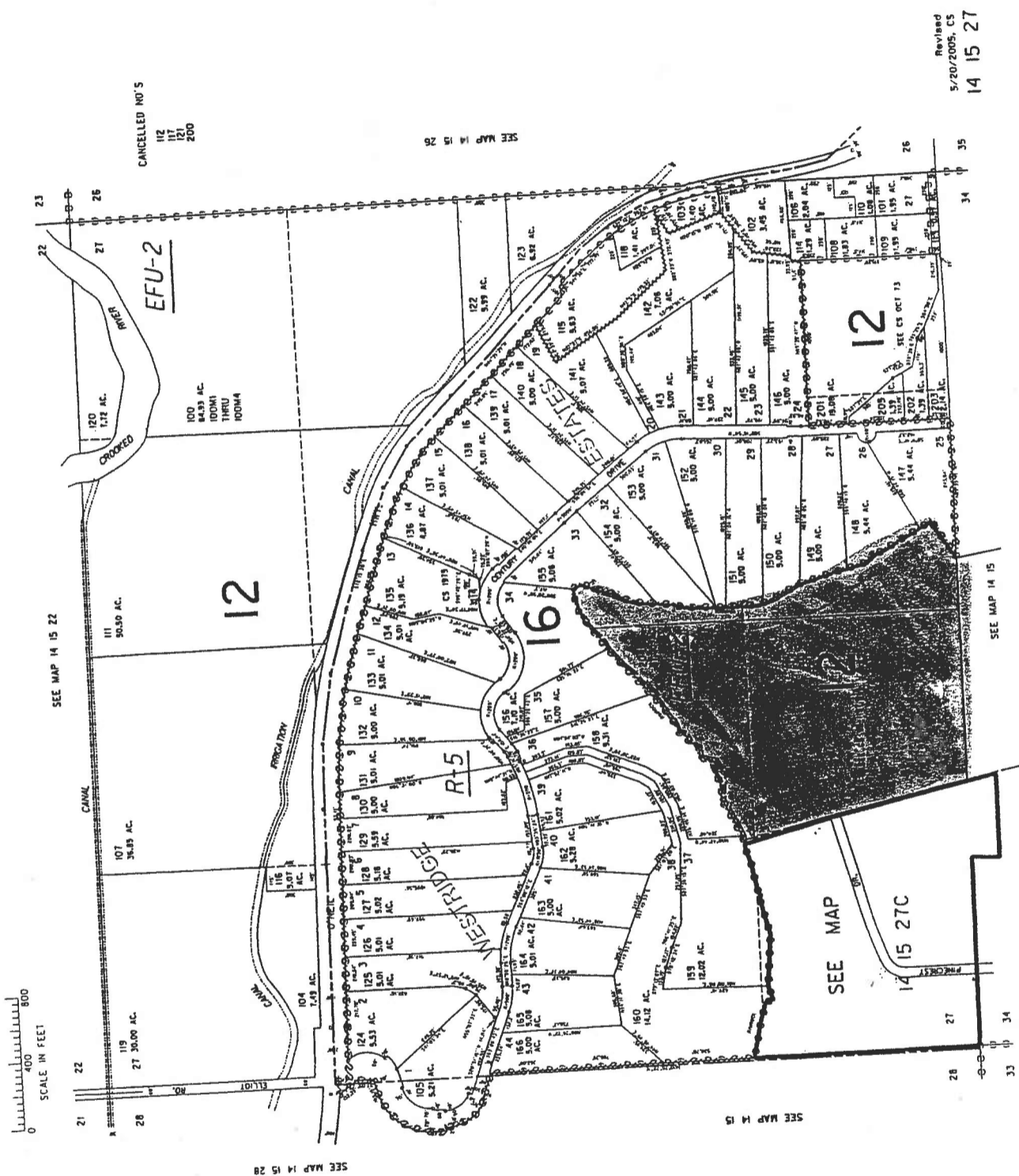
*Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.*

*A copy of the application, and all documents and evidence relied upon by the applicant are available for inspection at no cost, and a copy will be provided at the County's copying rate upon request.*

*In addition to the specific applicable review criteria, the Crook County Zoning and Partitioning Ordinances, County-Prineville Area Comprehensive Plan, Oregon Administrative Rules (OAR), Oregon Revised Statutes (ORS), Statewide Planning Goals may contain additional*



CROOK COUNTY  
1" = 400'



CANCELLED NO'S  
112  
117  
121  
200

SEE MAP 14 15 28

Revised  
5/20/2005, CS  
14 15 27

0 400 800  
SCALE IN FEET

SEE MAP 14 15 22

SEE MAP 14 15 28

SEE MAP 14 15

SEE MAP 14 15

SEE MAP  
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