



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

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

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

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

NOTICE OF ADOPTED AMENDMENT

June 2, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment
DLCD File Number 003-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 15, 2006

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Aisha Willits, Washington County

<paa> ya/

FORM 2

DEPT OF

DLCD NOTICE OF ADOPTION

MAY 26 2006

This form must be received by DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18 (See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: Washington County

Local File No.: 06-101-PA (If no number, use none)

Date of Adoption: May 23, 2006 (Must be filled in)

Date Mailed: May 25, 2006

Date the Notice of Proposed Amendment was mailed to DLCD: March 17, 2006

- Comprehensive Plan Text Amendment, Land Use Regulation Amendment, New Land Use Regulation, Comprehensive Plan Map Amendment, Zoning Map Amendment, Other: (Please specify type of action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached." The plan amendment request is to remove the AF-5 designation on the subject property and designate the property as Rural Commercial (R-COM). The request requires an exception to Statewide Planning Goal 14 (Urbanization).

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

Plan Map Changed from: AF-5 to: R-COM

Zone Map Changed from: N/A to: N/A

Location: Tax lot 1900 on Tax Map 2S2 08 Acres involved: 0.57

Specified Change in Density: Previous: 1 D.U. / 5 acres New: N/A

Applicable Statewide Planning Goals: 1, 2, 9, 11, 12, 14

Is an Exception Proposed? Yes: [checked] No: []

Was an Exception Adopted? Yes: [checked] No: []

DLCD No: 003-06 (15098)

Did the Department of Land Conservation and Development receive a notice a 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 and Federal Agencies, Local Governments or Special Districts:
Washington County Land Use and Transportation, Washington County Sheriff, Washington County Fire District #2,
Oregon Department of Transportation

Local Contact: Aisha Willits, Senior Planner Area Code + Phone Number: 503-846-3961

Address: Washington County DLUT, 155 N First Avenue, Suite 350-14

City: Hillsboro Zipcode + 4: 97124-3072

Email Address: Aisha_willits@co.washington.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

2. Submit **TWO (2) copies** of the adopted material, if copies are bound, please submit **TWO (2)** complete copies of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD no 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 be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8½ x 11 inch green paper only; or call the DLCD Office at (503) 373-0050; or Fax you request to (503) 378-5518; or email your request to Larry.French@state.or.us – ATTENTION: PLAN AMENDMENT SPECIALIST.

IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

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In the Matter of a Proposed Plan) RESOLUTION AND ORDER
Amendment Casefile 06-101-PA)
for Richard Baker) No. 06-119
)

This matter having come before the Washington County Board of Commissioners (Board) at its meeting of May 23, 2006; and

It appearing to the Board that the above-named applicant applied to Washington County for a Plan Amendment to change the plan designation for certain real property consisting of one parcel described more fully in the Notice of Public Hearing, (Exhibit "A"), attached hereto and by this reference made a part hereof, from AF-5 (Agriculture and Forestry – 5 Acre District) to R-COM (Rural Commercial District); and

It appearing to the Board from evidence and findings in the Application (Exhibit "B"), and in the findings (Exhibit "C"), attached hereto and by this reference made a part hereof, that all of the real property of the aforementioned application does meet the requirements of the Rural/Natural Resource Plan for such a Plan Amendment; and therefore, that the aforesaid application should be approved; and

It appearing to the Board that the findings described in Exhibit "C" constitute appropriate findings and should be adopted by this Board; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on May 3, 2006, voted to recommend that the Board adopt 06-101-PA, it is therefore

RESOLVED AND ORDERED that Casefile No. 06-101-PA for a Plan Amendment for property described in Exhibit "A" is hereby approved, based on the findings in Exhibits "B" and "C", and is subject to the conditions of approval set forth in the Summary of Decision, (Exhibit "D").

3 votes Aye, 0 votes Nay.

	AYE	NAY	ABSENT
BRIAN	—	—	✓
SCHOUTEN	—	—	✓
LEEPER	✓	—	—
ROGERS	✓	—	—
APPROVED AS TO FORM:	✓	—	—

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

John Leeper
CHAIRMAN

W D
County Counsel
for Washington County, Oregon

Barbara Heitmanek
RECORDING SECRETARY

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing - Land Use & Transportation (CPO 10)

Agenda Title: PLAN AMENDMENT 06-101-PA - CONSIDER PLAN AMENDMENT TO CHANGE THE PLAN DESIGNATION FROM AF-5 TO R-COM ON 1 PARCEL CONSISTING OF .57-ACRES; REQUIRES AN EXCEPTION TO STATEWIDE PLANNING GOAL 14 (URBANIZATION)

Presented by: Brent Curtis, Planning Manager

SUMMARY (Attach Supporting Documents if Necessary)

The applicant is requesting a plan amendment from Agriculture and Forestry – 5 Acres (AF-5) to Rural Commercial (R-COM) for a .57-acre property described as Tax Lot 1900 on Tax Map 2S2, Section 8. The property is located on the south side of Hillsboro Highway 219, east of its intersection with Midway Road.

Following an analysis of the applicable standards for this plan amendment request, staff determined that the subject property met the criteria for a change from AF-5 to R-COM. Staff requests that a plan amendment from AF-5 to R-COM be approved for the tax lot subject to the plan amendment request and that an exception to Statewide Planning Goal 14 (Urbanization) be granted.

Because this request involves an exception to a statewide planning goal addressing urbanization (Goal 14), a Planning Commission hearing was held for the purpose of making a recommendation to the Board on this matter. It is the Board's responsibility to make a final decision on this application.

(continued)

Attachments: Public Notice
Resolution and Order (cover sheet only)

The staff report for the May 23, 2006 hearing and the applicant's submittal will be provided to the Board and the Board's clerk under separate cover.

DEPARTMENT'S REQUESTED ACTION:

Conduct Public Hearing. Approve the proposed plan amendment based on evidence and findings in the staff report and the applicant's submittal. Authorize Chair to sign Resolution and Order for Plan Amendment 06-101-PA.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 06-119

Agenda Item No.	<u>5.a.</u>
Date:	<u>5/23/06</u>

PROPOSED PLAN AMENDMENT FROM AF-5 TO R-COM, CASEFILE 06-101-PA

May 23, 2006

Page 2

On May 3, 2005, the Planning Commission held an expedited hearing and voted 8 to 0 to recommend that the Board approve this application. No testimony was presented to the Planning Commission, however the applicant was available to answer questions.

Since this hearing is not an appeal hearing, the time limits specified in Community Development Code Section 209-5.6 do not apply. However, this hearing is similar to a de novo hearing, so the Board may want to use the same time limits -- 30 minutes per side and 5 minutes for the applicant's rebuttal. This may be unnecessary if no one wishes to testify against the application.

Although the Board does not have an expedited hearing process, the Board may wish to conduct the hearing similar to the Planning Commission's procedures. Under the Planning Commission's procedures, an expedited hearing process can be used under the following conditions:

- The staff report recommends approval
- The applicant has no objection
- No one in the audience wishes to testify
- There is no objection from any member of the Planning Commission

Under the expedited process, the Planning Commission relies on the written record, opens the hearing, dispenses with a verbal staff report and places on the record the fact that neither the applicant nor anyone in the audience wishes to testify.

Staff has prepared a Resolution and Order that adopts the May 3, 2006 Planning Commission recommendation if the Board wishes to approve the application at this hearing.

PLAN AMENDMENT APPLICATION

Richard Baker

Case File No. 06-101-PA

**For the May 23, 2006
Board of Commissioners' Meeting**

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AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing - Land Use & Transportation (CPO 10)

Agenda Title: PLAN AMENDMENT 06-101-PA - CONSIDER PLAN AMENDMENT TO CHANGE THE PLAN DESIGNATION FROM AF-5 TO R-COM ON 1 PARCEL CONSISTING OF .57-ACRES; REQUIRES AN EXCEPTION TO STATEWIDE PLANNING GOAL 14 (URBANIZATION)

Presented by: Brent Curtis, Planning Manager 

SUMMARY (Attach Supporting Documents if Necessary)

The applicant is requesting a plan amendment from Agriculture and Forestry – 5 Acres (AF-5) to Rural Commercial (R-COM) for a .57-acre property described as Tax Lot 1900 on Tax Map 2S2, Section 8. The property is located on the south side of Hillsboro Highway 219, east of its intersection with Midway Road.

Following an analysis of the applicable standards for this plan amendment request, staff determined that the subject property met the criteria for a change from AF-5 to R-COM. Staff requests that a plan amendment from AF-5 to R-COM be approved for the tax lot subject to the plan amendment request and that an exception to Statewide Planning Goal 14 (Urbanization) be granted.

Because this request involves an exception to a statewide planning goal addressing urbanization (Goal 14), a Planning Commission hearing was held for the purpose of making a recommendation to the Board on this matter. It is the Board's responsibility to make a final decision on this application.
(continued)

Attachments: Public Notice
Resolution and Order (cover sheet only)

The staff report for the May 23, 2006 hearing and the applicant's submittal will be provided to the Board and the Board's clerk under separate cover.

DEPARTMENT'S REQUESTED ACTION:

Conduct Public Hearing. Approve the proposed plan amendment based on evidence and findings in the staff report and the applicant's submittal. Authorize Chair to sign Resolution & Order for Plan Amendment 06-101-PA.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

100-601000

Agenda Item No. _____
Date: 5/23/06

PROPOSED PLAN AMENDMENT FROM AF-5 TO R-COM, CASEFILE 06-101-PA

May 23, 2006

Page 2

On May 3, 2005, the Planning Commission held an expedited hearing and voted 8 to 0 to recommend that the Board approve this application. No testimony was presented to the Planning Commission, however the applicant was available to answer questions.

Since this hearing is not an appeal hearing, the time limits specified in Community Development Code Section 209-5.6 do not apply. However, this hearing is similar to a de novo hearing, so the Board may want to use the same time limits -- 30 minutes per side and 5 minutes for the applicant's rebuttal. This may be unnecessary if no one wishes to testify against the application.

Although the Board does not have an expedited hearing process, the Board may wish to conduct the hearing similar to the Planning Commission's procedures. Under the Planning Commission's procedures, an expedited hearing process can be used under the following conditions:

- The staff report recommends approval
- The applicant has no objection
- No one in the audience wishes to testify
- There is no objection from any member of the Planning Commission

Under the expedited process, the Planning Commission relies on the written record, opens the hearing, dispenses with a verbal staff report and places on the record the fact that neither the applicant nor anyone in the audience wishes to testify.

Staff has prepared a Resolution and Order that adopts the May 3, 2006 Planning Commission recommendation if the Board wishes to approve the application at this hearing.

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IN THE BOARD OF COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

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In the Matter of a Proposed Plan
Amendment Casefile 06-101-PA
for Richard Baker

) RESOLUTION AND ORDER

) No. _____
)

This matter having come before the Washington County Board of Commissioners (Board) at its meeting of May 23, 2006; and

It appearing to the Board that the above-named applicant applied to Washington County for a Plan Amendment to change the plan designation for certain real property consisting of one parcel described more fully in the Notice of Public Hearing, (Exhibit "A"), attached hereto and by this reference made a part hereof, from AF-5 (Agriculture and Forestry – 5 Acre District) to R-COM (Rural Commercial District); and

It appearing to the Board from evidence and findings in the Application (Exhibit "B"), and in the findings (Exhibit "C"), attached hereto and by this reference made a part hereof, that all of the real property of the aforementioned application does meet the requirements of the Rural/Natural Resource Plan for such a Plan Amendment and therefore, that the aforesaid application should be approved; and

It appearing to the Board that the findings described in Exhibit "C" constitute appropriate findings and should be adopted by this Board; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on May 3, 2006, voted to recommend that the Board adopt 06-101-PA, it is therefore


RESOLVED AND ORDERED that Casefile No. 06-101-PA for a Plan Amendment for property described in Exhibit "A" is hereby approved, based on the findings in Exhibits "B" and "C", and is subject to the conditions of approval set forth in the Summary of Decision, Exhibit "D".

____ votes Aye, ____ votes Nay.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

APPROVED AS TO FORM:

CHAIRMAN



County Counsel
for Washington County, Oregon

RECORDING SECRETARY

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WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
PLANNING DIVISION
SUITE 350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124-3072
(503) 846-3519 fax: (503) 846-4412

NOTICE OF PUBLIC HEARING

PROCEDURE TYPE: III

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource

EXISTING LAND USE DISTRICT(S):

AF-5 (Agriculture & Forestry – 5 acre District)

PROPOSED PLAN AMENDMENT:

Comprehensive plan amendment from AF-5 (Agriculture & Forestry – 5 Acre District) to R-COM (Rural Commercial); requires an Exception to Statewide Planning Goal 14 (Urbanization).

Notice is hereby given that the Planning Commission will review the request for the above stated proposed plan amendment at a meeting on: **May 3, 2006 at 7:30 PM** in the auditorium of Washington County Public Services Building, 155 N First Avenue, Hillsboro, Oregon. After the hearing the Planning Commission will decide on a recommendation to the Board of County Commissioners on this matter.

The Board of Commissioners will consider the request at a public hearing on: **May 23, 2006 at 6:30 PM** in the auditorium of Washington County Public Services Building, 155 N First Avenue, Hillsboro, Oregon. The decision of the Board is final unless appealed.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling (503) 846-8611 (voice) or (503) 846-4598 (TDD-Telecommunications Devices for the Deaf) no later than 5:00 PM, Monday. The County will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments; and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the County of your need by 5:00pm on the Monday preceding the meeting date.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Aisha Willits, Associate Planner

AT THE WASHINGTON COUNTY DEPARTMENT OF LAND USE AND TRANSPORTATION. (503) 846-3519.

CASE FILE NO.: 06-101-PA

APPLICANT:

Richard Baker

PO Box 3208

Kirkland WA 98083

APPLICANT'S REPRESENTATIVE:

Gunn & Cain LLP

PO Box 1046

Newberg OR 97132

CONTACT PERSON: Charles Harrell

OWNERS:

Richard Baker

PO Box 3208

Kirkland WA 98083

PROPERTY DESCRIPTION:

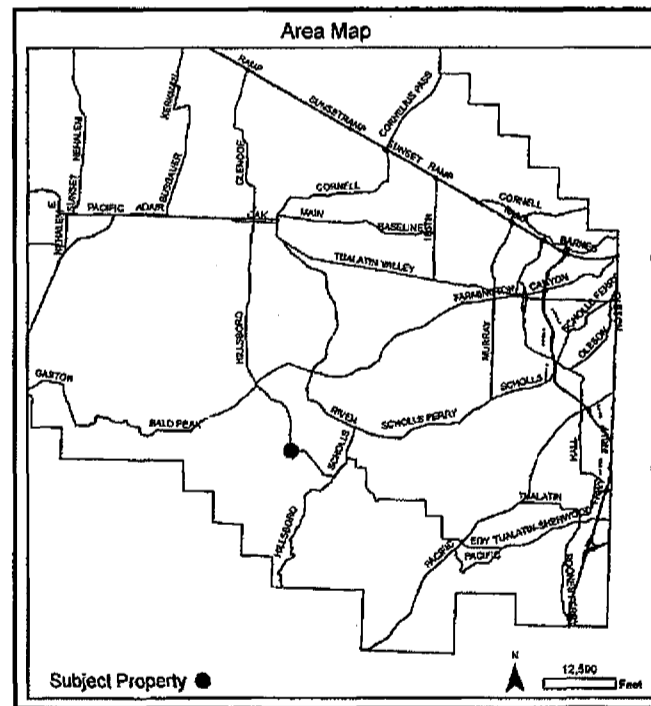
ASSESSOR MAP NO(S): 2S2, Section 8

TAX LOT NO(S): 1900

SITE SIZE: .57 acres

ADDRESS: 14819 SW Hillsboro Highway

LOCATION: South side of Hillsboro Highway 219, east of its Intersection with Midway Road



NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

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All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing). Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits may be imposed.

RULES OF PROCEDURE

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178.

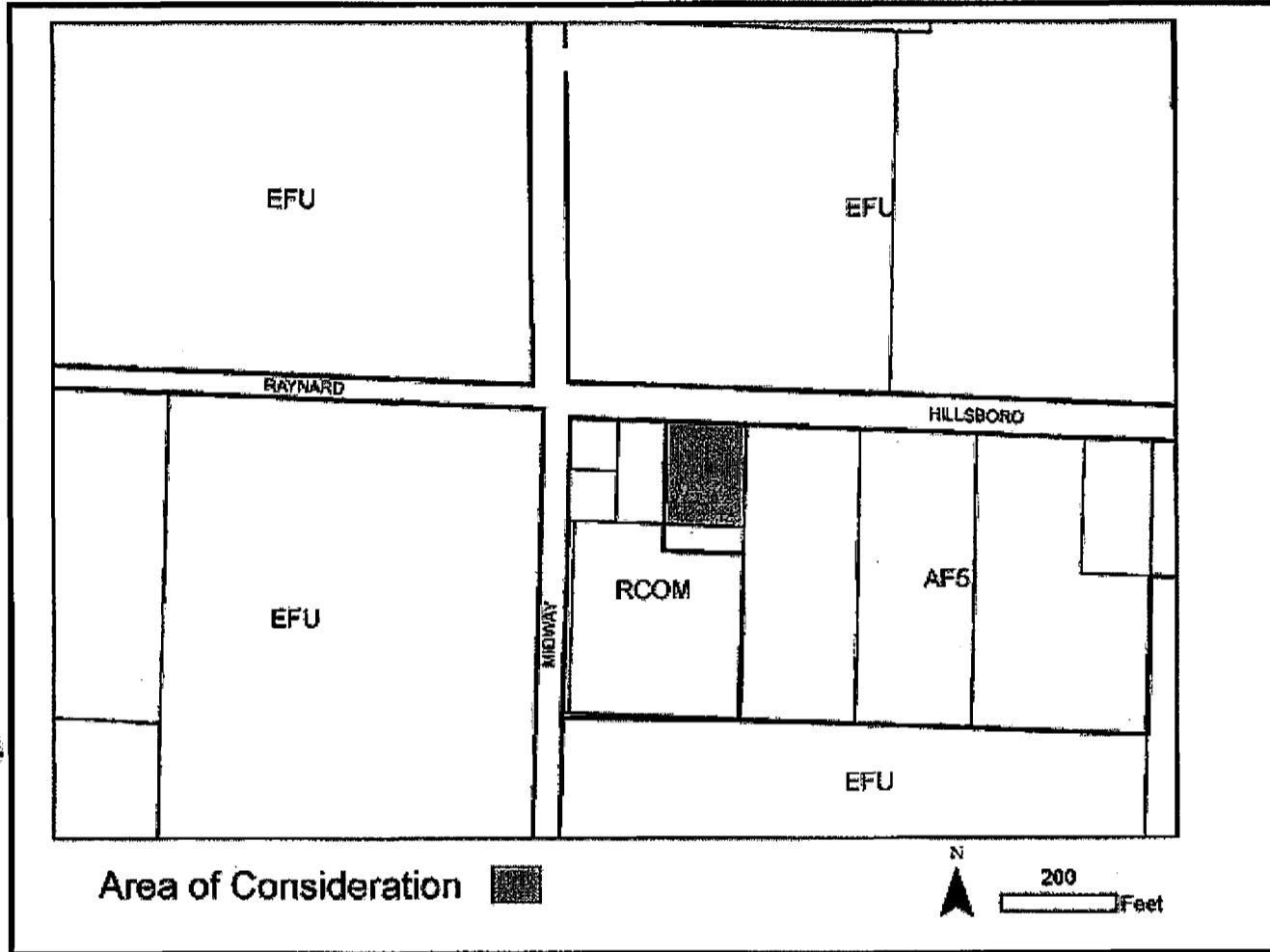
When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use and Transportation. A copy of this material will be provided at reasonable cost.

A copy of the staff report will be available for inspection at no cost at the Department of Land Use and Transportation at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

For further information, please contact **Aisha Willits, Associate Planner**, Department of Land Use and Transportation, at 503-846-3519.

Tax Map/Lot Number: 2S2, Section 8, Tax Lot 1900
 Case File Number: 06-101-PA



Legend:

Applicable Land Use Districts:

- AF-5 (Agriculture & Forestry – 5 Acre)
- R-COM (Rural Commercial)

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 9, 11, 12, 14
- B. Washington County Rural/Natural Resource Plan Policies 1.p.7., 2, 6, 14, 18, 19, 20, 22, 23
- C. Washington County Community Development Code Article II: Procedures Article III, Sections 348-1 and 352-1
- D. Oregon Administrative Rules 660-012-0060, 660-004, 660-014
- E. Washington County 2020 Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19

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WASHINGTON COUNTY
Department of Land Use and Transportation
PLANNING DIVISION, SUITE #350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124-3072
tel (503) 846-3519 fax (503) 846-4412

CASEFILE NO.: 06-101-PA

APPLICANT:
Richard Baker
PO Box 3208
Kirkland WA 98083

STAFF REPORT

APPLICANT'S REPRESENTATIVE:
Charles Harrell
Gunn & Cain LLP
PO Box 1046
Newberg OR 97132

PROCEDURE TYPE: III
COMPREHENSIVE PLAN ELEMENT:
Rural/Natural Resource
CPO: 10

OWNER (tax lot 2S2 08 / 1900):
Richard Baker
PO Box 3208
Kirkland WA 98083

ASSESSOR MAP NO.: 2S2 08
TAX LOT NO(S): 1900
SITE SIZE: .57 acres
LOCATION: Southeast of the intersection of SW
Midway Road and State Highway 219

SITE ADDRESS
14819 SW Hillsboro Highway, Hillsboro OR 97123

EXISTING LAND USE DISTRICT: Agriculture and
Forest – 5 Acre District (AF-5)

REQUEST: Comprehensive Plan Amendment to change the current land use designation of Agriculture and Forest – 5 Acre (AF-5) District to Rural Commercial (R-COM); requires an exception to Statewide Planning Goal 14 (Urbanization).

Casefile No. 06-101-PA Staff Report for the May 23, 2006 Board of County Commissioners' Hearing

I. APPLICABLE REGULATIONS

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 11, 12 & 14
- B. OAR 660-012-0060, OAR 660-004 & OAR 660-014
- C. Rural / Natural Resource Plan Policies: 1.p.7, 2, 6, 14, 18, 19, 20, 22 & 23
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
 1. Article II, Procedures
 2. Article III, Land Use Districts

Section 348-1	AF-5 District (Intent and Purpose)
Section 352-1	R-COM District (Intent and Purpose)

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II. AFFECTED JURISDICTIONS

Washington County Sheriff
Washington County Department of Land Use and Transportation
Washington County Fire District #2
Hillsboro School District
Oregon Department of Transportation

III. FINDINGS

A. General

Applicant: See pages 4 and 5 of the application.

Staff: According to current tax assessment maps, tax lot 1900 encompasses a total of .57 acres. The parcel is located on the south side of SW Hillsboro Highway (State Highway 219), east of the road's intersection with SW Midway Road (see the map on page 24 of this staff report). The current land use designation for this parcel is AF-5. The applicant is requesting a plan amendment to change the designation of the subject property to Rural Commercial (R-COM).

Based on a recent interpretation by the Land Conservation and Development Commission (LCDC), staff from the Department of Land Conservation and Development (DLCD) informed county staff that the applicant would be required to take an exception to Statewide Planning Goal 14 (Urbanization). The interpretation comes from Oregon Administrative Rule 660-022-0030, Unincorporated Communities, which allows commercial uses in excess of 4,000 square feet. LCDC stated that outside of a recognized unincorporated community, commercial uses over 3,500 square feet would be considered "urban" uses and would therefore require an exception to Goal 14 to expand an existing rural commercial use. The applicant's submittal provides findings to support the Goal 14 exception and a plan designation change from AF-5 to R-COM.

The .57-acre subject property is currently developed with a single family residence, two small sheds, and a freight container. A portion of the property is currently being used to provide overflow parking for the Midway Pub. The overflow parking area is graveled, and the applicants would like to pave a portion of the parking area. Paved parking lots are not allowed in the AF-5 District, but would be permitted in the R-COM District. The plan amendment application requests that plan designation on the subject tax lot be changed from AF-5 to R-COM.

Adjacent to the subject property, three tax lots support the Midway Pub. All three tax lots were deemed "irrevocably committed" to the commercial tavern use in the Exceptions Statement Document and were designated R-COM. Tax lot 2001 houses the main Midway Pub building and a graveled parking area. Tax lot 2002 contains a cabin structure and most of the pub's existing parking. Tax lot 2000 supports an existing residence and provides ingress/egress from SW Hillsboro Highway. There are also a limited number of graveled parking spaces for pub patrons on tax lot 2000.

Access to the subject property currently is taken from SW Hillsboro Highway (State Highway 219). SW Hillsboro Highway is identified on the Functional Classification Map as a rural arterial road (see also Section D and Attachment A of this staff report). The applicant reports that a shortage of off-street parking spaces has led to dangerous conditions on SW Hillsboro Highway because current patrons use the right-of-way area for parking, which blocks sight distance on the road.

The applicant has indicated that if the plan amendment is approved, he intends to request development review for an expansion of the Midway Pub, which would include additional parking on the subject property. Development review for the Midway Pub would include all four properties

(tax lots 1900, 2000, 2001 and 2002). The existing residence and proposed parking expansion on the subject property would be considered "accessory" to the commercial use on tax lot 2001. Because there is already an accessory dwelling on tax lot 2000, the house on the subject property would be considered a nonconforming use.

Preliminary site plans for the pub expansion show paved parking spaces on top of the pub's existing septic drainfield. According to staff with the county's Department of Health and Human Services, any activity that compacts the soil within a drainfield is prohibited. The applicant's representative has submitted a letter that indicates the applicant's willingness to meet county and DEQ standards for the on-site septic system. In order to avoid negative impacts to the drainfield, the applicant will redesign the pub's proposed parking locations as deemed necessary through the development review process.

To date, staff has received one letter of comment regarding this plan amendment request. Al Baker, owner of the Midway Pub, submitted a petition signed by 72 people voicing their support of the Midway Pub. The petition states "*We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Highway and additional parking next door as commercial, at 14819 SW Hillsboro Highway. The area is in need of this facility for residents of the area to eat and socialize*". Mr. Baker's testimony has been included in the packet for the May 23, 2006 hearing.

State law requires the Board of County Commissioners to make the final decision for plan amendments on resource lands or when an exception is proposed. The Planning Commission met on May 3, 2006 to provide a recommendation to the Board for consideration of this plan amendment request at their hearing on May 23, 2006. The Commission voted 8-0 to forward a recommendation for approval of the plan amendment to the Board of County Commissioners.

B. Compliance with LCDC Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide planning goals and guidelines. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment A, the Transportation Report.

C. Rural / Natural Resource Plan

1. Policy 1, the Planning Process, states:

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:

p. **Require that plan map amendments meet the following criteria:**

As used in the following sections a mistake means a clerical error, or a mistake in the current designation such that it probably would not have been placed on the property had the error been brought to the attention of the Board during the adoption process.

7. Amendments to Rural Commercial shall be based upon:

- A. A mistake (clerical error) in this 1983 plan; or**
- B. A demonstration that there is a need for the proposed uses(s) to serve the existing Rural/Natural Resource area population; and**
 - I. Demonstration that an alternative site within Urban Growth Boundaries would be inappropriate and no other site properly designated is available within the area.**

Applicant: See pages 6 - 9 of the application.

Staff: The applicant states that consideration of sites for the expansion of the Midway Pub parking lot are limited to properties surrounding the pub itself. The pub's location approximately 4 miles from the urban growth boundary (UGB) precludes the opportunity to expand parking facilities within the UGB. The three tax lots designated R-COM to the west of the subject property are improved with the Midway Pub building and associated structures and parking areas and are therefore unavailable for parking lot expansion. The Exceptions Statement Document (revised September 9, 1986) pointed out that the three tax lots that supported the Midway Pub were designated R-COM because they were "irrevocably committed" to a rural commercial use. The subject property was designated AF-5 in recognition of the lot's development with a single family rural residence.

The applicant has indicated that if the plan amendment is approved, he intends to request development review for an expansion of the Midway Pub, which would include additional parking on the subject property. Development review for the Midway Pub would include all four properties (tax lots 1900, 2000, 2001 and 2002). The existing residence and proposed parking expansion on the subject property would be considered "accessory" to the commercial use on tax lot 2001. Because there is already an accessory dwelling on tax lot 2000, the house on the subject property would be considered a nonconforming use.

II. An Exception to the applicable LCDC Goals through the LCDC Goal 2 Exception process (OAR Chapter 660, Division 04);

Goal 2 Exceptions - Planning and Zoning for Exception Areas:

(4) "Reasons" Exceptions:

(4)(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(4)(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

OAR 660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(1)(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(1)(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(1)(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Applicant: See pages 11, 12 and 13 of the application.

Staff: The AF-5 District is intended to preserve rural residential uses. The subject property is currently developed with a single family dwelling, two outbuildings, and a freight container used to provide storage. State administrative rules do not require an applicant to take a new exception to redesignate the property to R-COM. However, in consultation with staff at the Department of Land Conservation and Development, county staff determined that the applicant would be required to take an exception to Statewide Planning Goal 14 (Urbanization) due to the size of the existing commercial use.

Statewide Planning Goal 14 is intended to provide for an orderly and efficient transition from rural to urban land use and to ensure efficient use of land and to provide for livable communities. Staff from DLCD indicated that uses exceeding 3,500 square feet outside of "unincorporated communities" (the Midway area is outside of an unincorporated community) would be considered "urban" uses and would therefore require an exception to Statewide Planning Goal 14.

The exception to Goal 14 and the subsequent designation change to R-COM for the subject property would allow the expansion of parking facilities for the Midway Pub, a commercial use. During the development of the county's Exception Statement Document, the pub was recognized as an existing use and was deemed "irrevocably committed" to rural commercial use. The pub serves the surrounding rural area and draws customers from the urban area. Properties to the west and north of the subject property are resource land and would require an exception to Statewide Planning Goal 3 (Agriculture) in order to accommodate parking. Expanding parking to the west or north of the pub would require patrons to cross busy roadways where cars are driven at high speeds. Land to the south of the pub is currently developed with a fire station and is unavailable to accommodate parking associated with the Midway Pub. Expanding the parking facilities to the subject property would address demand and safety issues raised by the applicant. Staff finds that the applicant's remaining findings adequately address the need for the subject property to be used for the Midway Pub's parking lot expansion.

OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(2)(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Applicant: See pages 13, 14 and 15 of the application.

Staff: The applicant's submittal details the reasons the expansion of the Midway Pub's parking lot must occur on the tax lot adjacent to the pub property, tax lot 1900. When the Exceptions Statement Document was developed and the Rural/Natural Resource Plan was adopted, the properties that supported the Midway Pub were identified as irrevocably committed to rural commercial use and were therefore designated R-COM. No other properties adjacent to the Midway Pub were designated as R-COM. A property to the south of the pub supports a fire station and is unavailable for parking to serve the Midway Pub. Surrounding properties are on resource land and would also require an exception to Statewide Planning Goal 3. These properties to the north and west of the pub are in agricultural use and are unavailable for an expansion of the parking lot.

The subject property located east of the Midway Pub is not on resource land. An exception to Statewide Planning Goal 14 would allow the existing non-resource parcel to be used to support an expansion of a long-term commercial use on adjacent property. Expansion of the parking facilities onto nonresource land promotes the planning principles embodied by Goal 14, which states that development should ensure the efficient use of land. The subject property provides the most efficient location for expansion of the Midway Pub's parking facilities. Staff agrees with the applicant's findings that the parking lot expansion should be allowed onto the subject property for the reasons stated above.

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

(2)(b)(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

Applicant: See pages 15 and 16 of the application.

Staff: The applicant's submittal details the present uses on properties surrounding the Midway Pub. The only adjacent R-COM property is developed with a fire station. Properties to the west and north are in agricultural use and would require an exception to Statewide Planning Goal 3 (Agriculture) to be developed with parking facilities. Due to safety concerns and for the convenience of patrons, the applicant states that only a property on the same side of Highway 219 should be used for the parking lot expansion. Staff agrees with the applicant's findings that the subject property provides the best alternative for the Midway Pub's parking lot expansion.

(2)(b)(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

Applicant: See page 16 of the application.

Staff: The applicant has provided evidence to address items (i), (ii), and (iii) within the submittal. Staff's responses can be found on pages 4-6 of this staff report. In summary, this request is to allow the expansion of an already established rural commercial use, therefore only adjacent areas are reasonable to consider. Staff concurs with the applicant that the subject property offers the most practical and safe location for the Midway Pub's parking lot expansion, and that an alternative site which does not require an exception is not feasible.

(2)(b)(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an

exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

Applicant: See pages 16 and 17 of the application.

Staff: The applicant provided a description of surrounding properties and the present uses adjacent to the Midway Pub. Although non-resource lands are present in the vicinity of the Midway Pub, staff agrees with the applicant's finding that the subject property can best provide the needed safe and convenient parking for patrons of the Midway Pub.

(2)(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(2)(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Staff: OAR 660-014-0000 applies to this plan amendment request because due to the size of the Midway Pub, the use is considered "urban development" on rural land.

660-014-0040

Establishment of New Urban Development on Undeveloped Rural Lands

- (1) **As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.**

Staff: The subject property is non-resource land located approximately four miles away from the regional urban growth boundary. Adjacent properties designated R-COM (tax lots 2000, 2001 and 2002) were deemed "irrevocably committed" to the Midway Pub at the time the Exceptions Statement Document was developed by Washington County. At that time, the subject property was physically developed with a single family residence and the Agriculture & Forestry – 5 Acre District designation was applied. The subject property, although considered "developed and committed" for the purposes of a Goal 3 or 4 exception, was not developed at an urban density or committed to urban level development. Therefore, OAR 660-014-0040 applies to this plan amendment request.

- (3) **To approve an exception under section (2) of this rule, a county must also show:**

- (a) **That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;**

Staff: As noted in the applicant's submittal, the subject property is located approximately four miles from the regional urban growth boundary. This plan amendment, if approved, would allow the expansion of parking facilities onto the subject property to serve the Midway Pub. The Midway Pub, considered an "urban" use in the rural area due to the size of commercial use, is a long-standing rural commercial site. The subject property, located adjacent to the tax lots that serve the Midway Pub, is proposed to provide paved and unpaved overflow parking facilities for the pub. The expanded parking facilities cannot reasonably be accommodated across Midway Road or Hillsboro Highway 219, as pub patrons would have to cross arterial roadways where drivers travel at high speeds. Staff agrees with the applicant's findings that the subject property provides the most appropriate location for expansion of the parking facilities to serve the Midway Pub.

- (b) **That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:**

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Staff: The applicant's response to the environmental, economic, social and energy consequences of expanding the pub's parking facilities onto the subject property are detailed on pages 18 – 22 of the submittal. Staff's response to the applicant's analysis can be found on pages 8 and 9 of this staff report. If the plan amendment is approved, .57 acres will be added to the existing .70 acre area that supports the Midway Pub, bringing the total acreage for the Midway Pub use to 1.27 acres. The county's Rural/Natural Resource Plan Policy 20, Rural Commercial Development, states that rural commercial uses should be small in size, rural in character, and not require urban services. The 1.27 acre size of the use is appropriate given the language in Policy 20. The applicant has demonstrated that the plan amendment will not adversely affect air, water, energy or land resources in the surrounding area in the response to OAR 660-004-0020(2)(d) on pages 17 – 22 of the submittal. Staff agrees with the applicant's findings that development on the subject property will not create greater impacts than an alternate site with undeveloped rural lands.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

Staff: The applicant has demonstrated that the proposed plan amendment is compatible with adjacent uses. The subject property's location approximately four miles away from the nearest urban growth boundary makes it unlikely that services provided by existing cities and service districts would be impacted. In addition, the applicant recognizes that to preserve the adjacent resource land, the AF-5 subject property provides a better alternative for the parking lot expansion. Staff agrees with the applicant's findings with regard to compatibility with adjacent land uses.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

Staff: Although the Midway Pub is considered an "urban" use in the rural area, the pub does not require urban-level public services. The tax lots that support the pub, as well as the subject property, are served by wells and septic systems. The applicant reports that the provision of public facilities will not be impacted by the approval of this plan amendment. Staff concurs with the applicant's findings.

- (e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.**

Staff: Expansion of an existing rural commercial use onto the subject property is considered new urban development on undeveloped rural land based on an interpretation by LCDC (noted in the general findings section of this staff report). The plan amendment to change the AF-5 plan designation on the subject property to R-COM will update the county's Comprehensive Plan to allow the parking lot expansion to serve the Midway Pub. Future development or expansion of the Midway Pub will be subject to approval through the development review process.

660-022-0030

Planning and Zoning of Unincorporated Communities (Excerpt)

- (4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:**

(b) Small-scale, low impact uses;

- (10) For purposes of subsection (b) of section (4) of this rule, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4,000 square feet of floor space.**

Staff: LCDC's interpretation of OAR 660-022-0030 states that areas outside of an urban unincorporated community should be small-scale, low impact uses in a building or buildings not exceeding 4,000 square feet of floor space. Because the existing pub and accessory buildings exceed 4,000 square feet, the applicant was required to take an exception to Statewide Planning Goal 14 (Urbanization). The applicant has provided evidence supporting the exception and the plan amendment to R-COM. Staff agrees that the applicant has provided the necessary information to support the Goal 14 exception and plan amendment.

2. Policy 2, Citizen Involvement, states:

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

Applicant: See page 23 of the application.

Staff: A quasi-judicial plan amendment such as this must be considered through a Type III (public hearing) review procedure. In accordance with Section 204-4 of the Community Development Code (CDC), notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 13, 2006). Additionally, the

County placed a legal notice of the hearing in a newspaper of general circulation (*The Hillsboro Argus*) at least ten days prior to the first hearing date (published April 21, 2006). As required by CDC Section 204-1.4, the applicant posted a sign (posted March 23, 2006) on the subject property within 21 days of acceptance of the application (March 16, 2006).

A copy of the plan amendment application was mailed to the representative for the local Citizen Participation Organization (CPO 10). Finally, the staff report was available to all interested parties seven days prior to the hearing as required by Code Section 203-6.2. Staff finds these efforts satisfy the requirements of Policy 2.

These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.

3. Policy 6. Water Resources, states:

It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.

Applicant: See pages 23 - 25 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

The only readily available evidence relating to groundwater conditions in specific areas is contained in water well reports (well logs) filed with the regional Watermaster's Office by well drillers at the time they drill a well. If enough wells are drilled in an area over an extended period of time, and if some of the well reports are recent, then well reports can be an indicator of any trends concerning the quantity of water being yielded by wells in the area. They do not, however, provide information concerning trends with regard to individual wells.

Policy 6 allows an applicant to use the well reports as evidence of groundwater quantity conditions in the area around a plan amendment site. If, however, opponents of an application allege, based on their experience with the production of their wells, that groundwater quantities in the area are declining, then it is the applicant's responsibility to provide evidence and/or testimony to rebut the opposition's assertion.

Opposition testimony can be rebutted by an applicant in the above-described situation by having an "expert" such as a professional geologist or hydrologist review the well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports.

Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

The County will:

- a. **Strive to ensure adequate water supplies for all uses by:**
 1. **Encouraging water conservation programs by water users and purveyors;**
 2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
 3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**
 4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
 5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.**

Applicant: See pages 23 – 25 and the well log data included in the application.

Staff: The primary intent of this implementing strategy is to ensure, to the extent practicable, that ground water supplies are adequate to accommodate new development and that new wells will not seriously interfere with existing wells in the area. Under the AF-5 and R-COM designations, no additional parcels can be created from the site, and approval of this plan amendment request will not result in a new dwelling on the parcel.

The subject property is not located within an area identified as critical or groundwater-limited by the Oregon Water Resources Department.

The applicant stated a total of 259 wells of record were present in the study area (within 2S2, Sections 8, 9, 16 & 17). Staff has summarized the 259 well logs (Well Table Summary below).

Section	Time Period	Number of Wells	Average Depth	Average G.P.M.
2S2 08	1940-49 ¹	1	195	0
	1950-59 ¹	5	268.4	44.8
	1960-1969	8	219.63	25.5
	1970-79	16	284.06	37.75
	1980-89	6	416.17	145.5
	1990-99 ²	28	128.33	54.13
	2000 - Present ³	3	360	35
	¹ No data available for well depth of one well ² No data available for well depth for 13 wells and yield for 22 wells (13 abandoned wells) ³ No data available for well depth for 2 wells and yield for 2 wells (2 abandoned wells) <i>Average values computed using available information.</i>			
2S2 09	1960-69	14	161.75	12.89
	1970-79	11	248.45	35.27
	1980-89 ¹	5	252.4	10
	1990-99 ²	10	264.5	22.2
	2000 - Present ³	9	208.75	30.25
	¹ No data available for yield of 2 wells ² No data available for yield of 1 well ³ No data available for well depth for one well and yield for two wells <i>Average values computed using wells for which data was available.</i>			
2S2 16	1950-59 ¹	4	213.75	20.5
	1960-69	8	190.13	25.75
	1970-79	26	209.15	30.54
	1980-89	5	271	63
	1990-99 ²	8	198.63	10.25
	2000 - Present	18	166.17	20.28
	¹ No data available for well depth of 1 well. ² No data available for well yield for 4 wells. <i>Average values computed using wells for which data was available.</i>			
2S2 17	1940-49	1	150	15
	1950-59 ¹	5	109.4	17.4
	1960-69	2	124	8
	1970-79	16	177.13	17.75
	1980-89	10	197.3	26.1
	1990-99 ²	31	206.13	51.61
	2000 - Present	9	227.56	47.44
	¹ No data available for depth of 1 well. ² No data available for yield of 4 wells. <i>Average values computed using wells for which data was available.</i>			

The well logs indicate that well depths and yields are variable. In many cases, wells constructed since the 1980s may have been drilled more deeply due to advances in drilling equipment technology, and therefore are not necessarily an indication of groundwater depletion. Based on this data, the general trend for these areas seems to be the deeper the well, the higher the yield.

Another indicator of groundwater depletion would be increasing numbers of deepened wells. According to the 259 well logs submitted, only 33 (or 13 percent) were for the purpose of drilling

an existing well deeper. This would indicate that there has not been a generalized lowering of the groundwater table over time.

As indicated earlier, the applicant proposes to use the subject property for parking facilities. No new wells are proposed and the property will have no measurable impact on the quality or quantity of water resources in the area. Therefore the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation. In summary, although County staff are not groundwater experts, we find that without additional information from surrounding property owners, the applicant has submitted sufficient evidence to conclude that groundwater supplies are stable in the area.

b. Ensure adequate quality of surface water and groundwater by:

- 1. Promoting compliance with Department of Environmental Quality water quality standards;**
- 2. Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
- 3. Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
- 4. Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Applicant: See pages 24 and 25 of the application.

Staff: Prior to the issuance of a building permit for an alteration of the Midway Pub, the county's Department of Health and Human Services must approve modifications made to the existing septic system. A septic system permit will not be issued if soils are not adequate to filter and clean wastewater. The standards for such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Any grading activities (e.g., a parking lot expansion) must comply with CDC Sections 410 (Grading and Drainage) and 426 (Erosion Control). Compliance with these standards ensures adequate quality of surface water.

Preliminary site plans for the pub expansion show paved parking spaces on top of the pub's existing septic drainfield. According to staff with the county's Department of Health and Human Services, any activity that compacts the soil within a drainfield is prohibited. The applicant's representative has submitted a letter that indicates the applicant's willingness to meet county and DEQ standards for the on-site septic system. In order to avoid negative impacts to the drainfield, the applicant will redesign the pub's proposed parking locations as deemed necessary through the development review process. Staff therefore finds the criteria of implementing strategy 6.b. can be satisfied.

- c. Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modification are necessary.**
- d. Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**

- e. **Encourage property owners with land which qualifies as "designated riparian land" and defined by the 1981 Riparian Habitat Act to apply for exemption of that land from *ad valorem* taxation.**

Applicant: See page 25 of the application.

Staff: According to the Rural/Natural Resource Plan Significant Natural Resources Map, there are no significant streams or natural areas on the portion of the property subject to this plan amendment request. Therefore, staff finds these strategies can be satisfied.

- f. **Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. **Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- h. **Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is not located within a drainage basin watershed.

- i. **Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property does not contain water areas and wetlands recognized by the Division of State Lands.

- j. **Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and the Unified Sewerage Agency [now Clean Water Services], support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with Community Development Code sections that implement the above strategies—Sections 410 (Grading and Drainage) and 426 (Erosion Control). Staff therefore finds this strategy can be satisfied.

These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.

- 4. Policy 14, Plan Designations, states:

It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.

Applicable Implementing Strategies:

- c. **Designate Rural Lands, for which an LCDC Goal 2 Exception is provided to LCDC Goals 3 (Agriculture) and 4 (Forestry), in the following manner:**
 4. **All lands which were zoned AF-5 by the 1973 Comprehensive Plan will be designated AF-5 or AF-10 based upon existing use and the characteristics of the area, unless the criteria for RR-5 can be met.**
 7. **All lands with lawfully created, existing commercial uses shall be designated Rural Commercial (R-COM).**

Applicant: See pages 25 and 26 of the application.

Staff: The subject property, located adjacent to Midway Pub, is designated AF-5. The Exceptions Statement Document (revised in September 1986) recognized the existing rural residential nature of tax lot 1900 and designated the property as AF-5. Because the property was not being used to support the existing rural commercial use on tax lot 2001, it did not warrant an "irrevocably committed" exception at that time. The subject property, owned by the Baker family (also the owner of the Midway Pub), has more recently been used to accommodate overflow parking for the pub. A plan designation change to R-COM would allow the subject property to provide paved parking in support of the pub use on tax lots 2000, 2001 and 2002.

The applicant states that tax lot 1900 has not been in farm use. The applicant's submittal documents explain that an expanded area for parking is needed to accommodate customers and vehicles in the safest manner possible.

Policy 14 is silent on the criteria for creation of new R-COM properties, but states that lawfully created, existing commercial uses shall be designated R-COM. The plan amendment request, if approved, would allow for continued support of a long-established rural gathering place. Staff therefore finds the subject request is consistent with Policy 14.

5. Policy 18, Rural Lands, states:

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

Applicable Implementing Strategies:

- a. **Recognize "Rural Lands" with the following plan map designations:**
 1. **Agriculture and Forestry - 10 (AF-10)**
 2. **Agriculture and Forestry - 5 (AF-5)**
 3. **Rural Residential - 5 (RR-5)**
 4. **Rural Commercial (R-COM)**
 5. **Rural Industrial (R-IND)**
 6. **Land Extensive Industrial (MA-E)**
- c. **Consider the identification of additional lands for the "Rural Lands" plan map designations through the plan amendment procedures in Policy 1.**

- d. **Ensure that proposed development will not adversely affect surrounding agricultural and/or forestry activities by requiring that applicants for residential, commercial or industrial uses on land designated for rural development record a waiver of the right to remonstrate against accepted farm or forestry practices on nearby lands.**

Applicant: See pages 26 and 27 of the application.

Staff: The applicant has responded to the criteria outlined in Policy 1 (see discussion on page 3 of this staff report). The only available and most appropriate location for an expansion of parking facilities to serve the Midway Pub is to the east of the existing parking lot. The applicant's representative has indicated that the property owner agrees to record a waiver of the right to remonstrate against accepted farm and forest practices. Therefore, staff finds this criteria can be met.

6. Policy 20, Rural Commercial Development, states:

It is the policy of Washington County to provide rural commercial lands for support of rural residential, agricultural and forest activities.

Applicable Implementing Strategies:

- a. **Allow commercial uses which support the needs of rural residents and agricultural and forest uses.**
- b. **Evaluate proposed rural commercial uses to determine if they are needed to support the Rural and Natural Resource area.**
- c. **Recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.**

Applicant: See pages 28 and 29 of the application.

Staff: The Midway Pub is a long-standing rural commercial use recognized as an appropriate rural use on land designated R-COM. According to the applicant's submittal, the commercial use dates back to 1937 on the properties adjacent to the subject tax lot. Implementing Strategy c. of Policy 20 states that expansion of lawfully created commercial uses may be allowed where urban services are not required and where conflicts with surrounding uses can be minimized. Expansion of parking facilities for the Midway Pub will not require urban services and are unlikely to cause conflict to surrounding uses. Staff finds the request is consistent with Policy 20.

7. Policy 22, Public Facilities and Services, states:

It is the policy of Washington County to provide public facilities and service in the Rural/Natural Resource Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety.

Applicable Implementing Strategy:

- a. **Review the adequacy of the following public services and facilities in conjunction with new development.**

1. **Schools**
2. **Fire and Police Protection**

Applicant: See pages 29 and 30 and the service provider letters included in the application.

Staff: Copies of statements of service availability from several service providers are included in the applicant's submittal. Service provider letters were also provided from the Hillsboro School District, the Tualatin Valley Water District, and Clean Water Services. However, these letters were not required for the plan amendment because of the subject property's location outside service district boundaries, or in the case of the school district, because the proposed R-COM designation is unlikely to impact schools. Letters from Washington County Fire District #2, Washington County Sheriff, and the Oregon Department of Transportation are included in the applicant's submittal. The application includes a service analysis for the fire district, describing station location, equipment location and response times. Both the fire district and the Sheriff's service provider letters indicated that service levels are adequate to serve the subject property if this plan amendment is approved. ODOT staff submitted a letter of comment dated April 24, 2006. The letter states that ODOT determined that the plan amendment does not require a traffic impact study (TIS) and that the plan amendment would not have a significant effect on the operation of the Hillsboro-Silverton Highway (Highway 219).

The County is responsible under Implementing Strategy a. of Policy 22 for reviewing the adequacy of public facilities and services in conjunction with new development. The hearings officer for LCDC found in the 1988 Enforcement Order proceedings that "(T)he County must have evidence in the record showing that the service provider is accurate in its assessment." Staff interprets this to refer to a provider's assessment that an adequate or inadequate level of service can be provided. Without the above-described statements and analyses, staff could not conclude that the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved.

The site is within Washington County Fire District #2's service area. According to the fire district, the nearest fire station is located less than five hundred feet away with an estimated response time of 2-7 minutes. Available personnel and equipment include 2 career firefighters, 20 volunteer firefighters, three 1,000-gallon pumpers and one 3,000 gallon water tender. The fire district indicated that the district's service level is adequate to serve the proposed development.

The Washington County Sheriff's Office has reviewed the request and has determined that its service level is adequate for emergency calls only, which is consistent with the level of service provided to all rural areas.

ODOT's letter submitted on April 24, 2006 indicated that the plan amendment would not effect Highway 219. However, "an ODOT approach permit(s) for access to the state highway or written determination (email, fax or mail acceptable) from ODOT that the existing approach(es) are legal" is required and must be obtained. The applicant does not propose an additional access to serve the site, but the existing access points must be deemed legal prior to submission of a development application. Condition of approval #2 on page 18 of this staff report requires the applicant to submit proof that existing access(es) to the Midway Pub are legal prior to the filing of a development application to expand or alter the commercial use.

Based on the above-described service statements and analyses, staff finds that the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved. Staff finds this request complies with Policy 22.

These findings for Policy 22 also pertain to Statewide Planning Goal 11.

8. Policy 23, Transportation, states:

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan.

Applicant: See page 30 of the application.

Staff: The application included a Traffic Impact Statement and traffic analysis report. See Attachment A, which includes the Transportation Staff Report for this plan amendment.

D. Washington County Transportation Plan

Applicant: See pages 30 - 33 of the application.

Staff: Attachment A, which is by this reference incorporated into this staff report and made a part of it, contains discussions of whether the plan amendment complies with the Transportation Plan and the Transportation Planning Rule. Based on the applicant's written materials and the findings in this report, staff concludes that this proposed plan amendment will not "significantly affect" a transportation facility as defined in OAR 660-012-0060. Staff finds the plan amendment is consistent with the Transportation Planning Rule and the Transportation Plan.

These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation.

E. Washington County Community Development Code

1. Article III, Land Use Districts:

Section 348 Agriculture and Forest District (AF-5)

348-1 Intent and Purpose

The AF-5 District is intended to retain an area's rural character and conserve the natural resources while providing for rural residential use in areas so designated by the Comprehensive Plan.

The purpose of this agricultural and forestry district is to promote agricultural and forest uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forest lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area. Residents of rural residential tracts shall recognize that they will be subject to normal and accepted farming and forestry practices.

Section 352 Rural Commercial District (R-COM)

352-1 Intent and Purpose

The intent and purpose of the Rural Commercial District is to implement the rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forest character of the area.

Rural Commercial centers shall be designed to be compatible with the surrounding environment and generally not to exceed five (5) acres.

Applicant: See pages 33, 34 and 35 of the application.

Staff: A portion of the subject property is currently used as a graveled overflow parking area. According to the applicant, the additional parking area was needed to provide overflow parking for patrons of the Midway Pub. Placing an R-COM designation on the property and granting an exception to Goal 14 would allow for the needed expansion of parking facilities to serve the existing pub use. Staff finds that the subject request meets the intent and purpose of the R-COM District.

These findings for the Community Development Code also pertain to Statewide Planning Goal 3.

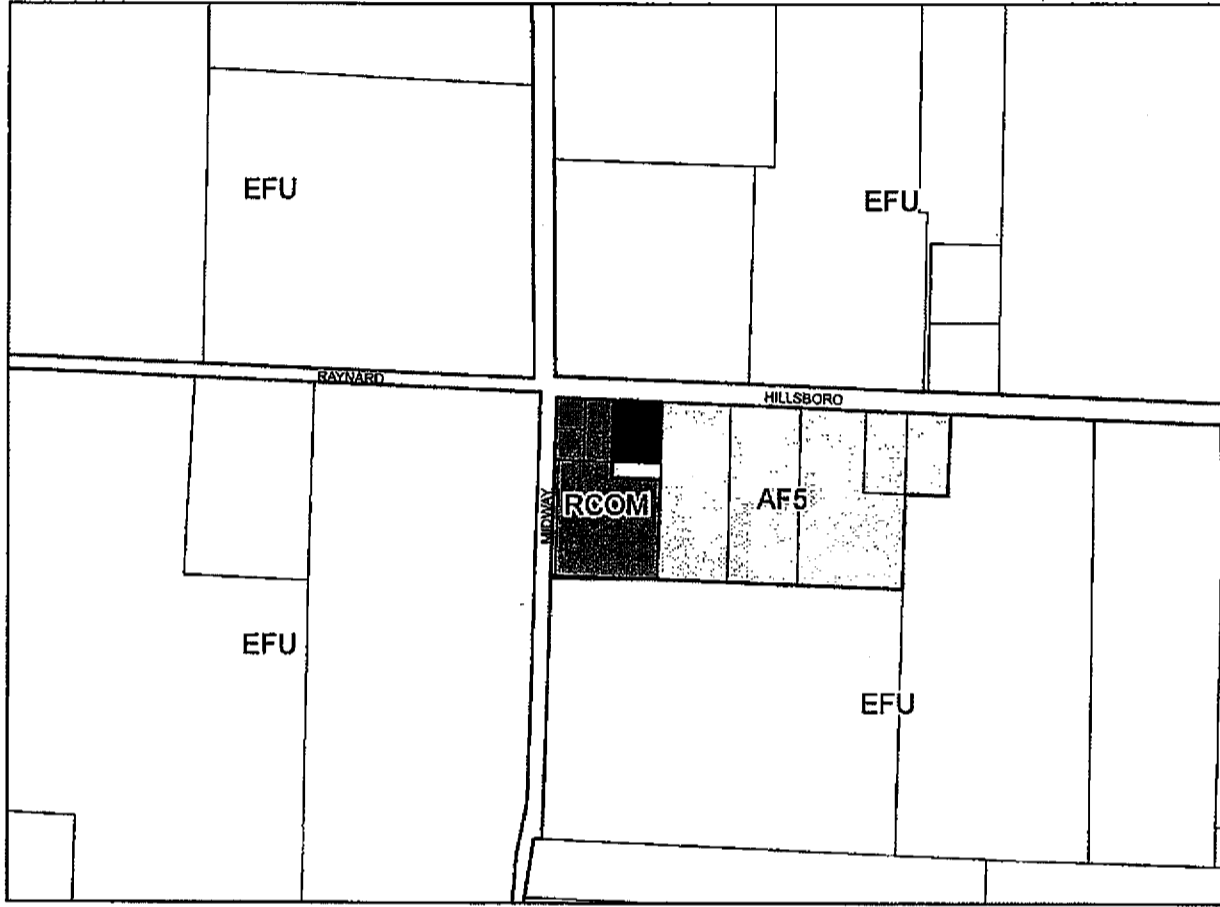
IV. SUMMARY AND CONCLUSIONS

1. Based on the plan designation criteria of Policy 14 and other policies of the Rural/Natural Resource Plan, staff concludes that the Rural Commercial (R-COM) District is the most appropriate designation for the subject property.
2. The change in land use designation will not "significantly affect" the surrounding planned transportation system and is therefore consistent with Policy 10 of the Transportation Plan and OAR 660-012-0060.
3. Local service providers currently can provide an adequate level of public services for the site. No urban services will be needed to support the subject property.
4. The plan amendment request appears to meet the applicable criteria for a "reasons" exception to Statewide Planning Goal 14 (Urbanization).
5. The plan amendment request is consistent with the intent and purpose of the Rural Commercial land use district and appears to meet the applicable criteria for a plan amendment from AF-5 to R-COM.

V. RECOMMENDATION

Based on staff's findings in Section III of this report and Attachment A, and as summarized above under Section IV, staff recommends **APPROVAL** of the plan amendment as requested by the applicant. Therefore staff recommends that the Board of County Commissioners approve the applicant's plan amendment request subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owing the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. Prior to the submission of a development application for the expansion/alteration of the Midway Pub, the applicant must obtain an ODOT approach permit or written determination that the existing approach(es) to the pub are legal. The applicant must also comply with any other requirements outlined by ODOT, including drainage permits, access easements, and any miscellaneous permits deemed necessary.
3. Approval of this plan amendment does not preclude the need to comply with Department of Environmental Quality and Washington County Department of Health and Human Services requirements regarding septic system drainfields.



- Area of Consideration
- Land Use Designations
 - RCOM
 - ▨ AF5
 - EFU

N
250 Feet

April 19, 2006

**TRANSPORTATION REPORT
FOR
CASEFILE NO. 06-101-PA**

Applicant: Richard Baker

Location: On the south side of SW Hillsboro Highway (Oregon 219), east of SW Midway Road

Tax Map/Lot: 2S2 08 1900

Site Size: 0.57 Acre

Staff has reviewed this request for compliance with the applicable Washington County 2020 Transportation Plan policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:

1. The proposed plan amendment would change the existing AF-5 plan designation on tax lot 1900, which is approximately 0.57 acre, to Rural Commercial (R-COM). The subject parcel supports a single family residence. The proposed plan amendment is intended to allow the use of the western and southern portions of tax lot 1900 for additional parking area for the Midway Pub, which is located to the west of the subject property on lot 2001 (Map 2S2 08). Tax lot 2001 is designated R-COM as are tax lots 2000 (adjacent to the subject property) and 2002, which are currently used as parking areas for the tavern.
2. The subject property has frontage on SW Hillsboro Highway, a state arterial roadway under the jurisdiction of ODOT. The Midway Pub, located to the west of the subject site, takes access from SW Midway Road, a county rural local road and from SW Hillsboro Highway. No new access is proposed in conjunction with this plan amendment. Because of the following circumstances, staff believes that it is reasonable to conclude that future use of the subject property will be limited to parking for the existing Midway Pub and that expansion of the existing use is not likely to occur.
 - The existing pub has a total floor area (including covered patios/outdoor areas) of more than 7000 square feet. Based on the square footage, CDC Section 413-9.3 H. requires 110 parking spaces. Currently there are only 35 parking spaces and the additional area of tax lot 1900 that would be converted to parking for the Midway Pub is likely to still be below that required by the CDC.
 - The subject property is only 0.57 acre. Because of the small size, there is limited space available for septic drain field use. This limits the intensity of any potential future uses that might otherwise be allowed under the proposed R-COM plan designation.

- Even with the proposed plan amendment, the additional parking on tax lot 1900 would likely be insufficient to allow an expansion of the existing business on tax lot 2001.
3. Access to SW Hillsboro Highway is controlled by ODOT. Access to SW Midway Road is under county jurisdiction. No new or modified access is being proposed in conjunction with this plan amendment. Potential transportation impacts of this plan amendment are limited to SW Hillsboro Highway and SW Midway Road. There are no capacity problems identified along either of these facilities and excess capacity is anticipated to continue to be available throughout the planning period on these rural roadways.
 4. The following standards are applicable to this request and are addressed in this staff report:
 - a. OAR 660, Division 12, Oregon Transportation Planning Rule:
Section 0060 - Plan and Land Use Regulation Amendments
 - b. Washington County 2020 Transportation Plan Policies:
 - 1.0 Travel Needs Policy
 - 2.0 System Safety Policy
 - 4.0 System Funding Policy
 - 5.0 System Implementation and Plan Management Policy
 - 6.0 Roadway System Policy
 - 10.0 Functional Classification Policy
 - 19.0 Transportation Planning Coordination and Public Involvement Policy

B. Oregon Transportation Planning Rule

1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will 'significantly affect' the planned transportation system in the area. Pursuant to the OAR, the proposed plan amendment would 'significantly affect' SW Midway Road and/or SW Hillsboro Highway if it does any of the following:
 - a. Changes the functional classification of an existing or planned transportation facility;
 - b. Changes the standards implementing a functional classification system; as measured at the end of the planning period identified in the adopted TSP (year-2020);
 - c. Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
 - d. Would reduce the performance standards of the facility below the minimum acceptable performance standard identified in the Transportation System Plan; or
 - e. Would worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan.

2. Considering the criteria above, in order to determine if a plan amendment will result in a 'significant impact' on transportation facilities, the County generally requires a comparative analysis of a 'reasonable worst-case development' of a site under current and proposed land use designations. Plan amendment requests may be for designations that permit more intensive land uses with greater trip generation potential. In such cases, applicants are typically required to submit traffic analyses that have been prepared by licensed traffic engineers in order to help evaluate the potential affects of proposed plan amendments on transportation facilities.
3. As discussed in Finding A.2., above, in this instance the proposed expansion of the R-COM designation onto the subject tax lot is unlikely to result in additional development, other than increased parking area to serve the existing Midway Pub. Because the Pub needs the additional area involved in the plan amendment to provide parking to accommodate the current square footage, the plan amendment will not enable an expansion of the Pub. In addition, the small site size restricts the size of any septic drain field, limiting any potential uses that might otherwise be allowed under the R-COM plan designation. This plan amendment is therefore not anticipated to result in any increase in trips and will therefore have no significant impact on transportation facilities. Because there will be no significant impact, the plan amendment will not affect the standards implementing the functional classification system as set forth in Policy 10.0 of the County's 2020 Transportation Plan and the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 0060 of the Oregon Transportation Planning Rule.

C. Washington County 2020 Transportation Plan

The proposed plan amendment is subject to 7 policies from the County's 2020 Transportation Plan, which are listed and addressed below.

1.0 TRAVEL NEEDS POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A MULTI-MODAL TRANSPORTATION SYSTEM THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF WASHINGTON COUNTY RESIDENTS AND BUSINESSES.

STAFF: As previously stated in this report, the proposed plan amendment is not anticipated to have a detrimental impact on the capacity or level of service on transportation facilities. The proposal therefore does not conflict with Policy 1.0.

2.0 SYSTEM SAFETY POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A TRANSPORTATION SYSTEM THAT IS SAFE.

STAFF: Any traffic safety impacts associated with future development on the subject property are subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Policy 2.0. Compliance with Policy 2.0 will therefore be maintained.

4.0 SYSTEM FUNDING POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO AGGRESSIVELY SEEK ADEQUATE AND RELIABLE FUNDING FOR TRANSPORTATION FACILITIES

AND SERVICES, AND TO ENSURE THAT FUNDING IS EQUITABLY RAISED AND ALLOCATED.

STAFF: No detrimental impacts to system capacity are anticipated as a result of the proposed plan amendment because the potential trip generation will not significantly affect transportation facilities. Any future development on the site will require payment of the appropriate Traffic Impact Fee toward future capacity improvements. Payment of the Traffic Impact Fee is consistent with the strategies included under Policy 4.0.

5.0 SYSTEM IMPLEMENTATION AND MANAGEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO EFFICIENTLY IMPLEMENT THE TRANSPORTATION PLAN AND TO EFFICIENTLY MANAGE THE TRANSPORTATION SYSTEM

STAFF: As found elsewhere in this report, significant impacts on capacity or roadway safety are not anticipated under the proposed plan designation. The proposal is therefore consistent with Policy 5.0 since there will be no appreciable change in travel demand as a result of the plan amendment.

6.0 ROADWAY SYSTEM POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THAT THE ROADWAY SYSTEM IS DESIGNED IN A MANNER THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF ALL USERS OF THE TRANSPORTATION SYSTEM.

STAFF: Since the proposed plan amendment will not result in a significant increase in trips or travel demand, it will not degrade the planned motor vehicle performance measures set forth in the strategies for implementation of Policy 6.0. The proposal is therefore consistent with Policy 6.0.

10.0 FUNCTIONAL CLASSIFICATION POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THE ROADWAY SYSTEM IS DESIGNED AND OPERATES EFFICIENTLY THROUGH USE OF A ROADWAY FUNCTIONAL CLASSIFICATION SYSTEM.

STAFF: The proposed plan amendment will not affect the Functional Classifications of either SW Hillsboro Highway or SW Midway Road nor result in land uses that are inconsistent with those identified in the Transportation Plan. There are no anticipated transportation impacts associated with this plan amendment request. Although none are associated with this proposal, any new access or changes in access are required to comply with the applicable access requirements found in CDC Article V; such compliance ensures that the functional integrity and roadway safety are maintained.

19.0 TRANSPORTATION PLANNING COORDINATION AND PUBLIC INVOLVEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO COORDINATE ITS TRANSPORTATION PLANNING WITH LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND TO PROVIDE OPPORTUNITIES FOR CITIZENS TO PARTICIPATE IN PLANNING PROCESSES.

STAFF: Policy 19 provides that all plan amendments be reviewed for consistency with the applicable provisions of the Transportation Planning Rule (OAR 660-012-0060). This request has been reviewed and determined to be consistent with the applicable provisions of the Transportation Planning Rule (see findings in Section B., above). It is therefore consistent with Policy 19.0.

CONCLUSION

Based on the findings in this report, staff concludes that this plan amendment proposal (AF-5 to R-COM) will not significantly affect a transportation facility as defined in OAR 660, Division 12. No additional trips are anticipated in conjunction with the proposed change in plan designation. The proposal is also consistent with all of the applicable Washington County 2020 Transportation Plan policies as discussed in Section C. of this report.



WASHINGTON COUNTY
Department of Land Use and Transportation
PLANNING DIVISION, SUITE #350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124-3072
tel (503) 846-3519 fax (503) 846-4412

STAFF REPORT

CASEFILE NO.: 06-101-PA

APPLICANT:
Richard Baker
PO Box 3208
Kirkland WA 98083

APPLICANT'S REPRESENTATIVE:
Charles Harrell
Gunn & Cain LLP
PO Box 1046
Newberg OR 97132

PROCEDURE TYPE: III
COMPREHENSIVE PLAN ELEMENT:
Rural/Natural Resource
CPO: 10

OWNER (tax lot 2S2 08 / 1900):
Richard Baker
PO Box 3208
Kirkland WA 98083

ASSESSOR MAP NO.: 2S2 08
TAX LOT NO(S): 1900
SITE SIZE: .57 acres
LOCATION: Southeast of the intersection of SW
Midway Road and State Highway 219

SITE ADDRESS
14819 SW Hillsboro Highway, Hillsboro OR 97123

EXISTING LAND USE DISTRICT: Agriculture and
Forest – 5 Acre District (AF-5)

REQUEST: Comprehensive Plan Amendment to change the current land use designation of Agriculture and Forest – 5 Acre (AF-5) District to Rural Commercial (R-COM); requires an exception to Statewide Planning Goal 14 (Urbanization).

Casefile No. 06-101-PA Staff Report for the May 3, 2006 Planning Commission Hearing

I. APPLICABLE REGULATIONS

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 11, 12 & 14
- B. OAR 660-012-0060, OAR 660-004 & OAR 660-014
- C. Rural / Natural Resource Plan Policies: 1p.7, 2, 6, 14, 18, 19, 20, 22 & 23
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
 1. Article II, Procedures
 2. Article III, Land Use Districts

Section 348-1 AF-5 District (Intent and Purpose)
Section 352-1 R-COM District (Intent and Purpose)

00039

II. AFFECTED JURISDICTIONS

Washington County Sheriff
Washington County Department of Land Use and Transportation
Washington County Fire District #2
Hillsboro School District
Oregon Department of Transportation

III. FINDINGS

A. General

Applicant: See pages 4 and 5 of the application.

Staff: According to current tax assessment maps, tax lot 1900 encompasses a total of .57 acres. The parcel is located on the south side of SW Hillsboro Highway (State Highway 219), east of the road's intersection with SW Midway Road (see the map on page 24 of this staff report). The current land use designation for this parcel is AF-5. The applicant is requesting a plan amendment to change the designation of the subject property to Rural Commercial (R-COM).

Based on a recent interpretation by the Land Conservation and Development Commission (LCDC), staff from the Department of Land Conservation and Development (DLCD) informed county staff that the applicant would be required to take an exception to Statewide Planning Goal 14 (Urbanization). The interpretation comes from Oregon Administrative Rule 660-022-0030, Unincorporated Communities, which allows commercial uses in excess of 4,000 square feet. LCDC stated that outside of a recognized unincorporated community, commercial uses over 3,500 square feet would be considered "urban" uses and would therefore require an exception to Goal 14 to expand an existing rural commercial use. The applicant's submittal provides findings to support the Goal 14 exception and a plan designation change from AF-5 to R-COM.

The .57-acre subject property is currently developed with a single family residence, two small sheds, and a freight container. A portion of the property is currently being used to provide overflow parking for the Midway Pub. The overflow parking area is graveled, and the applicants would like to pave a portion of the parking area. Paved parking lots are not allowed in the AF-5 District, but would be permitted in the R-COM District. The plan amendment application requests that plan designation on the subject tax lot be changed from AF-5 to R-COM.

Adjacent to the subject property, three tax lots support the Midway Pub. All three tax lots were deemed "irrevocably committed" to the commercial tavern use in the Exceptions Statement Document and were designated R-COM. Tax lot 2001 houses the main Midway Pub building and a graveled parking area. Tax lot 2002 contains a cabin structure and most of the pub's existing parking. Tax lot 2000 supports an existing residence and provides ingress/egress from SW Hillsboro Highway. There are also a limited number of graveled parking spaces for pub patrons on tax lot 2000.

Access to the subject property currently is taken from SW Hillsboro Highway (State Highway 219). SW Hillsboro Highway is identified on the Functional Classification Map as a rural arterial road (see also Section D and Attachment A of this staff report). The applicant reports that a shortage of off-street parking spaces has led to dangerous conditions on SW Hillsboro Highway because current patrons use the right-of-way area for parking, which blocks sight distance on the road.

The applicant has indicated that if the plan amendment is approved, he intends to request development review for an expansion of the Midway Pub, which would include additional parking on the subject property. Development review for the Midway Pub would include all four properties

(tax lots 1900, 2000, 2001 and 2002). The existing residence and proposed parking expansion on the subject property would be considered "accessory" to the commercial use on tax lot 2001. Because there is already an accessory dwelling on tax lot 2000, the house on the subject property would be considered a nonconforming use.

Preliminary site plans for the pub expansion show paved parking spaces on top of the pub's existing septic drainfield. According to staff with the county's Department of Health and Human Services, any activity that compacts the soil within a drainfield is prohibited. The applicant's representative has submitted a letter that indicates the applicant's willingness to meet county and DEQ standards for the on-site septic system. In order to avoid negative impacts to the drainfield, the applicant will redesign the pub's proposed parking locations as deemed necessary through the development review process.

To date, staff has received one letter of comment regarding this plan amendment request. Al Baker, owner of the Midway Pub, submitted a petition signed by 72 people voicing their support of the Midway Pub. The petition states "*We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Highway and additional parking next door as commercial, at 14819 SW Hillsboro Highway. The area is in need of this facility for residents of the area to eat and socialize*". Mr. Baker's testimony has been included in the Planning Commission's packet for the May 3, 2006 hearing.

State law requires the Board of County Commissioners to make the final decision for plan amendments on resource lands or when an exception is proposed. The purpose of the Planning Commission hearing is to provide a recommendation to the Board for consideration of this plan amendment request at their hearing on May 23, 2006.

B. Compliance with LCDC Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide planning goals and guidelines. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment A, the Transportation Report.

C. Rural / Natural Resource Plan

1. Policy 1, the Planning Process, states:

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

(4)(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

OAR 660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(1)(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(1)(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(1)(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Applicant: See pages 11, 12 and 13 of the application.

Staff: The AF-5 District is intended to preserve rural residential uses. The subject property is currently developed with a single family dwelling, two outbuildings, and a freight container used to provide storage. State administrative rules do not require an applicant to take a new exception to redesignate the property to R-COM. However, in consultation with staff at the Department of Land Conservation and Development, county staff determined that the applicant would be required to take an exception to Statewide Planning Goal 14 (Urbanization) due to the size of the existing commercial use.

Statewide Planning Goal 14 is intended to provide for an orderly and efficient transition from rural to urban land use and to ensure efficient use of land and to provide for livable communities. Staff from DLCD indicated that uses exceeding 3,500 square feet outside of "unincorporated communities" (the Midway area is outside of an unincorporated community) would be considered "urban" uses and would therefore require an exception to Statewide Planning Goal 14.

The exception to Goal 14 and the subsequent designation change to R-COM for the subject property would allow the expansion of parking facilities for the Midway Pub, a commercial use. During the development of the county's Exception Statement Document, the pub was recognized as an existing use and was deemed "irrevocably committed" to rural commercial use. The pub serves the surrounding rural area and draws customers from the urban area. Properties to the west and north of the subject property are resource land and would require an exception to Statewide Planning Goal 3 (Agriculture) in order to accommodate parking. Expanding parking to the west or north of the pub would require patrons to cross busy roadways where cars are driven at high speeds. Land to the south of the pub is currently developed with a fire station and is unavailable to accommodate parking associated with the Midway Pub. Expanding the parking facilities to the subject property would address demand and safety issues raised by the applicant. Staff finds that the applicant's remaining findings adequately address the need for the subject property to be used for the Midway Pub's parking lot expansion.

OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(2)(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Applicant: See pages 13, 14 and 15 of the application.

Staff: The applicant's submittal details the reasons the expansion of the Midway Pub's parking lot must occur on the tax lot adjacent to the pub property, tax lot 1900. When the Exceptions Statement Document was developed and the Rural/Natural Resource Plan was adopted, the properties that supported the Midway Pub were identified as irrevocably committed to rural commercial use and were therefore designated R-COM. No other properties adjacent to the Midway Pub were designated as R-COM. A property to the south of the pub supports a fire station and is unavailable for parking to serve the Midway Pub. Surrounding properties are on resource land and would also require an exception to Statewide Planning Goal 3. These properties to the north and west of the pub are in agricultural use and are unavailable for an expansion of the parking lot.

The subject property located east of the Midway Pub is not on resource land. An exception to Statewide Planning Goal 14 would allow the existing non-resource parcel to be used to support an expansion of a long-term commercial use on adjacent property. Expansion of the parking facilities onto nonresource land promotes the planning principles embodied by Goal 14, which states that development should ensure the efficient use of land. The subject property provides the most efficient location for expansion of the Midway Pub's parking facilities. Staff agrees with the applicant's findings that the parking lot expansion should be allowed onto the subject property for the reasons stated above.

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

(2)(b)(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

Applicant: See pages 15 and 16 of the application.

Staff: The applicant's submittal details the present uses on properties surrounding the Midway Pub. The only adjacent R-COM property is developed with a fire station. Properties to the west and north are in agricultural use and would require an exception to Statewide Planning Goal 3 (Agriculture) to be developed with parking facilities. Due to safety concerns and for the convenience of patrons, the applicant states that only a property on the same side of Highway 219 should be used for the parking lot expansion. Staff agrees with the applicant's findings that the subject property provides the best alternative for the Midway Pub's parking lot expansion.

(2)(b)(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

Applicant: See page 16 of the application.

Staff: The applicant has provided evidence to address items (i), (ii), and (iii) within the submittal. Staff's responses can be found on pages 4-6 of this staff report. In summary, this request is to allow the expansion of an already established rural commercial use, therefore only adjacent areas are reasonable to consider. Staff concurs with the applicant that the subject property offers the most practical and safe location for the Midway Pub's parking lot expansion, and that an alternative site which does not require an exception is not feasible.

(2)(b)(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an

exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

Applicant: See pages 16 and 17 of the application.

Staff: The applicant provided a description of surrounding properties and the present uses adjacent to the Midway Pub. Although non-resource lands are present in the vicinity of the Midway Pub, staff agrees with the applicant's finding that the subject property can best provide the needed safe and convenient parking for patrons of the Midway Pub.

(2)(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(2)(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Applicant: See pages 17 - 22 of the application.

Staff: The applicant has provided detailed findings regarding the environmental, economic, social and energy consequences of the use at the proposed site. Findings have also been submitted to state the typical advantages/disadvantages, typical positive/negative consequences and compatibility issues associated with the subject request. Staff agrees with the findings provided by the applicant.

III. Demonstration that the use(s) is (are) compatible with the surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses; and

Applicant: See pages 21 and 22 of the application.

Staff: According to the applicant, the approved parking area has been in place for over seven years and has had no adverse impact on surrounding farm or forest uses. Additionally, the increased parking area isn't likely to create more traffic, rather it will allow for existing parking to be managed in a safer and more efficient way. Staff agrees with the applicant's findings that the proposed exception will be compatible with surrounding agricultural uses, and will not adversely impact the area around the Midway Pub.

IV. Demonstration that adequate rural services are available and that the use(s) will not require extension of any urban services into the area.

Applicant: See page 22 of the application.

Staff: The applicant's submittal states that the use of the subject property is limited to parking facilities. As such, the property does not require urban services. Existing rural services are adequate for the subject property. The applicant provided service provider letters from Washington County Fire District #2 and the Washington County Sheriff indicating that the service level is adequate to provide emergency service to the subject property.

Staff concurs with the applicant and finds that the proposed plan change from AF-5 to R-COM is consistent with the criteria outlined under Policy 1.p.7.

These findings for Policy 1 also pertain to Statewide Planning Goal 2, Land Use Planning, Statewide Planning Goal 14, Urbanization.

660-014-0000

Purpose

ORS 197.175 requires cities and counties to exercise their planning and zoning responsibilities in compliance with the Statewide Planning Goals. This includes, but is not limited to, new or amended plans as a result of a city or special district boundary change including the incorporation or annexation of unincorporated territory. The purpose of this rule is to clarify the requirements of Goal 14 and to provide guidance to cities, counties and local government boundary commissions regarding planning and zoning of newly incorporated cities, annexation, and urban development on rural lands.

00047

Staff: OAR 660-014-0000 applies to this plan amendment request because due to the size of the Midway Pub, the use is considered "urban development" on rural land.

660-014-0040

Establishment of New Urban Development on Undeveloped Rural Lands

- (1) **As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.**

Staff: The subject property is non-resource land located approximately four miles away from the regional urban growth boundary. Adjacent properties designated R-COM (tax lots 2000, 2001 and 2002) were deemed "irrevocably committed" to the Midway Pub at the time the Exceptions Statement Document was developed by Washington County. At that time, the subject property was physically developed with a single family residence and the Agriculture & Forestry – 5 Acre District designation was applied. The subject property, although considered "developed and committed" for the purposes of a Goal 3 or 4 exception, was not developed at an urban density or committed to urban level development. Therefore, OAR 660-014-0040 applies to this plan amendment request.

- (3) **To approve an exception under section (2) of this rule, a county must also show:**

- (a) **That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;**

Staff: As noted in the applicant's submittal, the subject property is located approximately four miles from the regional urban growth boundary. This plan amendment, if approved, would allow the expansion of parking facilities onto the subject property to serve the Midway Pub. The Midway Pub, considered an "urban" use in the rural area due to the size of commercial use, is a long-standing rural commercial site. The subject property, located adjacent to the tax lots that serve the Midway Pub, is proposed to provide paved and unpaved overflow parking facilities for the pub. The expanded parking facilities cannot reasonably be accommodated across Midway Road or Hillsboro Highway 219, as pub patrons would have to cross arterial roadways where drivers travel at high speeds. Staff agrees with the applicant's findings that the subject property provides the most appropriate location for expansion of the parking facilities to serve the Midway Pub.

- (b) **That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:**

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Staff: The applicant's response to the environmental, economic, social and energy consequences of expanding the pub's parking facilities onto the subject property are detailed on pages 18 – 22 of the submittal. Staff's response to the applicant's analysis can be found on pages 8 and 9 of this staff report. If the plan amendment is approved, .57 acres will be added to the existing .70 acre area that supports the Midway Pub, bringing the total acreage for the Midway Pub use to 1.27 acres. The county's Rural/Natural Resource Plan Policy 20, Rural Commercial Development, states that rural commercial uses should be small in size, rural in character, and not require urban services. The 1.27 acre size of the use is appropriate given the language in Policy 20. The applicant has demonstrated that the plan amendment will not adversely affect air, water, energy or land resources in the surrounding area in the response to OAR 660-004-0020(2)(d) on pages 17 – 22 of the submittal. Staff agrees with the applicant's findings that development on the subject property will not create greater impacts than an alternate site with undeveloped rural lands.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

Staff: The applicant has demonstrated that the proposed plan amendment is compatible with adjacent uses. The subject property's location approximately four miles away from the nearest urban growth boundary makes it unlikely that services provided by existing cities and service districts would be impacted. In addition, the applicant recognizes that to preserve the adjacent resource land, the AF-5 subject property provides a better alternative for the parking lot expansion. Staff agrees with the applicant's findings with regard to compatibility with adjacent land uses.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

Staff: Although the Midway Pub is considered an "urban" use in the rural area, the pub does not require urban-level public services. The tax lots that support the pub, as well as the subject property, are served by wells and septic systems. The applicant reports that the provision of public facilities will not be impacted by the approval of this plan amendment. Staff concurs with the applicant's findings.

- (e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.**

Staff: Expansion of an existing rural commercial use onto the subject property is considered new urban development on undeveloped rural land based on an interpretation by LCDC (noted in the general findings section of this staff report). The plan amendment to change the AF-5 plan designation on the subject property to R-COM will update the county's Comprehensive Plan to allow the parking lot expansion to serve the Midway Pub. Future development or expansion of the Midway Pub will be subject to approval through the development review process.

660-022-0030

Planning and Zoning of Unincorporated Communities (Excerpt)

- (4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:**

(b) Small-scale, low impact uses;

- (10) For purposes of subsection (b) of section (4) of this rule, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4,000 square feet of floor space.**

Staff: LCDC's interpretation of OAR 660-022-0030 states that areas outside of an urban unincorporated community should be small-scale, low impact uses in a building or buildings not exceeding 4,000 square feet of floor space. Because the existing pub and accessory buildings exceed 4,000 square feet, the applicant was required to take an exception to Statewide Planning Goal 14 (Urbanization). The applicant has provided evidence supporting the exception and the plan amendment to R-COM. Staff agrees that the applicant has provided the necessary information to support the Goal 14 exception and plan amendment.

2. Policy 2, Citizen Involvement, states:

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

Applicant: See page 23 of the application.

Staff: A quasi-judicial plan amendment such as this must be considered through a Type III (public hearing) review procedure. In accordance with Section 204-4 of the Community Development Code (CDC), notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 13, 2006). Additionally, the

County placed a legal notice of the hearing in a newspaper of general circulation (*The Hillsboro Argus*) at least ten days prior to the first hearing date (published April 21, 2006). As required by CDC Section 204-1.4, the applicant posted a sign (posted March 23, 2006) on the subject property within 21 days of acceptance of the application (March 16, 2006).

A copy of the plan amendment application was mailed to the representative for the local Citizen Participation Organization (CPO 10). Finally, the staff report was available to all interested parties seven days prior to the hearing as required by Code Section 203-6.2. Staff finds these efforts satisfy the requirements of Policy 2.

These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.

3. Policy 6, Water Resources, states:

It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.

Applicant: See pages 23 - 25 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

The only readily available evidence relating to groundwater conditions in specific areas is contained in water well reports (well logs) filed with the regional Watermaster's Office by well drillers at the time they drill a well. If enough wells are drilled in an area over an extended period of time, and if some of the well reports are recent, then well reports can be an indicator of any trends concerning the quantity of water being yielded by wells in the area. They do not, however, provide information concerning trends with regard to individual wells.

Policy 6 allows an applicant to use the well reports as evidence of groundwater quantity conditions in the area around a plan amendment site. If, however, opponents of an application allege, based on their experience with the production of their wells, that groundwater quantities in the area are declining, then it is the applicant's responsibility to provide evidence and/or testimony to rebut the opposition's assertion.

Opposition testimony can be rebutted by an applicant in the above-described situation by having an "expert" such as a professional geologist or hydrologist review the well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports.

Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

The County will:

- a. **Strive to ensure adequate water supplies for all uses by:**
1. **Encouraging water conservation programs by water users and purveyors;**
 2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
 3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**
 4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
 5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.**

Applicant: See pages 23 – 25 and the well log data included in the application.

Staff: The primary intent of this implementing strategy is to ensure, to the extent practicable, that ground water supplies are adequate to accommodate new development and that new wells will not seriously interfere with existing wells in the area. Under the AF-5 and R-COM designations, no additional parcels can be created from the site, and approval of this plan amendment request will not result in a new dwelling on the parcel.

The subject property is not located within an area identified as critical or groundwater-limited by the Oregon Water Resources Department.

The applicant stated a total of 259 wells of record were present in the study area (within 2S2, Sections 8, 9, 16 & 17). Staff has summarized the 259 well logs (Well Table Summary below).

Section	Time Period	Number of Wells	Average Depth	Average G.P.M.
2S2 08	1940-49 ¹	1	195	0
	1950-59 ¹	5	268.4	44.8
	1960-1969	8	219.63	25.5
	1970-79	16	284.06	37.75
	1980-89	6	416.17	145.5
	1990-99 ²	28	128.33	54.13
	2000 - Present ³	3	360	35
	¹ No data available for well depth of one well ² No data available for well depth for 13 wells and yield for 22 wells (13 abandoned wells) ³ No data available for well depth for 2 wells and yield for 2 wells (2 abandoned wells) Average values computed using available information.			
2S2 09	1960-69	14	161.75	12.89
	1970-79	11	248.45	35.27
	1980-89 ¹	5	252.4	10
	1990-99 ²	10	264.5	22.2
	2000 - Present ³	9	208.75	30.25
	¹ No data available for yield of 2 wells ² No data available for yield of 1 well ³ No data available for well depth for one well and yield for two wells Average values computed using wells for which data was available.			
2S2 16	1950-59 ¹	4	213.75	20.5
	1960-69	8	190.13	25.75
	1970-79	26	209.15	30.54
	1980-89	5	271	63
	1990-99 ²	8	198.63	10.25
	2000 - Present	18	166.17	20.28
	¹ No data available for well depth of 1 well. ² No data available for well yield for 4 wells. Average values computed using wells for which data was available.			
2S2 17	1940-49	1	150	15
	1950-59 ¹	5	109.4	17.4
	1960-69	2	124	8
	1970-79	16	177.13	17.75
	1980-89	10	197.3	26.1
	1990-99 ²	31	206.13	51.61
	2000 - Present	9	227.56	47.44
	¹ No data available for depth of 1 well. ² No data available for yield of 4 wells. Average values computed using wells for which data was available			

The well logs indicate that well depths and yields are variable. In many cases, wells constructed since the 1980s may have been drilled more deeply due to advances in drilling equipment technology, and therefore are not necessarily an indication of groundwater depletion. Based on this data, the general trend for these areas seems to be the deeper the well, the higher the yield.

Another indicator of groundwater depletion would be increasing numbers of deepened wells. According to the 259 well logs submitted, only 33 (or 13 percent) were for the purpose of drilling

an existing well deeper. This would indicate that there has not been a generalized lowering of the groundwater table over time.

As indicated earlier, the applicant proposes to use the subject property for parking facilities. No new wells are proposed and the property will have no measurable impact on the quality or quantity of water resources in the area. Therefore the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation. In summary, although County staff are not groundwater experts, we find that without additional information from surrounding property owners, the applicant has submitted sufficient evidence to conclude that groundwater supplies are stable in the area.

b. Ensure adequate quality of surface water and groundwater by:

- 1. Promoting compliance with Department of Environmental Quality water quality standards;**
- 2. Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
- 3. Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
- 4. Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Applicant: See pages 24 and 25 of the application.

Staff: Prior to the issuance of a building permit for an alteration of the Midway Pub, the county's Department of Health and Human Services must approve modifications made to the existing septic system. A septic system permit will not be issued if soils are not adequate to filter and clean wastewater. The standards for such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Any grading activities (e.g., a parking lot expansion) must comply with CDC Sections 410 (Grading and Drainage) and 426 (Erosion Control). Compliance with these standards ensures adequate quality of surface water.

Preliminary site plans for the pub expansion show paved parking spaces on top of the pub's existing septic drainfield. According to staff with the county's Department of Health and Human Services, any activity that compacts the soil within a drainfield is prohibited. The applicant's representative has submitted a letter that indicates the applicant's willingness to meet county and DEQ standards for the on-site septic system. In order to avoid negative impacts to the drainfield, the applicant will redesign the pub's proposed parking locations as deemed necessary through the development review process. Staff therefore finds the criteria of implementing strategy 6.b. can be satisfied.

- c. Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modification are necessary.**
- d. Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**

- e. Encourage property owners with land which qualifies as "designated riparian land" and defined by the 1981 Riparian Habitat Act to apply for exemption of that land from *ad valorem* taxation.**

Applicant: See page 25 of the application.

Staff: According to the Rural/Natural Resource Plan Significant Natural Resources Map, there are no significant streams or natural areas on the portion of the property subject to this plan amendment request. Therefore, staff finds these strategies can be satisfied.

- f. Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- h. Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is not located within a drainage basin watershed.

- i. Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property does not contain water areas and wetlands recognized by the Division of State Lands.

- j. Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and the Unified Sewerage Agency [now Clean Water Services], support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with Community Development Code sections that implement the above strategies—Sections 410 (Grading and Drainage) and 426 (Erosion Control). Staff therefore finds this strategy can be satisfied.

These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.

4. Policy 14, Plan Designations, states:

It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.

Applicable Implementing Strategies:

- c. **Designate Rural Lands, for which an LCDC Goal 2 Exception is provided to LCDC Goals 3 (Agriculture) and 4 (Forestry), in the following manner:**
 4. **All lands which were zoned AF-5 by the 1973 Comprehensive Plan will be designated AF-5 or AF-10 based upon existing use and the characteristics of the area, unless the criteria for RR-5 can be met.**
 7. **All lands with lawfully created, existing commercial uses shall be designated Rural Commercial (R-COM).**

Applicant: See pages 25 and 26 of the application.

Staff: The subject property, located adjacent to Midway Pub, is designated AF-5. The Exceptions Statement Document (revised in September 1986) recognized the existing rural residential nature of tax lot 1900 and designated the property as AF-5. Because the property was not being used to support the existing rural commercial use on tax lot 2001, it did not warrant an "irrevocably committed" exception at that time. The subject property, owned by the Baker family (also the owner of the Midway Pub), has more recently been used to accommodate overflow parking for the pub. A plan designation change to R-COM would allow the subject property to provide paved parking in support of the pub use on tax lots 2000, 2001 and 2002.

The applicant states that tax lot 1900 has not been in farm use. The applicant's submittal documents explain that an expanded area for parking is needed to accommodate customers and vehicles in the safest manner possible.

Policy 14 is silent on the criteria for creation of new R-COM properties, but states that lawfully created, existing commercial uses shall be designated R-COM. The plan amendment request, if approved, would allow for continued support of a long-established rural gathering place. Staff therefore finds the subject request is consistent with Policy 14.

5. Policy 18, Rural Lands, states:

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

Applicable Implementing Strategies:

- a. **Recognize "Rural Lands" with the following plan map designations:**
 1. **Agriculture and Forestry - 10 (AF-10)**
 2. **Agriculture and Forestry - 5 (AF-5)**
 3. **Rural Residential - 5 (RR-5)**
 4. **Rural Commercial (R-COM)**
 5. **Rural Industrial (R-IND)**
 6. **Land Extensive Industrial (MA-E)**
- c. **Consider the identification of additional lands for the "Rural Lands" plan map designations through the plan amendment procedures in Policy 1.**

- d. **Ensure that proposed development will not adversely affect surrounding agricultural and/or forestry activities by requiring that applicants for residential, commercial or industrial uses on land designated for rural development record a waiver of the right to remonstrate against accepted farm or forestry practices on nearby lands.**

Applicant: See pages 26 and 27 of the application.

Staff: The applicant has responded to the criteria outlined in Policy 1 (see discussion on page 3 of this staff report). The only available and most appropriate location for an expansion of parking facilities to serve the Midway Pub is to the east of the existing parking lot. The applicant's representative has indicated that the property owner agrees to record a waiver of the right to remonstrate against accepted farm and forest practices. Therefore, staff finds this criteria can be met.

6. Policy 20, Rural Commercial Development, states:

It is the policy of Washington County to provide rural commercial lands for support of rural residential, agricultural and forest activities.

Applicable Implementing Strategies:

- a. **Allow commercial uses which support the needs of rural residents and agricultural and forest uses.**
- b. **Evaluate proposed rural commercial uses to determine if they are needed to support the Rural and Natural Resource area.**
- c. **Recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.**

Applicant: See pages 28 and 29 of the application.

Staff: The Midway Pub is a long-standing rural commercial use recognized as an appropriate rural use on land designated R-COM. According to the applicant's submittal, the commercial use dates back to 1937 on the properties adjacent to the subject tax lot. Implementing Strategy c. of Policy 20 states that expansion of lawfully created commercial uses may be allowed where urban services are not required and where conflicts with surrounding uses can be minimized. Expansion of parking facilities for the Midway Pub will not require urban services and are unlikely to cause conflict to surrounding uses. Staff finds the request is consistent with Policy 20.

7. Policy 22, Public Facilities and Services, states:

It is the policy of Washington County to provide public facilities and service in the Rural/Natural Resource Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety.

Applicable Implementing Strategy:

- a. **Review the adequacy of the following public services and facilities in conjunction with new development.**

1. Schools

2. Fire and Police Protection

Applicant: See pages 29 and 30 and the service provider letters included in the application.

Staff: Copies of statements of service availability from several service providers are included in the applicant's submittal. Service provider letters were also provided from the Hillsboro School District, the Tualatin Valley Water District, and Clean Water Services. However, these letters were not required for the plan amendment because of the subject property's location outside service district boundaries, or in the case of the school district, because the proposed R-COM designation is unlikely to impact schools. Letters from Washington County Fire District #2, Washington County Sheriff, and the Oregon Department of Transportation are included in the applicant's submittal. The application includes a service analysis for the fire district, describing station location, equipment location and response times. Both the fire district and the Sheriff's service provider letters indicated that service levels are adequate to serve the subject property if this plan amendment is approved. ODOT staff submitted a letter of comment dated April 24, 2006. The letter states that ODOT determined that the plan amendment does not require a traffic impact study (TIS) and that the plan amendment would not have a significant effect on the operation of the Hillsboro-Silverton Highway (Highway 219).

The County is responsible under Implementing Strategy a. of Policy 22 for reviewing the adequacy of public facilities and services in conjunction with new development. The hearings officer for LCDC found in the 1988 Enforcement Order proceedings that "(T)he County must have evidence in the record showing that the service provider is accurate in its assessment." Staff interprets this to refer to a provider's assessment that an adequate or inadequate level of service can be provided. Without the above-described statements and analyses, staff could not conclude that the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved.

The site is within Washington County Fire District #2's service area. According to the fire district, the nearest fire station is located less than five hundred feet away with an estimated response time of 2-7 minutes. Available personnel and equipment include 2 career firefighters, 20 volunteer firefighters, three 1,000-gallon pumpers and one 3,000 gallon water tender. The fire district indicated that the district's service level is adequate to serve the proposed development.

The Washington County Sheriff's Office has reviewed the request and has determined that its service level is adequate for emergency calls only, which is consistent with the level of service provided to all rural areas.

ODOT's letter submitted on April 24, 2006 indicated that the plan amendment would not effect Highway 219. However, "an ODOT approach permit(s) for access to the state highway or written determination (email, fax or mail acceptable) from ODOT that the existing approach(es) are legal" is required and must be obtained. The applicant does not propose an additional access to serve the site, but the existing access points must be deemed legal prior to submission of a development application. Condition of approval #2 on page 18 of this staff report requires the applicant to submit proof that existing access(es) to the Midway Pub are legal prior to the filing of a development application to expand or alter the commercial use.

Based on the above-described service statements and analyses, staff finds that the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved. Staff finds this request complies with Policy 22.

These findings for Policy 22 also pertain to Statewide Planning Goal 11.

8. Policy 23, Transportation, states:

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan.

Applicant: See page 30 of the application.

Staff: The application included a Traffic Impact Statement and traffic analysis report. See Attachment A, which includes the Transportation Staff Report for this plan amendment.

D. Washington County Transportation Plan

Applicant: See pages 30 - 33 of the application.

Staff: Attachment A, which is by this reference incorporated into this staff report and made a part of it, contains discussions of whether the plan amendment complies with the Transportation Plan and the Transportation Planning Rule. Based on the applicant's written materials and the findings in this report, staff concludes that this proposed plan amendment will not "significantly affect" a transportation facility as defined in OAR 660-012-0060. Staff finds the plan amendment is consistent with the Transportation Planning Rule and the Transportation Plan.

These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation.

E. Washington County Community Development Code

1. Article III, Land Use Districts:

Section 348 Agriculture and Forest District (AF-5)

348-1 Intent and Purpose

The AF-5 District is intended to retain an area's rural character and conserve the natural resources while providing for rural residential use in areas so designated by the Comprehensive Plan.

The purpose of this agricultural and forestry district is to promote agricultural and forest uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forest lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area. Residents of rural residential tracts shall recognize that they will be subject to normal and accepted farming and forestry practices.

Section 352 Rural Commercial District (R-COM)

352-1 Intent and Purpose

The intent and purpose of the Rural Commercial District is to implement the rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forest character of the area.

Rural Commercial centers shall be designed to be compatible with the surrounding environment and generally not to exceed five (5) acres.

Applicant: See pages 33, 34 and 35 of the application.

Staff: A portion of the subject property is currently used as a graveled overflow parking area. According to the applicant, the additional parking area was needed to provide overflow parking for patrons of the Midway Pub. Placing an R-COM designation on the property and granting an exception to Goal 14 would allow for the needed expansion of parking facilities to serve the existing pub use. Staff finds that the subject request meets the intent and purpose of the R-COM District.

These findings for the Community Development Code also pertain to Statewide Planning Goal 3.

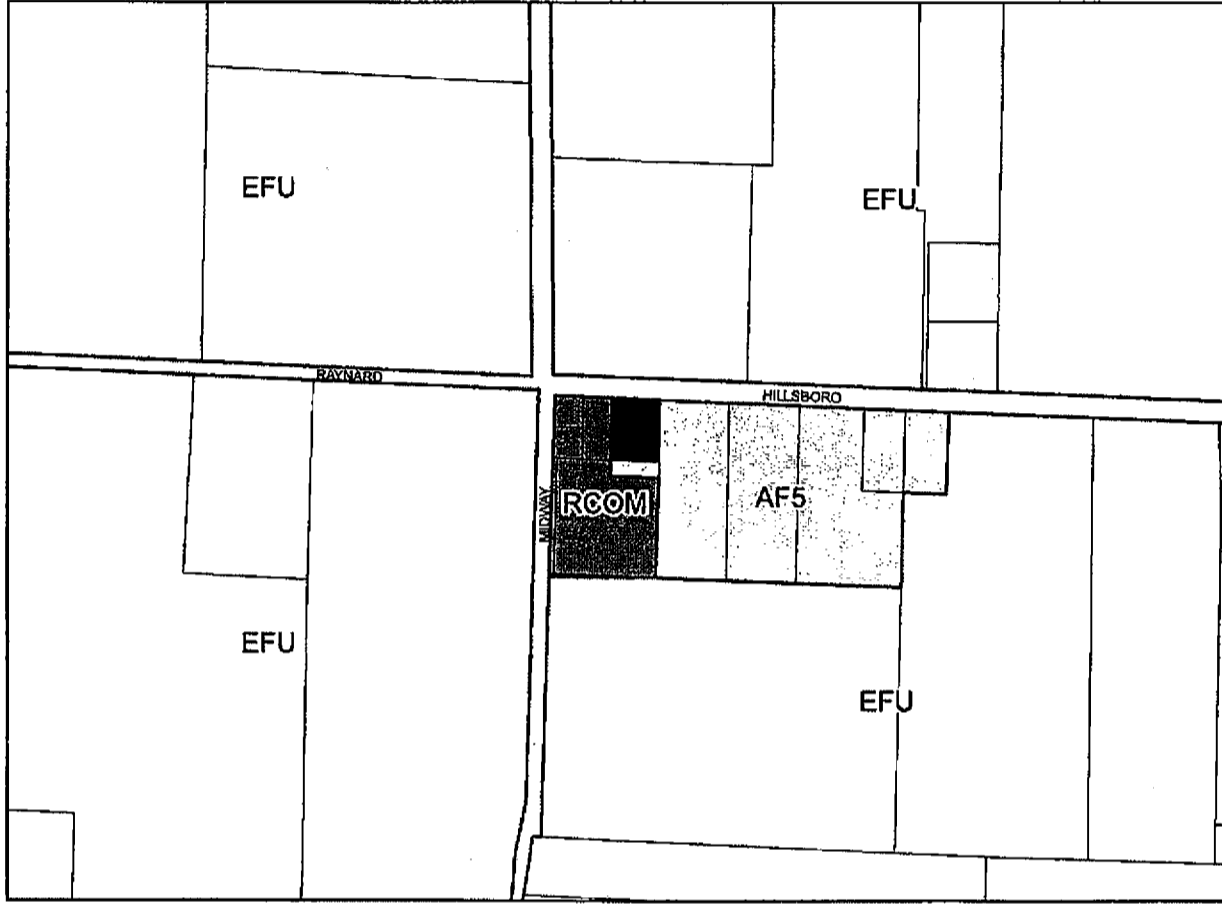
IV. SUMMARY AND CONCLUSIONS

1. Based on the plan designation criteria of Policy 14 and other policies of the Rural/Natural Resource Plan, staff concludes that the Rural Commercial (R-COM) District is the most appropriate designation for the subject property.
2. The change in land use designation will not "significantly affect" the surrounding planned transportation system and is therefore consistent with Policy 10 of the Transportation Plan and OAR 660-012-0060.
3. Local service providers currently can provide an adequate level of public services for the site. No urban services will be needed to support the subject property.
4. The plan amendment request appears to meet the applicable criteria for a "reasons" exception to Statewide Planning Goal 14 (Urbanization).
5. The plan amendment request is consistent with the intent and purpose of the Rural Commercial land use district and appears to meet the applicable criteria for a plan amendment from AF-5 to R-COM.

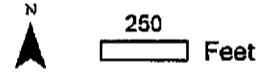
V. RECOMMENDATION

Based on staff's findings in Section III of this report and Attachment A, and as summarized above under Section IV, staff recommends **APPROVAL** of the plan amendment as requested by the applicant. Therefore staff recommends that the Planning Commission forward to the Board of County Commissioners a recommendation for approval of the applicant's plan amendment request subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owing the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. Prior to the submission of a development application for the expansion/alteration of the Midway Pub, the applicant must obtain an ODOT approach permit or written determination that the existing approach(es) to the pub are legal. The applicant must also comply with any other requirements outlined by ODOT, including drainage permits, access easements, and any miscellaneous permits deemed necessary.
3. Approval of this plan amendment does not preclude the need to comply with Department of Environmental Quality and Washington County Department of Health and Human Services requirements regarding septic system drainfields.



- Area of Consideration
- Land Use Designations
 - RCOM
 - AF5
 - EFU



April 19, 2006

**TRANSPORTATION REPORT
FOR
CASEFILE NO. 06-101-PA**

Applicant: Richard Baker
Location: On the south side of SW Hillsboro Highway (Oregon 219), east of SW Midway Road
Tax Map/Lot: 2S2 08 1900
Site Size: 0.57 Acre

Staff has reviewed this request for compliance with the applicable Washington County 2020 Transportation Plan policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:

1. The proposed plan amendment would change the existing AF-5 plan designation on tax lot 1900, which is approximately 0.57 acre, to Rural Commercial (R-COM). The subject parcel supports a single family residence. The proposed plan amendment is intended to allow the use of the western and southern portions of tax lot 1900 for additional parking area for the Midway Pub, which is located to the west of the subject property on lot 2001 (Map 2S2 08). Tax lot 2001 is designated R-COM as are tax lots 2000 (adjacent to the subject property) and 2002, which are currently used as parking areas for the tavern.
2. The subject property has frontage on SW Hillsboro Highway, a state arterial roadway under the jurisdiction of ODOT. The Midway Pub, located to the west of the subject site, takes access from SW Midway Road, a county rural local road and from SW Hillsboro Highway. No new access is proposed in conjunction with this plan amendment. Because of the following circumstances, staff believes that it is reasonable to conclude that future use of the subject property will be limited to parking for the existing Midway Pub and that expansion of the existing use is not likely to occur.
 - The existing pub has a total floor area (including covered patios/outdoor areas) of more than 7000 square feet. Based on the square footage, CDC Section 413-9.3 H. requires 110 parking spaces. Currently there are only 35 parking spaces and the additional area of tax lot 1900 that would be converted to parking for the Midway Pub is likely to still be below that required by the CDC.
 - The subject property is only 0.57 acre. Because of the small size, there is limited space available for septic drain field use. This limits the intensity of any potential future uses that might otherwise be allowed under the proposed R-COM plan designation.

- Even with the proposed plan amendment, the additional parking on tax lot 1900 would likely be insufficient to allow an expansion of the existing business on tax lot 2001.
3. Access to SW Hillsboro Highway is controlled by ODOT. Access to SW Midway Road is under county jurisdiction. No new or modified access is being proposed in conjunction with this plan amendment. Potential transportation impacts of this plan amendment are limited to SW Hillsboro Highway and SW Midway Road. There are no capacity problems identified along either of these facilities and excess capacity is anticipated to continue to be available throughout the planning period on these rural roadways.
 4. The following standards are applicable to this request and are addressed in this staff report:
 - a. OAR 660, Division 12, Oregon Transportation Planning Rule:
Section 0060 - Plan and Land Use Regulation Amendments
 - b. Washington County 2020 Transportation Plan Policies:
 - 1.0 Travel Needs Policy
 - 2.0 System Safety Policy
 - 4.0 System Funding Policy
 - 5.0 System Implementation and Plan Management Policy
 - 6.0 Roadway System Policy
 - 10.0 Functional Classification Policy
 - 19.0 Transportation Planning Coordination and Public Involvement Policy

B. Oregon Transportation Planning Rule

1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will 'significantly affect' the planned transportation system in the area. Pursuant to the OAR, the proposed plan amendment would 'significantly affect' SW Midway Road and/or SW Hillsboro Highway if it does any of the following:
 - a. Changes the functional classification of an existing or planned transportation facility;
 - b. Changes the standards implementing a functional classification system; as measured at the end of the planning period identified in the adopted TSP (year-2020);
 - c. Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
 - d. Would reduce the performance standards of the facility below the minimum acceptable performance standard identified in the Transportation System Plan; or
 - e. Would worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan.

2. Considering the criteria above, in order to determine if a plan amendment will result in a 'significant impact' on transportation facilities, the County generally requires a comparative analysis of a 'reasonable worst-case development' of a site under current and proposed land use designations. Plan amendment requests may be for designations that permit more intensive land uses with greater trip generation potential. In such cases, applicants are typically required to submit traffic analyses that have been prepared by licensed traffic engineers in order to help evaluate the potential affects of proposed plan amendments on transportation facilities.
3. As discussed in Finding A.2., above, in this instance the proposed expansion of the R-COM designation onto the subject tax lot is unlikely to result in additional development, other than increased parking area to serve the existing Midway Pub. Because the Pub needs the additional area involved in the plan amendment to provide parking to accommodate the current square footage, the plan amendment will not enable an expansion of the Pub. In addition, the small site size restricts the size of any septic drain field, limiting any potential uses that might otherwise be allowed under the R-COM plan designation. This plan amendment is therefore not anticipated to result in any increase in trips and will therefore have no significant impact on transportation facilities. Because there will be no significant impact, the plan amendment will not affect the standards implementing the functional classification system as set forth in Policy 10.0 of the County's 2020 Transportation Plan and the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 0060 of the Oregon Transportation Planning Rule.

C. Washington County 2020 Transportation Plan

The proposed plan amendment is subject to 7 policies from the County's 2020 Transportation Plan, which are listed and addressed below.

1.0 TRAVEL NEEDS POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A MULTI-MODAL TRANSPORTATION SYSTEM THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF WASHINGTON COUNTY RESIDENTS AND BUSINESSES.

STAFF: As previously stated in this report, the proposed plan amendment is not anticipated to have a detrimental impact on the capacity or level of service on transportation facilities. The proposal therefore does not conflict with Policy 1.0.

2.0 SYSTEM SAFETY POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A TRANSPORTATION SYSTEM THAT IS SAFE.

STAFF: Any traffic safety impacts associated with future development on the subject property are subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Policy 2.0. Compliance with Policy 2.0 will therefore be maintained.

4.0 SYSTEM FUNDING POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO AGGRESSIVELY SEEK ADEQUATE AND RELIABLE FUNDING FOR TRANSPORTATION FACILITIES

AND SERVICES, AND TO ENSURE THAT FUNDING IS EQUITABLY RAISED AND ALLOCATED.

STAFF: No detrimental impacts to system capacity are anticipated as a result of the proposed plan amendment because the potential trip generation will not significantly affect transportation facilities. Any future development on the site will require payment of the appropriate Traffic Impact Fee toward future capacity improvements. Payment of the Traffic Impact Fee is consistent with the strategies included under Policy 4.0.

5.0 SYSTEM IMPLEMENTATION AND MANAGEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO EFFICIENTLY IMPLEMENT THE TRANSPORTATION PLAN AND TO EFFICIENTLY MANAGE THE TRANSPORTATION SYSTEM

STAFF: As found elsewhere in this report, significant impacts on capacity or roadway safety are not anticipated under the proposed plan designation. The proposal is therefore consistent with Policy 5.0 since there will be no appreciable change in travel demand as a result of the plan amendment.

6.0 ROADWAY SYSTEM POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THAT THE ROADWAY SYSTEM IS DESIGNED IN A MANNER THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF ALL USERS OF THE TRANSPORTATION SYSTEM.

STAFF: Since the proposed plan amendment will not result in a significant increase in trips or travel demand, it will not degrade the planned motor vehicle performance measures set forth in the strategies for implementation of Policy 6.0. The proposal is therefore consistent with Policy 6.0.

10.0 FUNCTIONAL CLASSIFICATION POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THE ROADWAY SYSTEM IS DESIGNED AND OPERATES EFFICIENTLY THROUGH USE OF A ROADWAY FUNCTIONAL CLASSIFICATION SYSTEM.

STAFF: The proposed plan amendment will not affect the Functional Classifications of either SW Hillsboro Highway or SW Midway Road nor result in land uses that are inconsistent with those identified in the Transportation Plan. There are no anticipated transportation impacts associated with this plan amendment request. Although none are associated with this proposal, any new access or changes in access are required to comply with the applicable access requirements found in CDC Article V; such compliance ensures that the functional integrity and roadway safety are maintained.

19.0 TRANSPORTATION PLANNING COORDINATION AND PUBLIC INVOLVEMENT POLICY

IT IS THE POLICY OF WASHINGTON COUNTY TO COORDINATE ITS TRANSPORTATION PLANNING WITH LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND TO PROVIDE OPPORTUNITIES FOR CITIZENS TO PARTICIPATE IN PLANNING PROCESSES.

STAFF: Policy 19 provides that all plan amendments be reviewed for consistency with the applicable provisions of the Transportation Planning Rule (OAR 660-012-0060). This request has been reviewed and determined to be consistent with the applicable provisions of the Transportation Planning Rule (see findings in Section B., above). It is therefore consistent with Policy 19.0.

CONCLUSION

Based on the findings in this report, staff concludes that this plan amendment proposal (AF-5 to R-COM) will not significantly affect a transportation facility as defined in OAR 660, Division 12. No additional trips are anticipated in conjunction with the proposed change in plan designation. The proposal is also consistent with all of the applicable Washington County 2020 Transportation Plan policies as discussed in Section C. of this report.

00068



WASHINGTON COUNTY
OREGON

WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, MAY 3, 2006

ALL PUBLIC MEETINGS ARE RECORDED

DRAFT

I. CALL TO ORDER: 1:00 P.M. – Room 140, Public Services Building

The meeting was called to order by Chairman Randall.

II. ROLL CALL

Planning Commission (PC) members present: Commissioners Randall, Phelan, Baty, Weit, Gorman, Dalrymple, Hirst and Logan. Commissioner Mandaville's absence was unexcused.

Staff present: Brent Curtis, Aisha Willits and Dixie King, Planning Division; Chris Gilmore, County Counsel.

III. DIRECTOR'S REPORT

Mr. Curtis said there is no business scheduled for the May 17th Planning Commission meeting, however there will be business to cover at the June 7th meeting.

IV. WORK SESSION

Chairman Randall asked what the committee wanted to do regarding the May 17th meeting date. The committee agreed to cancel the meeting.

Commissioner Gorman said he was interested in hearing an update on the Measure 37 claims.

Mr. Curtis reported that so far we have received around 447 claims, however things have slowed down. He said the Board hears between 8 - 10 of these claims every two weeks. A few claims are expedited since the Board has determined that some cases don't have any substance.

Commissioner Weit mentioned that some of Metro's work challenges the thesis; that your value is always reduced by the affect of the zoning regulations that are in place. He mentioned that they are doing some work to take a better look at the evaluation allocation.

Commissioner Dalrymple asked if there would be a meeting on June 21st. Mr. Curtis said we would consult the calendar and give a report to him before today's hearing.

Chairman Randall asked if today's plan amendment could be expedited. Mr. Curtis responded that it certainly could be.

00069

DRAFT

Commissioner Phelan mentioned that she was happy to see so many citizens involved and in favor of today's plan amendment.

Mr. Curtis reported on the upcoming calendar schedule for meetings. He said there will be no business to conduct at the next meeting, which would be May 17th. On June 7th there will be a plan amendment and two ordinances, nothing for June 21st or July 5th and there will be ordinances for the meeting on July 19th and on August 2nd there will be ordinances.

Chairman Randall said if there is no objection we will cancel the June 21st meeting and the July 5th meeting.

V. ORAL COMMUNICATIONS-AUDITORIUM - 1:30 PM

There was no one in the audience who wished to testify on a non-agenda item.

VI. CONSIDERATION OF MINUTES

The planning commission considered the minutes from May 19th, 2004 meeting. Chairman Randall mentioned one correction that needed to be made on the date in the headers on each of the pages. The date needs to be changed from May 18th to May 19th. Commissioner Phelan moved to accept the minutes as corrected; Commissioner Gorman seconded. **Vote: 8 - 0.**

VII. QUASI-JUDICIAL PLAN AMENDMENT APPLICATION HEARING

- A. Explanation of Hearing Process
- B. Swearing in of Staff
- C. Public Hearing Item

<u>Item Number</u>	06-101-PA
Applicant	Richard Baker
Request	Plan amendment from AF-5 to R-COM; requires an exception to Statewide Planning Goal 14 (Urbanization)
Community Plan	Rural/Natural Resource Plan
CPO	10
Location	On the south side of Hillsboro Highway 219, east of its intersection with SW Midway Road
Description	Tax lot 1900 (.57 acre) is developed with a single family dwelling and provides overflow parking for the Midway Pub, located on adjacent parcels 2000, 2001 and 2002

Applicable Goals, Policies and Regulations

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 11, 12 & 14
- B. OAR 660-012-0060, OAR 660-004, OAR 660-014 & OAR 660-022
- C. Rural / Natural Resource Plan Policies: 1p.7, 2, 6, 14, 18, 19, 20, 22 & 23

DRAFT

Planning Commission Minutes
May 3, 2006
Page 3

- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
 - 1. Article II, Procedures
 - 2. Article III, Land Use Districts

Section 348-1 AF-5 District (Intent and Purpose)
Section 352-1 R-COM District (Intent and Purpose)

Chairman Randall determined that this plan amendment met all the criteria to conduct an expedited hearing process. Charles Harrell, the applicant's attorney, said as long as the plan is to expedite towards a yes vote that would be fine.

Chairman Randall read the criteria and rules for expediting the plan amendment application. The following four recommendations must be met: First, the staff report must recommend approval with or without conditions. He said the staff report does do this with conditions. Second, the applicant must have no objection. Chairman Randall asked if the applicant had an objection to an expedited hearing. The applicant did not object. Third, there must be no one in the audience who wishes to testify for or against the amendment. There was no one present to testify on the plan amendment. Fourth, there must be no objection from any member of the planning commission. There was no objection from the planning commission. Chairman Randall said the commission would rely on the written record that had been presented. Chairman Randall said the planning commission would open the hearing, dispense with the verbal staff report and place it on the record.

Chairman Randall asked if there were any conflicts with the planning commission that they would like to declare. There being no conflicts, Chairman Randall closed the public hearing.

Commissioner Weit had a question for staff regarding the plan amendment request, which would allow the applicant to pave parking areas that are currently graveled. He also commented that the petition from the public reflects towards the future development of the Midway Pub property. He mentioned that the development project is not before us as the verbiage suggests that it is and asked if that was correct.

Ms. Willits responded that the request is simply to change the plan designation on an adjacent parcel from AF-5 to rural commercial. This will provide overfill parking for the pub, which is located on three adjacent parcels to the west. She added that the development application has not been submitted and is not a part of this request. The applicant has indicated that they will submit a development application in the future. Therefore, this parcel would be part of the entire development review at that time. Commissioner Weit said what the residents are supporting is not before us.

00071

DRAFT

Commissioner Weit asked why pave this area at all if the issue is to get people off the streets. He doesn't see where paving gravel will solve the problem.

Chairman Randall suggested letting the staff address this issue.

Ms. Willits responded saying that the request is for a plan designation change. She explained what they do with that plan designation change once they get it is not something we normally address at this plan amendment stage. She added that whether parking is paved or not is something that will be addressed during the development review process. The applicant has just indicated that they are interested in going to a rural commercial designation since they intend to use this property to support the existing rural commercial use of the Midway Pub.

Commissioner Weit said he just wanted to clarify that this was not a development application. He said he doesn't believe that this will solve the problem of people parking on the street whether it is gravel or not. He mentioned that he was glad to see they will be working with the people in charge regarding the drainage issues.

Chairman Randall asked Mr. Gilmore to swear in Ms. Willits since she had responded to Commissioner Weit's questions.

There were no other questions by the commissioners.

Chairman Randall said since staff recommends approval of this plan amendment, the Planning Commission can recommend to the Board of Commissioners that they approve this plan amendment since it deals with a natural resource and state-wide planning goals.


Commissioner Hirst moved to approve the staff recommendation of approval for today's plan amendment, 06-101-PA. Commissioner Gorman seconded the motion.

Vote: 8 - 0

IX. ADJOURN: 1:40 P.M.

There being no further business to come before the Planning Commission, the meeting was adjourned by Chairman Randall.

Judson Randall
Chairman, Washington County
Planning Commission



Kathy Lehtola
Secretary, Washington County
Planning Commission

Minutes approved this _____ day of, 2006.

Submitted by Dixie King
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Ref. #06-101-TH

RECEIVED

APR 24 2006

PLANNING DIVISION
and Use & Transportation

We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Hwy and additional parking next door as commercial, at 14819 SW Hillsboro Hwy.

The area is in need of this facility for residents of the area to eat and socialize.

RESIDENT NAME	ADDRESS
1 Sheri Winters	McCormack Hill Rd
2 Gerardo R	Hillshoro
3 Ruby Haynes	Scholls Ferry Rd, Hillsboro
4 Thomas Thompson	WORK IN AREA
5 DICK BAUNE	MIDWAY RD.
6 Sue Clark	Suffert Rd
7 Jany Jantz	20490 NW Sunnycrest
8 Doug O'Dell	Scholls
9 Margaret O'Keefe	Ashwood, OR
10 Bill Guy	Hillsboro
11 Mandy Schwarz	Hillsboro
12 Kay Johns	Hillsboro - Scholls
13 Brian Haagenstad	Hillsboro - Scholls
14 Frank Jones	McNay Rd Hillsboro
15 Jeff Fox	HILLSBORO
16 Erik Ahmann	SCHOLLS
17 Lucas Gay	Jacquith Rd
18 Brian Guy	Strawberry Hill Dr.
19 Sharon A. Miller	Beaverton
20 Alicia Calvillo	Beaverton
21 Mariaelena Calvillo	Beaverton

00773

We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Hwy and additional parking next door as commercial, at 14819 SW Hillsboro Hwy.

The area is in need of this facility for residents of the area to eat and socialize.

	RESIDENT NAME	ADDRESS
22	KEU DEGMAN	Hillsboro, OR 97123
23	Pete Reichard	Forest Grove, Or. 97116
24	Geraldine Reichard	Forest Grove, Or. 97116
25	Kristina Akers	Cornelius OR 97113
26	Marie House	Cornelius OR 97113
27	Beverly Brown	Hillsboro Ore 97123
28	Wendy VanderMeer	Hillsboro, OR 97124
29	Stephanie Carter	Hillsboro, OR 97123
30	J. Mueh	Hillsboro 97123 1269 S Beech St Cornelius OR 97113
31	Patricia Lara	Cornelius
32	Griselda Lara	
33	Alan Watson	21300 SW LeBeak Sherwood Ore
34	Evelinda Mann	15685 SW Hillsboro Hwy 97123

We need a community letter of support to get things going for the Midway Pub (Bald Peak Inn), any help in collecting signatures would be appreciated.

- 35 Terianna Nissel 15020 SW Hillboro New
- 36 Tom Patrick 23915 SW. SENECA RAY RD. HILLS
- 37 Greg Mitzel 28620 SW Hideaway Ln. Hillsboro OR 97116
- 38 Melinda Downing 16900 SW Hillboro Hwy Sherwood, OR 97141
- 39 Deyann Carter 15755 SW Hillboro Hwy Hillsboro 97122
- 40 Dorothy Yancy 18540 SW Neugebauer Rd Hillsboro OR 97116
- 41 Nancy Horvath 10065 SW CLARK Hill Rd. Beaverton OR 97007
- 42 Gregory G Rose 19314 SW NEUGEBAUER RD 97213
- 43 James F. Lemay 31771 SW LAURELVIEW RD 97123
- 44 Pamela Ketchik 23935 SW. Scholls Ferry Rd. 97123
- 45 Dan Lind 24110 SW Mountain Creek Rd 97140
- 46 Susan Martin 26075 Mountain Top Pd 97132
- 47 Amber Jager 18540 SW NEUGEBAUER HILLS. 97125
- 48 Marie McCabe 15260 SW Scholls Dr Sherwood 97140
- 49 Linda Bruback 16870 SW Swank Rd Sherwood 97140
- 50 R B 11545 SW 90TH AVE TIGARD 97223
- 51 Kris Wilson 13960 SW Patricia Ave. Hillsboro, Or. 97123
- 52 ENICE Pittman 19245 SW mtn top Sherwood 97140
RD

We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Hwy and additional parking next door as commercial, at 14819 SW Hillsboro Hwy.

The area is in need of this facility for residents of the area to eat and socialize.

	RESIDENT NAME	ADDRESS
	SHARI WINTERS	18253 SW McCORMICK Hill Rd
53	Nic Van Schepan	29795 SW Burkhalter Rd.
54	SEAN DENFELD	15040 SW Holly Hill Rd
55	Paul Reyes	17115 S.W Hillsboro Hwy 18055 SW Mtn. Home Rd.
56	Joleen Reenee	S.W Hillsboro Hwy
57	Eva Thompson	
58	Nic Van Schepan	29795 SW Burkhalter Rd.
59	SEAN DENFELD	15040 SW Holly Hill Rd
60	ARTIF HAWASH	19663 SW McCormick Hill
61	Pat Moore	30101 SW Weaver dr
12	Dee Weiselman	20000 S.W Hillsboro Hwy
13	Craig Bortz	13120 SW Hillsboro Hwy
14	Pat Moore	23225 SW Mountain Creek
15	Pat Moore	31974 SW Laurelview Rd.
16	Pat Moore	20700 COGAR HILL LN.
17	Desiree S. Holt	14965 SW Hillsboro Hwy
18	Jan Miller	27783 S.W Strawberry Hill
19	Art Palmer	22755 SW Hillsboro Hwy Newberg, OR 97132

PLEASE SIGN

We, the residents of the Scholls area support the Midway Pub (now the Bald Peak Inn); Expansion of the building at 14805-14811 SW Hillsboro Hwy and additional parking next door as commercial, at 14819 SW Hillsboro Hwy.

The area is in need of this facility for residents of the area to eat and socialize.

	RESIDENT NAME	ADDRESS
70	Jacelyn Sterci Winters	20120 SW Fringing Hill Rd Hillsboro, OR McCormick Hill Rd 97123
71	A. L.	32907 SW Laverne Rd Hillsboro, OR
72	Linda Rhoads	22200 SW Finnigan Hill Rd

00078

AUG 16 2005 10:01 FR
AUG-16-05 09:07 FROM-

TO 915035370591 P.02/02
T-460 P.002/002 F-893



WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
PLANNING DIVISION
ROOM 350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124
(503) 848-3518

PLAN AMENDMENT APPLICATION

PROCEDURE TYPE III (QUASI-JUDICIAL PUBLIC HEARING)

CPC: 10
COMMUNITY PLAN: Rural/ Natural Resource
EXISTING LAND USE DISTRICT(S): AF-5

PROPERTY DESCRIPTION
ASSESSOR MAP NO(S): 252 08
TAX LOT NO(S): 1900
SITE SIZE: 57 acres
ADDRESS: 14819 SW Hillsboro Highway
LOCATION:

CASEFILE NO. _____

APPLICANT NAME AND ADDRESS: Richard Baker
PO Box 3208
Kirkland, WA 98083

APPLICANT'S REPRESENTATIVE AND ADDRESS: Jessica Cain
Gunn & Cain Attorneys
PO Box 1046
Newberg, OR 97132

OWNER'S NAME AND ADDRESS: Richard Baker
PO Box 3208
Kirkland, WA 98083

APPLICANT PHONE: 503-538-8318

OWNER PHONE: 206-617-9552

ALSO NOTIFY: _____

PROPOSED PLAN AMENDMENT: From AF-5 to R-com

D: PRE-APPLICATION CONFERENCE:
(Attachment copy of summary) 8/8/05

STAFF MEMBER: Aisha Willits

EXISTING USE OF THE SITE: Residential

LIST ASSESSOR MAP AND TAX LOT NUMBERS OF ALL CONTIGUOUS LOTS OR PARCELS UNDER IDENTICAL OWNERSHIP:
252 08 2000, 2001, 2002 are part of a partnership with Al Baker that
also includes this subject parcel.

LIST ALL PREVIOUS DEVELOPMENT REQUESTS, LAND USE ACTIONS AND DATES OR PREVIOUS ACTIONS RELATING TO THE SUBJECT PROPERTY:

WE, THE UNDERSIGNED HEREBY AUTHORIZE THE FILING OF THIS APPLICATION AND CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS COMPLETE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

Richard Baker 8-15-05
 OWNER CONTRACT PURCHASER DATE

OWNER CONTRACT PURCHASER DATE

OWNER CONTRACT PURCHASER DATE

OWNER CONTRACT PURCHASER DATE

NOTES:
+ THIS APPLICATION MUST BE SIGNED BY ALL THE OWNERS OR ALL THE CONTRACT PURCHASERS OF THE SUBJECT PROPERTY, AS DEMAND BY THE COMMUNITY DEVELOPMENT CODE, SECTION 109-149.
+ IF THIS APPLICATION IS SIGNED BY THE CONTRACT PURCHASER(S), THE CONTRACT PURCHASER(S) IS (ARE) CERTIFYING THAT THE CONTRACT PURCHASER HAS BEEN NOTIFIED OF THE APPLICATION.

+ THE APPLICANT OR A REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC HEARINGS.
+ NO APPROVAL WILL BE EFFECTIVE UNTIL THE APPEAL PERIOD HAS EXPIRED.
+ AN APPROVAL OR DENIAL OF THIS REQUEST MAY BE OVERTURNED ON APPEAL.

S:\shared\plg\wshare\plan amendments\master\misc forms\app.doc

00079



WASHINGTON COUNTY OREGON

Agreement for the Payment of Fees Quasi-Judicial Plan Amendment Application

The parties to this Agreement are Richard Baker (Applicant), who hereby certifies that said party is the owner of record, contract purchaser or duly authorized representative of the owner of the property listed below, and Washington County Department of Land Use and Transportation, Planning Division (County).

In 1987, the Board of County Commissioners adopted Resolution and Order No. 87-145, incorporated herein by reference, which established fees for all quasi-judicial plan amendment applications and mandated that the applicant pay the true cost of processing such an application. The Board subsequently revised the original resolution several times since 1987, most recently in 2004 by Resolution and Order No. 04-60, incorporated herein by reference.

Since the Applicant desires to submit an application for a quasi-judicial plan amendment and is required by Resolution and Order No. 87-145 to pay the true cost of processing such an application, this Agreement is needed to ensure that the Applicant makes full payment.

Now, therefore, the Parties agree as follows:

1. This agreement governs the proposed plan amendment for the property described as Assessor Map and Tax Lot Number(s) 292 08 1900 (Property) to change the Property's Comprehensive Plan designation from AF-S to R-Com.
2. The Applicant certifies that if the Applicant is a corporation, the corporation is duly authorized to do business in Oregon and the Applicant's representative is duly authorized by the corporation to sign this Agreement.
3. The Applicant has or has not met with county staff for a pre-application conference.
4. The Applicant hereby deposits \$2,100 with the County as an initial deposit towards the payment of the true cost of processing the plan amendment application.
5. If the true cost of processing the application is more than the initial deposit, the Applicant shall pay the remaining cost within thirty (30) days of receipt of a statement from the County. If an application is withdrawn, the Applicant remains liable for all costs incurred and shall pay within thirty (30) days of receipt of a statement from the County.
6. If the true cost of processing the application is less than the initial deposit, the County hereby agrees to promptly refund without interest any remaining funds that may be due.
7. It is agreed that the County retains the following means to assure payment of any balance due to the County:
 - A. If the application is approved or conditionally approved by the review authority, a condition of approval may be imposed requiring payment in full of such balance before the approval becomes effective.

Department of Land Use & Transportation • Planning Division
155 N. First Avenue, Suite 350-14, Hillsboro, OR 97124-3072
phone: (503) 846-3519 • fax: (503) 846-4412

00081

AUG-16-05

AUG 16 2005 15:02 FR
12:41 FROM

TO 915035370591

P.03/03

- B. If the application is conditionally approved or denied by the review authority, and the Applicant appeals the decision, the County shall require that the balance due for processing the application be paid in full before the appeal is processed.
 - C. If the application is denied by the review authority and the Applicant does not appeal the decision, the County shall require that the balance due for processing the application be paid in full within thirty (30) days of receipt of the statement.
 - D. If payment is not received, the County may file a legal action to collect amounts due and be entitled to attorney fees.
8. The parties further agree that true costs to be charged to the Applicant shall be determined as set forth in Resolution and Order No. 87-145 and any subsequent Resolution and Orders adopted by the Board. Any dispute concerning the amounts due shall be resolved as follows:
- A. The Applicant agrees to first contact the Planning Division's designated staff member in charge of processing the application should a dispute arise.
 - B. If the staff member is unable to resolve the dispute, the Applicant may request a review of the matter by the Planning Division Manager, and the Manager shall notify the Applicant in writing of any determination.
 - C. The Applicant may request a determination by the Department of Land Use and Transportation Director only after making initial contact with the designated staff member and Planning Division Manager. Requests to the Director shall be made in writing and shall set forth the specific basis of objection. The decision of the Director concerning the amount due shall be final and shall not be appealable.
9. The parties agree that adjustments to the amount of refund or payment due may be made only on the basis of a clerical error in recording or computing actual time, material or service costs. The Applicant agrees that the selection of staff members to process an application, the activities of those staff members, and the time and materials necessary to process such application shall be within the sole discretion of the County, in accordance with the direction given in Resolution and Order No. 87-145.
10. In the event legal action is instituted by either party for enforcement of any provision herein or for collection of any amounts owing under this agreement, the prevailing party shall recover, in addition to costs and disbursements, such attorney fees as the court may judge reasonable to be allowed.

Applicant Name:	<u>Richard Baker</u>	Applicant Name:	_____
Title:	_____	Title:	_____
Company:	_____	Company:	_____
Address:	<u>PO Box 3208</u> <u>Kirkland, WA 98083</u>	Address:	_____
Signature:	<u><i>RLB</i></u>	Signature:	_____
Date:	<u>8-15-05</u>	Date:	_____

F:\Shared\Plan\WPS\Plan Amendments\Master\Payment Agreement.doc
Revised July 21, 2004

Department of Land Use & Transportation • Planning Division
155 N. First Avenue, Suite 350-14, Hillsboro, OR 97124-3072
phone: (503) 846-3519 • fax: (503) 846-4412

00982

Gunn & Cain LLP
Attorneys at Law
PO Box 1046
201-B North Meridian
Newberg, OR 97132

FIRST FEDERAL SAVINGS
& LOAN ASSOCIATION OF MCMINNVILLE
MCMINNVILLE, OR 97128
96-7031/3232

2704

AUGUST 15, 2005

Order of WASHINGTON COUNTY
DEPARTMENT OF LAND USE & TRANSPORTATION

\$ 2,100.00

TWO THOUSAND ONE HUNDRED DOLLARS AND NO/100***** Dollars

© 2003 INTUIT INC. # 429 1-800-433-0810

memo

Kathie A Schumacher

Receipt Date *8/15* 20*05* No. *431753*

FROM *Gunn & Cain LLP* \$ *2100.00*

DOLLARS

FOR RENT

FOR *Plan amendment* *AK-G to ROOM*

FROM _____ TO _____

ACCT.	
PAID	<i>2100.00</i>
DUE	

cash

check # *2704*

money order

awillits

00083



WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
PLANNING DIVISION
ROOM 350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124
(503) 846-3519 fax: (503) 846-4412

PLAN AMENDMENT PRE-APPLICATION CONFERENCE SUMMARY

PRE-APPLICANT:

Jessica Cain

PO Box 1046

Newberg OR 97132

PROPERTY OWNER:

Richard Baker

PO Box 3208

Kirkland, WA 98083

PROCEDURE TYPE III

CPO: 10

PROPERTY DESCRIPTION:

ASSESSOR MAP NO(S): 252 08

TAX LOT NO(S): 1900

SITE SIZE: .57 acres

COMMUNITY PLAN: Rural/Natural Resource

ADDRESS: 14819 SW Hillside Hwy

LOCATION:

EXISTING LAND USE DISTRICT(S):

AF-5

PROPOSED PLAN AMENDMENT:

plan amendment to RCOM

DATE OF PRE-APPLICATION CONFERENCE: 8/8/05

PRE-APPLICANT PHONE: 503-538-8318

STAFF MEMBER: Aisha Willits

APPLICATION SUBMITTAL DEADLINE AND OTHER APPLICABLE REQUIREMENTS:

FEBRUARY 15 (generally) for SPRING/SUMMER HEARINGS

AUGUST 15 (generally) for FALL/WINTER HEARINGS

(NOTE: AN APPLICATION WILL NOT BE SCHEDULED FOR A PUBLIC HEARING UNTIL IT IS ACCEPTED AS COMPLETE. A COMPLETE APPLICATION ADDRESSES ALL APPLICABLE PROVISIONS OF THE VARIOUS COMPREHENSIVE PLAN ELEMENTS AND OTHER APPLICABLE REQUIREMENTS, AND HAS ALL NECESSARY FORMS FILLED OUT COMPLETELY AND CORRECTLY, AND INCLUDES THE SPECIFIED FEE DEPOSIT AND THE CONTRACT SIGNED BY THE OWNER AGREEING TO PAYMENT OF ALL COSTS ASSOCIATED WITH APPLICATION PROCESSING.)

APPLICABLE POLICIES AND REGULATIONS

URBAN COMPREHENSIVE FRAMEWORK PLAN OR RURAL/NATURAL RESOURCE PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES

UNDER THESE POLICIES: 1, 2, 6, 14, 18, 19, 20, 22, 23

specifically 1, p. 7.

TRANSPORTATION PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES

UNDER THESE POLICIES: 1, 2, 4, 5, 6, 10, 19

COMMUNITY PLAN CONSIDERATIONS (URBAN AREA ONLY):

DEMONSTRATE CONFORMANCE WITH THE COMMUNITY PLAN OVERVIEW, GENERAL DESIGN ELEMENT NUMBER(S)

SUBAREA DESIGN ELEMENT NUMBER(S), THE DESCRIPTION OF THE SUBAREA, PRESCRIPTIONS FOR AREA OF SPECIAL CONCERN, AND SIGNIFICANT NATURAL AND HISTORIC & CULTURAL RESOURCE(S) DESIGNATION(S) OF ON THE PROPERTY.

COMMUNITY DEVELOPMENT CODE CONSIDERATIONS:

APPLICABLE LAND USE DISTRICT SECTIONS (PURPOSE AND PERMITTED USES): 348, 352

PHYSICAL LIMITATIONS OF SITE (SECTIONS 421, 422):

On-site Public Notice Requirement (Rural Area Only): Section 204-1.4 requires the site to be posted with a public notice sign and an affidavit of posting filed within twenty-one (21) days of application acceptance.

00085

OTHER CONSIDERATIONS:

State Transportation Planning Rule (OAR 660-12-060)

See case file 98-210-PA (on microfiche) for a sample AF-5 to RCOM plan amendment.

REVIEW AUTHORITY:

Planning Commission

Board of County Commissioners

GENERAL INFORMATION

PREVIOUS CASE FILES: _____

OUTSTANDING CONDITIONS AND VIOLATIONS: _____

OTHER INTERESTED AGENCIES AND ORGANIZATIONS: _____

HANDOUTS DISTRIBUTED

- PLAN AMENDMENT APPLICATION FORM
- PLAN AMENDMENT PROCEDURE SUMMARY
- AGREEMENT TO PAYMENT OF FEES FOR APPLICATION PROCESSING
- REQUEST FOR STATEMENT OF SERVICE AVAILABILITY FORMS
- TRAFFIC IMPACT STATEMENT FORM

DOCUMENTS TO BE SUBMITTED WITH APPLICATION

NUMBER OF COPIES

- 18 PRE-APPLICATION SUMMARY
- 18 PLAN AMENDMENT APPLICATION FORM
- 18 WRITTEN EXPLANATION, JUSTIFICATION
- 1 FEE CONTRACT (SIGNED)
- 1 WASHINGTON COUNTY TAX MAP(S) (must be obtained from Assessment & Taxation Department)
- 1 WELL REPORTS(LOGS) FOR SECTIONS

252 08
252 08, 252 09, 252 16, 252 17
www.ward.state.or.us

SERVICE PROVIDER LETTERS

- 18 PUBLIC WATER
- 18 SCHOOL
- 18 FIRE
- 18 SEWER
- 18 SEPTIC SYSTEM ^{or 2}
- SURFACE WATER

- PARK
- TRANSPORTATION: Traffic Impact Statement and /or Traffic Analysis
- 18 SHERIFF
- TRI-MET
- 18 ODOT - CONTACT Marah Danielson
- CITY OF 503.731.8200
- OTHER _____

FEE DEPOSIT OF \$1600, EXCEPT FOR APPLICATIONS FOR PLAN AMENDMENTS FROM AF-10 AND AF-5, WHICH REQUIRE A DEPOSIT \$1000. (THE FINAL COST OF PROCESSING THIS APPLICATION IS ESTIMATED TO BE \$2100. THIS ESTIMATE IS NOT BINDING ON THE COUNTY, AND MAY NOT REFLECT THE FINAL COST OF PROCESSING THE APPLICATION.)

MAILING LIST AND MAP FOR PROPERTIES IN AN ADJACENT COUNTY

THESE NOTES ARE GENERAL IN NATURE AND ARE NOT INTENDED TO COVER ALL OF THE ISSUES THAT MAY SURFACE IN THE REVIEW OF AN APPLICATION. ADDITIONAL INFORMATION MAY BE REQUIRED AND IT IS THE APPLICANT'S RESPONSIBILITY TO PROVIDE THE NECESSARY INFORMATION TO PROCESS AN APPLICATION AS REQUIRED BY OREGON LAW AND WASHINGTON COUNTY ORDINANCES AND REGULATIONS.

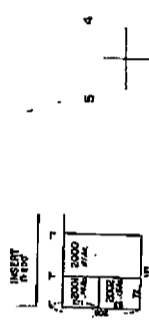
2 S 2 8

SECTION 8 T2S R2W WM
WASHINGTON COUNTY OREGON
SCALE 1"=400'

WASHINGTON COUNTY
DEPARTMENT OF
ASSESSMENT & TAXATION

JAN 06 2006

FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

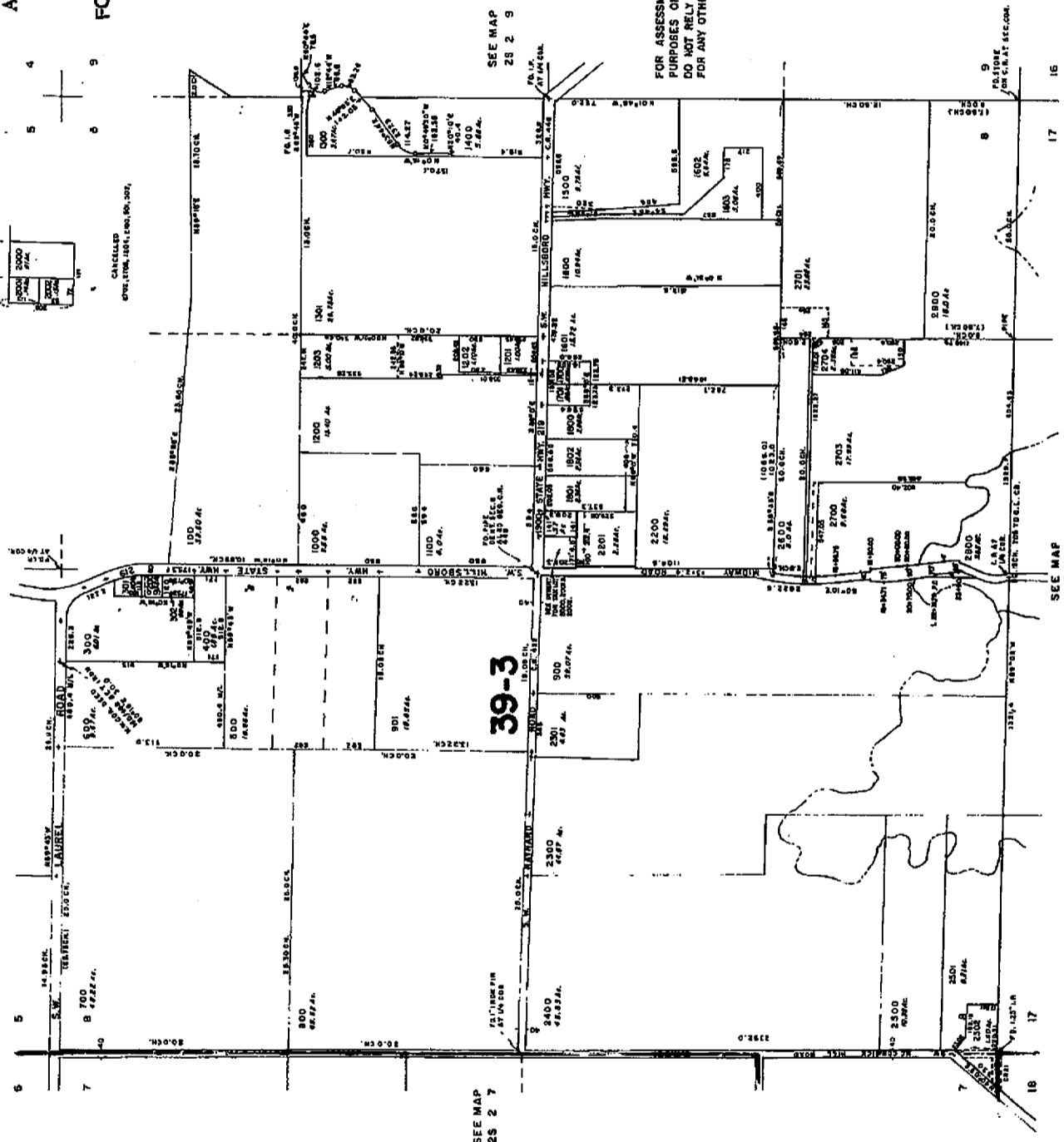


SEE MAP
25 2 5

SEE MAP
25 2 9

SEE MAP
25 2 7

SEE MAP
25 2 17



FOR ASSESSMENT
PURPOSES ONLY
DO NOT RELY ON
FOR ANY OTHER USE

2 S 2 8

00087

**Washington County Department
Of Land Use And Transportation
Land Use Application - Revised**

DATE: April 26, 2006

REQUEST: Comprehensive Plan and Zoning Map Amendment to change Tax Map 2S2 08, Tax Lot 1900 from AF-5 to R-Com.

APPLICANTS: Al Baker and Richard Baker (Gunn & Cain LLP as counsel for Applicants).

OWNER: Richard Baker
P.O. Box 3208
Kirkland, Washington 98083

LEGAL DESCRIPTION: Tax Lot 1900, Map 2S2 08.

SIZE: .57 acres.

ZONING: AF-5

LOCATION: The intersection of S.W. Midway Road and State Highway 219.

Purpose/Type of Application:

1. Comprehensive Plan amendment Agricultural and Forestry District to Rural Commercial.
2. Zone Change from AF-5 to R-Com.

Brief Description of the Proposed Changes to Subject Property:

This Application for comprehensive plan amendment and zone change for Tax Lot 2S2 08-1900, must be considered in connection with the existing use on Tax Lots 2S2 08-2000, 2S2 08-2001, and 2S2 08-2002, as together all four (4) lots are dedicated to the operation of the Midway Pub (herein referred to as the "Midway Pub"). Tax Lots 2S2 08-2000, 2S2 08-2001, and 2S2 08-2002 are already zoned Rural Commercial ("R-Com"). The total acreage for all four tax lots is approximately 1.27 acres.

Tax Lot 2S2 08-2001 is the location for the Midway Pub main building and an existing residential structure. Tax Lot 2S2 08-2002 also contains a cabin structure and a majority of the paved parking for the Midway Pub. Tax Lot 2S2 08-2000 contains the

ingress/egress from State Highway 219 to the Midway Pub and also has some graveled parking spaces. Together, all three tax lots comprise approximately 0.70 acres.

Tax Lot 2S2 08-1900, the Subject Property, currently has an existing residence, two small sheds and a freight container located on the property. There are a few trees on the Subject Property, but a majority of the Tax Lot is dedicated to graveled overflow parking for the Midway Pub. A drain field is located between the existing house and shed in the southwest corner of Lot 1900. The Tax Lot is essentially box-shaped, containing about 25,133 square feet and 0.57 acres. When the development is completed, the freight container will be rotated 45 degrees, so that it runs north-south instead of east-west.

The Subject Property is bordered on the north side by S.W. Hillsboro Highway (State Highway 219), and property zoned Exclusive Farm Use beyond that. The Subject Property is bordered on the west side by Rural Commercial property (Midway Pub), then S.W. Midway Road, and property zoned Exclusive Farm Use beyond that. The Subject Property is bordered on the south side by a sliver of AF-5 zoned property, then Rural Commercial property (Tax Lot 2S2 02-2201; Washington County Rural Fire District No. 2; Midway Fire Station), and property zoned Exclusive Farm Use beyond that. The Subject Property is bordered on the east side by AF-5 zoned property.

As noted above, there is additional Rural Commercial property in the immediate vicinity, besides the other tax lots dedicated to the Midway Pub, in the form of the Midway Fire Station.

The Midway Pub is a long-standing rural commercial use at this location. Washington County's 1985 comprehensive plan, adopted in compliance with Oregon Revised Statute Chapter 197 and LCDC Statewide Planning Goals, recognized that the Midway Pub (already in existence at that time) is an appropriate rural use, granting it an exception to Statewide Planning Goal 3 and designating Tax Lots 2000, 2001 and 2002 (on which the Midway Pub sits) as Rural Commercial.

The proposed zone change for Tax Lot 1900 from AF-5 to R-Com would allow for a paved parking lot on Tax Lot 1900 in support of the Midway Pub. The fact that patrons of the Midway Pub frequently park their vehicles along the right-of-way demonstrates that there is a need to improve safety for patrons and passing vehicles by expanding the Midway Pub's onsite parking capacity. Safety requires that the parking must be located adjacent to the existing Midway Pub and parking facilities on Tax Lots 2000, 2001 and 2002. This location also results in the least impact on existing area resource uses, since it is located away from areas that are now actively farmed and because the adjacent roadways provide a buffer between the parking areas and the agricultural lands. As detailed in the following supporting information, there is ample justification for amending the plan designation to R-Com for the purposes of allowing parking for the existing Midway Pub, and for granting the Exception to Goal 14 required for the plan amendment.

I. Applicable Regulations.

**A. Oregon Statewide Planning Goals
Goal 2 – Land Use Planning**

Goal 3 – Agricultural Lands

Goal 14 – Urbanization

B. Oregon Administrative Rules

OAR 660-015-0000(2)

OAR 660-015-0000(14)

C. Washington County Comprehensive Framework Plan (and Implementing Strategies)

Policy 1 - Planning Process

Policy 2 - Citizen Involvement

Policy 6 - Water Resources

Policy 14 - Plan Designations

Policy 18 - Rural Lands

Policy 19 - Rural Residential Development

Policy 20 - Rural Commercial Development

Policy 22 - Public Facility and Services

Policy 23 - Transportation

D. Washington County Transportation Plan

Policy 1 - Travel Needs Policy

Policy 2 - System Safety Policy

Policy 4 - System Funding Policy

Policy 5 - System Implementation and Plan Management Policy

Policy 6 - Roadway System Policy

Policy 10 - Functional Classification Policy

Policy 19 - Transportation Planning Coordination and Public
Involvement Policy

E. Washington County Community Development Code

1. Article II, Procedures
Section 202-3 (Type III Procedures)
2. Article III, Land Use District
Section 348 (AF-5 District)
3. Article III, Land Use District
Section 352 (R-Com District)

II. Affected Jurisdictions.

Washington County Sheriff
Washington County Fire District No. 2
Washington County School District
Oregon Department of Transportation

III. Findings.

A. GENERAL FINDINGS

1. As noted above, Tax Lot 2S2 08-1900 (the "Subject Property") is immediately bordered on two sides by Rural Commercial property (tax lots 2000, 2001 and 2002 to the west and 2201 to the south), AF-5 property to the east, and a highway and then Exclusive Farm Use property to the north. Tax Lot 1900 is currently zoned AF-5. Tax lots 2000, 2001 and 2002 are currently zoned R-Com. Tax Lots 1900, 2000, 2001 and 2002 are under related ownership. Tax Lot 1900 is owned by Richard Baker, while Tax Lots 2000, 2001 and 2002 are owned by Al Baker. Richard Baker is Al Baker's son.

2. While Tax Lots 2000, 2001, 2002 and 2201 are essentially an island of Rural Commercial property in a veritable sea of exclusive farm use, agricultural and forestry use property, the tax lots are ideally suited for Rural Commercial land use zoning due to their location at the intersection of S.W. Hillsboro Highway (State Highway 219), S.W. Raynard Road, and S.W. Midway Road.

3. Richard Baker and Al Baker, co-owners and proprietors of the Midway Pub (see finding No. 1 above regarding specific ownership of each tax lot) ("Applicants"), seek to remodel the Midway Pub, and will eventually rename the facility the Bald Peak Inn. The purpose of this application is to add paved parking for the Midway Pub on Tax Lot 1900. However, the current AF-5 zoning for Tax Lot 1900, does not allow for paved parking as a permitted use. Community Development Code Section 348-5.8 provides that outdoor parking or storage of any five (5) or more operable vehicles on a single lot or parcel for than for forty-eight (48) hours, except in conjunction with an approved development or with a farm use, is a **prohibited use** in an AF-5 Agriculture and Forest District.

4. The Applicants' counsel, Jessica S. Cain of Gunn & Cain LLP, discussed Applicants' proposal with Aisha Willits from the Planning Department. Applicants were advised to analyze the Washington County Rural/Natural Resource Plan policies applicable for a plan amendment from AF-5 to R-Com and apply them to the proposed use.

5. The Midway Pub (tax lots 2000, 2001 and 2002), was the subject of a land use pre-application meeting in 2004 wherein Applicant initiated the proposal to expand the tavern by re-roofing the tavern and remodeling the tavern with a dutch-barn effect to reflect the local building style. The need to add paved parking to Tax Lot 1900 is an outgrowth from that proposed expansion. The expansion will be commenced once this zone change application process has been completed.

6. The safety of the customers of the Midway Pub is a concern and a basis for this plan amendment. The fact that customers of the Midway Pub park their vehicles along the right-of-way demonstrates that there is a need to improve safety for customers and passing vehicles by expanding the Midway Pub's onsite parking capacity. Safety requires that the parking must be located adjacent to the existing Midway Pub and parking facilities on Tax Lots 2000, 2001 and 2002.

7. Applicants have received conflicting information regarding jurisdiction over the drain fields. Applicants received information from that State of Oregon that the size of the proposed establishment placed the issue of waste disposal and drain fields under the State's jurisdiction. However, Washington County Department of Health and Human Services is claiming jurisdiction over this matter. Counsel is attempting to locate the responsible department or person with the State of Oregon in order to clarify the matter. Applicants' hope to be able to provide a verbal response to the Planning Commission on this matter at the hearing on this Application.

8. In any regard, Applicants will re-configure the parking spaces, if so required, so that no proposed parking covers an existing drain field.

9. This location also results in the least impact on existing area resource uses, since it is located away from areas that are now actively farmed and because the adjacent roadways provide a buffer between the parking areas and the agricultural lands.

10. Under no circumstances will Applicant develop Tax Lots 2000, 2001, 2002 and 1900 in any way that is inconsistent with Washington County ordinances or policies. The maps provided along with this Application are intended only to show proposed uses and designs if/when the zone change and comprehensive plan amendment is approved. Applicant will obtain all required and applicable permits and authorizations once the remodel and development of the tax lots begins to take place.

B. PLAN POLICIES AND STRATEGIES.

Policy 1 – The Planning Process

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

IMPLEMENTING STRATEGIES (portion)

- o. The County will - Require that all plan amendments:*
 - 1. *Be in conformance with LCDC Goals, State Statutes, and Administrative Rules;*
 - 2. *Be in conformance with the policies and strategies of the Rural/Natural Resource Plan Element; and*
 - 3. *Be in conformance with applicable policies, strategies, and systems maps of the Transportation Plan Element.*

COMMENT:

Applicants assume that the Washington County Framework Plan Policies applicable to this request are in conformance with the Oregon Land Conservation and Development Commission ("LCDC") Goals, State Statutes, and Administrative Rules, therefore if the Applicants address the applicable Plan policies the State of Oregon requirements will be concurrently addressed. Applicants will address the applicable Rural/Natural Resource Plan Elements in subsequent sections of this report. Applicants will also address the applicable Transportation Plan Elements in subsequent sections of this report.

The Subject Property is bordered by AF-5 and R-Com property, and beyond that the land is zoned exclusive farm use. Applicants' counsel has verified with Aisha Willits

at the Washington County Planning Department that the Tax Lots that are zoned either AF-5 or R-Com (the Subject Property is currently zoned AF-5 and is seeking a zone change to R-Com) already have exceptions to Statewide Planning Goals 3 and 4. However, Applicants will need to present and address criteria for an exception to Statewide Goal 14 (Urbanization).

Policy 1 – The Planning Process.

IMPLEMENTING STRATEGIES (portion)

p. *The County will - require that plan amendments meet the following criteria:*

4.) *Amendments to Rural Commercial shall be based upon:*

- A. *A mistake (clerical error) in this 1983 Plan; or*
- B. *A demonstration that there is a need for the proposed use(s) to serve the existing Rural/Natural Resource area population; and*
 - i. *Demonstration that an alternative site within Urban Growth Boundaries would be inappropriate and no other site properly designated is available within the area;*
 - ii. *An exception to the applicable LCDC Goals through the LCDC Goal 2 Exception Process (OAR Chapter 660, Division 04);*
 - iii. *Demonstration that the use(s) is (are) compatible with the surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses; and*
 - iv. *Demonstration that adequate rural services are available and that the use(s) will not require extension of any urban services into the area.*
- C. *For all amendments there shall be a requirement that the applicant will record in the deed records a restrictive covenant that the occupant of the property will not object to commonly accepted farm and forest practices which may occur on adjacent lands.*

COMMENT:

Additional parking is needed to adequately support the approved food and beverage establishment use (the Midway Pub) and to improve safety conditions on the S.W. Midway Road and State Highway 219 right-of-way. By designating the existing Midway Pub as R-Com and granting it an exception to Statewide Planning Goal 3, Washington County has already concluded that there is a need for the Midway Pub to serve the existing population of this rural area. The long-standing success of the Midway

Pub operation is also testament to the support that it enjoys from the surrounding population.

Although the Midway Pub has not recently expanded, the existing parking capacity has proved to be inadequate to safely serve the needs of the Pub customers. Overflow conditions are resulting in an unsafe condition in which customers are parking their vehicles along the right-of-way in front and or near the Pub. This has created potential unsafe conditions such as:

- 1) Unsafe conditions for customers coming from and going to their cars, who risk being struck by passing traffic traveling at highway speeds;
- 2) Unsafe conditions for vehicles attempting to exit the Pub's parking area, as vehicles parked along the right-of-way will interfere with their ability to see oncoming vehicles; and
- 3) Unsafe conditions for passing vehicles, which have to avoid pedestrians and improperly parked vehicles.

Additional onsite parking is needed to eliminate these unsafe conditions and to provide adequate parking for the existing R-Com-designated food and beverage establishment.

No alternate sites are available that would satisfy the need for safe parking conditions. Certainly no site within the urban growth boundary (approximately 3 miles away) could satisfy the need for parking at the Midway Pub. The other tax lots that are designated R-Com in the area are already developed with uses in support of the Midway Pub, or are committed to the Washington County Fire District, and are not available for use as a parking area. Other close sites are in intense agricultural use.

The subject site is the optimal site for a parking lot due to its location adjacent to the Pub on the east side. To appropriately support the existing approved Pub use, the expanded parking must be adjacent to the Pub. Creating additional parking offsite (across S.W. Midway Road, S.W. Raynard Road or State Highway 219 or at another nearby location) would not be convenient for Pub customers, and would create unsafe conditions by requiring them to cross or walk along S.W. Midway Road, S.W. Raynard Road or State Highway 219.

The proposed use is compatible with the surrounding agriculture or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses. The existing approved parking area has been in place for at least seven (7) years without creating adverse impacts on nearby existing or potential farm uses. (Forest uses are unlikely to occur on or near this site.) The impacts from the proposed parking area will be similar to those of the existing parking. The parking area will not attract more traffic to the food and beverage establishment; it will simply allow the existing traffic to be better managed. The location of the expanded parking area also provides a substantial buffer between the parking area and existing farming activities.

The proposed use for this property will be generally limited to parking. Parking does not generate any demand for rural or urban services; therefore, the existing rural services are adequate to serve the proposed use and no new urban services will be extended to the site for this use. Washington County Fire District No. 2 supplied service provider letters stating that the service level is adequate to serve the proposed development, provided the driveway meets Washington County fire-driveway standards. The Washington County Sheriff supplied service provider letters stating that the service level is adequate to for emergency calls only.

Applicants maintain that there are a limited number of potential sites for the expansion of the Midway Pub parking lot. The Midway Pub is located approximately three (3) miles from the nearest urban growth boundary, and this precludes Midway Pub from expanding its parking facilities to an area within the urban growth boundary. Safety requires that the paved parking must be located adjacent to the existing Pub and parking facilities. The three (3) tax lots designated R-Com to the west and south of the Subject Property are already improved with dwellings, other buildings and existing parking, and are therefore unavailable for parking lot expansion.

The existing R-Com property in the area received a Statewide Planning Goal 3 exception in 1985 based upon the "physically developed" criteria. The existing AF-5 property in the area received a Statewide Planning Goal 3 exception based upon the "physically developed" criteria.

The Subject Property is within a Washington County acknowledged exception to Statewide Planning Goal 3 and no further Goal 3 exception is needed. The Subject Property is also within a Washington County acknowledged exception to Statewide Planning Goal 4 and no further Goal 4 exception is needed.

However, the Department of Land Conservation and Development Commission has recently determined that any "use" exceeding 3500 square feet in rural district must take a Statewide Planning Goal 14 (Urbanization) exception. Washington County has taken the position with regard to this application that the "use" is the entire Midway Pub, including all buildings, and not just the paved parking lot on Tax Lot 1900, and therefore the Applicants must take a Goal 14 exception.

Applicants agree, upon approval and acceptance of the proposed plan amendment, to record a restrictive covenant that the occupant of the property will not object to commonly accepted farm or forest practices which may occur on adjacent lands.

- I. **An Exception to the applicable LCDC Goals, though LCDC Goal 2 Exception Process (ORS 197.732(1) and OAR Chapter 660, Division 04);**

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COMMENT:

Oregon Revised Statute 197.732(1) provides that a local government may adopt an exception to a [Statewide Planning] goal if:

a. The land subject to the exception is physically developed to the extent that it is no longer available for the uses allowed by the applicable goal (the "physically developed" exception);

b. The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable (the "irrevocably committed" exception); or

c. The following standards are met:

(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 use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. (the "reasons" exception.

Oregon Statewide Planning Goal 2 (Land Use Planning) provides the process for which exceptions can be taken to certain other Statewide Planning Goals. Located at Oregon Administrative Rule (OAR) 660-015-0000(2), Part II, Goal 2 mimics ORS 197.732(1) and provides that a local government may adopt an exception to a goal when: (a) the land is "physically developed"; (b) the land is "irrevocably committed"; or (c) "reasons" justify why the applicable goals should not apply.

The "irrevocably committed" exception.

Washington County has already adopted an exception to Statewide Planning Goal 3 (Agricultural Lands) for properties now zoned AF-5 and R-Com. Recent interpretations by LCDC require an exception to Statewide Planning Goal 14 (Urbanization) for any uses in excess of 3500 square feet. Washington County has initially determined that the "use" in this application is the entire Midway Inn

(encompassing four tax lots), and therefore the addition of the paved parking on Tax Lot 1900 requires a Goal 14 exception.

OAR 660-004-0018 provides the criteria for determining when property has become "irrevocably committed" and is available for an exception to statewide goal planning. Pursuant to OAR 660-004-0018(2)(b), property is 'irrevocably committed' and available for a statewide goal planning exception when it meets the following requirements:

(A) *The rural uses, density and public facilities will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and*

(B) *The rural uses, density, and public facilities will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and*

(C) *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.*

OAR 660-004-0028(2) provides that whether "land is irrevocably committed depends on the relationship between the exception area and the land adjacent to it. The findings for a committed exception therefore must address the following: (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) the other relevant factors set forth in OAR 660-004-0028(6)."

The "reasons" exception.

OAR 660-004-0018(4)(a) provides that "[W]hen a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

OAR 660-004-0018(4)(b) provides that "[W]hen a local government changes the types of intensities of uses or public facilities and services with an area approved as "Reasons" exception, a new "Reasons" exception is required.

This "Reasons" exception justifies the redesignation of the Subject Property to a rural commercial designation for use as parking in support of the existing food and beverage establishment and also justifies an exception from Statewide Planning Goal 14 (Urbanization).

OAR 660-004-022 REASONS NECESSARY TO JUSTIFY AN EXCEPTION UNDER STATEWIDE PLANNING GOAL 2, PART II(C).

An exception under Goal 2, Part II(c) can be taken for a use not allowed by the applicable goal(s). The types of reason that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include, but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based upon one or more of the requirements of Statewide Goals 3 to 19; and either

(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based upon this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can be reasonably obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Statewide Planning Goal 14 is intended to provide for an orderly and efficient transition from rural to urban land use and to ensure efficient use of land and to provide for livable communities. The purpose of the AF-5 District is intended to retain an area's rural character and conserve the natural resources while providing for rural residential uses in areas so designated by the Comprehensive Plan, and to promote agricultural and forestry uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forestry lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area.

However, the Subject Property is not in farm or forestry use. Applicants wish to change the zoning for the Subject Property from AF-5 to R-Com, which would then allow expansion of the Midway Pub and allow for paved parking facilities (a commercial use) servicing the Midway Pub on the Subject Property. This application requests an exception to Statewide Planning Goal 14 (Urbanization), because the addition of the paved parking to the existing Midway Pub "use" will increase the square footage of the "use" in excess of 3,500 square feet.

In this case, the Subject Property already has an exception to Statewide Planning Goal 3 (Agricultural Lands), which was necessary to designate the Subject Property as AF-5. Therefore, a Goal 3 exception is not necessary to change the zoning to R-Com.

However, as Washington County has determined that the "use" for the Subject Property (paved parking for the Midway Pub) is combined with uses of Tax Lots 2000, 2001 and 2002 as the Midway Pub, then an exception to Statewide Planning Goal 14 (Urbanization) is also required. This is so because LCDC has determined that any "use" in excess of 3,500 square feet requires a Statewide Planning Goal 14 (Urbanization) exception.

During the 1985 Comprehensive Plan adoption process, Washington County recognized that a need had been demonstrated for the Midway Pub to serve the surrounding rural area, approved a Goal 3 exception for the entire sub-area, and designated the parcels as either R-Com or AF-5. The Midway Pub continues to serve that need, without any (current) structural expansions. The parking area remains inadequate to accommodate all of the customers' vehicles and there is a current danger condition in which customer vehicles are parking in the right-of-way on S.W. Midway Road, S.W. Raynard Road, and State Highway 219, creating unsafe conditions for those vehicles and their occupants, as well as for passing traffic. Similar unsafe conditions were once occurring at the Helvetia Tavern, and those conditions resulted in the deaths of two people. The Helvetia Tavern remedied this problem with the addition of paved parking on an adjacent parcel (and also had to go through a goal exception process to allow for the paved parking).

The need to eliminate and prevent these potentially unsafe conditions and to create a safe transportation system in this area demonstrates a need under Goal 12, Transportation, to provide for the proposed parking use. As a use serving a rural market, the Midway Pub is dependent on customers arriving by vehicle. Unlike some restaurants in urban areas, the Pub could not rely on pedestrian traffic to support its business, nor would a pedestrian-oriented restaurant adequately serve the surrounding rural market. Therefore, the Midway Pub must be supported by an adequate supply of off-street parking to safely accommodate customers' vehicles.

The requested exception is also justified under Goal 9, Economic Development, which is intended to "provide adequate opportunities through the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens." Vehicles parked in the right-of-way could be cited by the Sheriff for improper parking or by DLUT for violations of conditions of approval for the previous parking areas.

No market analysis is necessary because the need for the food and beverage establishment has already been established through the previous Goal 3 exception process. The Oregon Supreme Court has held that the expansion of an existing, established commercial or industrial enterprise generally relieves the applicant from having to locate other, appropriately-zoned, properties for the expansion. See, *Green v. Hayward*, 275 Or. 693, 552 P.2d 815 (1976).

Just as the rural nature of the restaurant use requires on-site parking, that parking must be located at or very near the proposed exception site. To provide for safe and convenient parking for customers, the parking must be adjacent to or very close to the

restaurant. Washington County Community Development Code requires parking to be within 100 feet of the restaurant. CDC Section 413-2.1. The parking must be on the same side of the road as the restaurant. Requiring customers to cross S.W. Midway Road, S.W. Raynard Road or State Highway 219 to reach the Midway Pub would be unsafe, especially since the Pub's operating hours extend past nightfall. The parcels surrounding the subject parcel that are R-Com are already either committed to other uses supporting the Pub or are developed with other economically viable uses and are not available for development as parking for the Pub. Further, properties located across S.W. Midway Road or State Highway 219 are in agricultural use and would require exceptions to both Statewide Planning Goal 3 and Goal 14. They are also not desirable since locating parking there would create a new access point on either S.W. Midway Road, S.W. Raynard Road or State Highway 219 and would require customers to walk along the right-of-way to reach the Pub. The proposed exception site is ideal for the proposed parking use because it takes advantage of the existing access point for the Pub's current parking area without walking along the right-of-way. In addition, this area has not been in farm use and gravel has been placed on the proposed plan amendment area because the site has already been used as a form of over-flow parking.

These special factors – the need for customer parking that is very close to the Pub and provides safe access for vehicles and pedestrians – demonstrates that the proposed exception site is needed and is the best location for the proposed parking use.

OAR 660-004-0020 GOAL, PART II(C) EXCEPTION REQUIREMENTS.

(2) The four factors in Goal 2, Part II(c) required to be addressed when taking an exception to a Goal are:

(2)(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

COMMENT:

Statewide Planning Goal 14 is intended to provide for an orderly and efficient transition from rural to urban land use,... and to ensure efficient use of land and to provide for livable communities. The purpose of the AF-5 District is intended to retain an area's rural character and conserve the natural resources while providing for rural residential uses in areas so designated by the Comprehensive Plan, and to promote agricultural and forestry uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forestry lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area.

The Subject Property is not in farm or forestry use. Applicants wish to change the zoning for the Subject Property from AF-5 to R-Com, which would then allow expansion

of the Midway Pub and allow for paved parking facilities (a commercial use) servicing the Midway Pub on the Subject Property. This application requests an exception to Statewide Planning Goal 14 (Urbanization), because the addition of the paved parking to the existing Midway Pub "use" will increase the square footage of the "use" in excess of 3,500 square feet.

In this case, the Subject Property already has an exception to Statewide Planning Goal 3 (Agricultural Lands), which was necessary to designate the Subject Property as AF-5. Therefore, a Goal 3 exception is not necessary to change the zoning to R-Com.

As Washington County has determined that the "use" for the Subject Property (paved parking for the Midway Pub) is combined with uses of Tax Lots 2000, 2001 and 2002 as the Midway Pub, then an exception to Statewide Planning Goal 14 (Urbanization) is also required. This is so because LCDC has determined that any "use" in excess of 3,500 square feet requires a Statewide Planning Goal 14 (Urbanization) exception.

During the 1985 Comprehensive Plan adoption process, Washington County recognized that a need had been demonstrated for the Midway Pub to serve the surrounding rural area, approved a Goal 3 exception for the entire sub-area, and designated the parcels as either R-Com or AF-5. The Midway Pub continues to serve that need, without any (current) structural expansions. The parking area remains inadequate to accommodate all of the customers' vehicles and there is an existing danger condition in which vehicles are parking in the right-of-way on S.W. Midway Road, S.W. Raynard Road, and State Highway 219, creating unsafe conditions for those vehicles and their occupants, as well as for passing traffic. Similar unsafe conditions were once occurring at the Helvetia Tavern, and those conditions resulted in the deaths of two people. The Helvetia Tavern remedied this problem with the addition of paved parking on an adjacent parcel (and also had to go through a goal exception process to allow for the paved parking).

The need to eliminate and prevent these potentially unsafe conditions and to create a safe transportation system in this area demonstrates a need under Goal 12, Transportation, to provide for the proposed parking use. As a use serving a rural market, the Midway Pub is dependent on customers arriving by vehicle. Unlike some restaurants in urban areas, the Pub could not rely on pedestrian traffic to support its business, nor would a pedestrian-oriented restaurant adequately serve the surrounding rural market. Therefore, the Midway Pub must be supported by an adequate supply of off-street parking to safely accommodate customers' vehicles.

The specific use at issue here – providing additional parking for the Midway Pub – requires a location on resource land (AF-5) because no non-resource lands are available that can safely satisfy the need for parking. Just as the rural nature of the restaurant use requires on-site parking, that parking must be located at or near the proposed exception site. To provide convenient parking for customers, the parking must be adjacent to or very close to the food and beverage establishment. Washington County Community

Development Code requires parking to be within 100 feet of the restaurant. CDC Section 413-2.1. The parking must be on the same side of the road as the restaurant. Requiring customers to cross S.W. Midway Road, S.W. Raynard Road or State Highway 219 to reach the Midway Pub would be unsafe, especially since the Pub's operating hours extend past nightfall. The parcels surrounding the Subject Parcel that are R-Com are already either committed to other uses supporting the Pub or are developed with other economically viable uses and are not available for development as parking for the Pub. Other properties close to the Pub would require exceptions to Goal 3 and Goal 14. They are also not desirable since locating parking there would create a new access point on either S.W. Midway Road, S.W. Raynard Road or State Highway 219 and would require customers to walk along the right-of-way to reach the Pub. The proposed exception site is ideal for the proposed parking use because it takes advantage of the existing access point for the Pub's current parking area without walking along the right-of-way. In addition, this area has not been in farm use and gravel has been placed on the proposed plan amendment area because the site has already been used as a form of over-flow parking.

These special factors – the need for customer parking that is very close to the Pub and provides safe access for vehicles and pedestrians – demonstrates that the proposed exception site is needed and is the best location for the proposed parking use.

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

(2)(b)(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

COMMENT:

Applicants have identified all of the non-resource (R-Com or AF-5) land in the vicinity of the Midway Pub. Those lands border all around the proposed exception site and are all ready committed to rural commercial uses, either as part of the Midway Pub or as a rural fire station.

(2)(b)(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of use on nonresource lands? If not, why not?**

- (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?
- (iii) Can the proposed use be reasonably accommodated inside and urban growth boundary? If not, why not?

COMMENT:

The response to the previous criterion explains why the need for additional parking cannot be satisfied by the nearby non-resource lands.

It would not be reasonable to increase the density of the parking on the existing parking lot to attempt to satisfy the need for additional parking. The only way to increase the density of the parking would be to construct covered, multi-story parking. At an estimated cost of well over \$10,000 per parking space for covered parking, that option is not economically feasible. Even if it were feasible, the visual impact of such a structure would be incompatible with the rural setting of the Pub and the surrounding uses.

The proposed use could not be reasonably accommodated within the urban growth boundary. The UGB is approximately 3 miles away. Parking located at that distance from the Pub would not be convenient, would not satisfy county development code requirements on the proximity of parking to the Pub, and would not be economically viable.

(2)(b)(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assesses only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

COMMENT:

As discussed herein, there are essentially no appropriate alternative areas for this proposal. A broad review of why there are no appropriate alternatives is included above in the response to criterion 2(b).

(2)(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of used the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

COMMENT:

The Applicants propose to develop the subject site for parking to support the existing adjacent food and beverage establishment. The ESEE advantages and consequences of such development, in comparison to alternate sites, are described below by ESEE category.

ECONOMIC.

1. Typical advantages of using the proposed area for a use not allowed by a goal.

The Midway Pub will receive a significant economic advantage from the provision of an adequate supply of safe parking for customers. With the previous exceptions granted for the Pub, Washington County has recognized that the demonstrated need exists for the Pub to support the surrounding rural population. The fact that during peak periods the approved parking area fills to capacity and customers may begin to park their vehicles within the Midway Road, Raynard Road and Highway 219 right-of-way provides further evidence of the level of that need. However, it can be assumed that some potential customers may decide not to visit the Pub, rather than park their vehicles in this unsafe manner. Subsequently results in a loss of business for the Pub. There may also be a risk of liability for the Pub to its customers or to passing vehicles in the event of an accident involving these vehicles.

The isolated location of the proposed parking area also ensures that nearby properties are protected against any other economic impacts (reductions in property values) resulting from the development of the site for parking. Eliminating the presence of parked cars from the Midway Pub right-of-way may even improve values of adjacent properties.

Because of the special locational needs of the proposed use (proximity to the exiting food and beverage establishment and safety of pedestrian access to and from the site), the only alternate areas that warrant any evaluation are the AF-5 and R-Com designated lands bordering the subject property. Other sites cannot provide safe access because they would require customers to cross the road to reach the Pub. Other sites farther from the Pub are not feasible because the distance makes them unworkable as economically viable parking sites for the Pub.

The alternate site would produce less economic benefit for the Midway Pub since it would be less convenient and attractive to customers due to its increased distance from the restaurant (more than 100'), and requisite pedestrian passage along Midway Road, Raynard Road or State Highway 219.

2. Typical disadvantages of using the proposed area for a use not allowed by a goal.

Developing this AF-5 site for use as a parking lot will permanently remove the potential for agricultural use of that portion of the site. However, none of Tax Lot 1900 has been engaged in any agricultural activity for at least 20 years. The entire portion of Tax Lot 1900 has already been committed to uses to support the Midway Pub.

3. Typical positive consequences resulting from the use at the proposed site.

The proposed parking area would provide a buffer from any direct physical impacts. The economic impact of developing parking along the other tax lots would be significantly more substantial than from the proposed site. The other tax lots are in resource uses, and removing them from resource uses will potentially have direct adverse impacts on the viability of the lots for agricultural uses. Also while the proposed site has not been in agricultural use for many years, the alternate sites are either already committed to rural commercial uses or are committed to agricultural uses.

4. Typical negative consequences resulting from the use at the proposed site.

Again, developing the site for use as a parking lot will permanently remove the potential for agriculture.

Due to its isolation from surrounding farm uses and the long-standing non-use of the proposed site for agricultural purposes, the long-term adverse economic impacts of developing the site for parking are either non-existent or insignificant. The long-term economic benefits to the approved restaurant are substantial, and the potential for economic benefits to adjacent properties also exists.

ENVIRONMENTAL.

1. Typical advantages of using the proposed area for a use not allowed by a goal.

The surrounding areas contain commercial, residential and agricultural uses. The site does not contain any significant or unique wildlife habitat areas or sensitive resources. The environmental conditions on the project site are not such that the placement of the new parking lot would not be limited by nor preferable to any particular placement within the project area. Furthermore, long-term effects on the surrounding areas, such as water quality, heat islands, etc. by the placement of the parking lot would be similar within any portion of the project site, including the abutting tax lots.

2. Typical disadvantages of using the proposed area for a use not allowed by a goal.

There is potential for small fluid leaks from vehicles parking in the parking area, as in any parking area; however, with the gravel fill acting as a filter, and the depth of the water table in the general area, no discernable water quality impact on the ground water table or on the surface water in the drainage will occur.

3. Typical positive consequences resulting from the use at the proposed site.

Redesignating the subject property from AF-5 to R-Com in order to provide expanded parking for groundwater supplies and will pose little, if any, hazard to ground and surface water quality. Such risks, if they exist, will be limited to leakage from the vehicles' mechanical features. Moreover, development of the site as proposed will not result in the depletion of any significant natural resources (e.g., wildlife habitat, wetlands, etc.) or impart increased runoff levels to nearby drainageways.

4. Typical negative consequences resulting from the use at the proposed site.

The potential environmental impacts resulting from development of the site for parking are limited to those resulting from runoff or vehicle discharges; however, the associated risks are insignificant.

No adverse long-term environmental impacts will occur as a result of the development of the proposed or alternate parking sites.

SOCIAL.

1. Typical advantages of using the proposed area for a use not allowed by a goal.

The subject site is optimal for the desired parking lot, due to its proximity to the Midway Pub and its existing parking lot. To appropriately support the existing commercial activity of the site, the expanded parking must be adjacent to the Pub. Creating additional parking off-site (across Midway Road, Raynard Road or St. Hwy 219i or another site) would not be convenient for Pub customers and pose a hazard for

those needing to cross the road(s). In addition, by increasing the amount of on-site parking at the site, the potential for automobile accident injuries or fatalities, should decline uniformly.

Developing some other potential site for the parking would create more long-term social disadvantages that would be the case for the proposed site. Not only would such action necessitate the demolition of a viable dwelling unit, outbuilding or resource lands, it would also prove inconvenient and dangerous for customers, who would then be required to walk along the shoulder of the roads to access the Pub.

2. Typical disadvantages of using the proposed area for a use not allowed by a goal.

There are no notable social disadvantages to developing the site for parking, since only a small increase in Pub patronage is likely to occur with the improvement of the parking area as proposed. Notwithstanding the above, the use will not alter the existing "rural" character of the area if this request is approved. The only change and approval would conceivably invoke is the ability of all of the Pub's customers to park on site, instead of on the road.

3. Typical positive consequences resulting from the use at the proposed site.

Pub customers will be able to take advantage of the safe parking conditions to visit the existing restaurant that supports the surrounding rural population. Safety will be improved by removing on-street parking and by retaining a single access point.

4. Typical negative consequences resulting from the use at the proposed site.

No adverse social consequences will occur as a result of developing this site for parking. Any alternate site, however, would have adverse safety consequences since they would require a second access point onto Midway Road, Raynard Road or Highway 219, which could affect traffic safety. Also, due to the extended walking distance between the alternate sites and the Pub, customers may still choose to park within the right-of-way, thereby defeating the intent of the new parking area.

Development of the proposed parking site will produce positive social consequences for the surrounding rural population. Development of a parking area on an alternate site would have adverse social impacts since it would be less safe and convenient for Pub customers.

ENERGY.

1. Typical advantages of using the proposed area for a use not allowed by a goal.
2. Typical disadvantages of using the proposed area for a use not allowed by a goal.
3. Typical positive consequences resulting from the use at the proposed site.
4. Typical negative consequences resulting from the use at the proposed site.

Operation of the proposed parking lot will not have any energy advantages or consequences, as no services or lighting will be provided for the expanded parking area. The potential exists for a slight increase in the number of vehicles traveling to and from the site during peak periods, as individuals visit the Pub who might not otherwise if only off-site parking were available.

Operation of parking at one of the alternate sites would not involve any energy uses or increase in vehicle miles traveled.

Development of the proposed or one of the alternate sites as auxiliary parking for an existing restaurant will impart no long-term energy consequences.

(2)(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

III. Demonstration that the use(s) is (are) compatible with the surrounding agricultural or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses; and

COMMENT:

The proposed use is compatible with the surrounding agriculture or forestry uses and will not limit or adversely affect the existing or potential commercial farm or forest uses. The existing approved parking area has been in place for at least seven (7) years without creating adverse impacts on nearby existing or potential farm uses. (Forest uses are unlikely to occur on or near this site.) The impacts from the proposed parking area will be similar to those of the existing parking. The parking area will not attract more traffic to the food and beverage establishment; it will simply allow the existing traffic to be better managed. The location of the expanded parking area also provides a substantial buffer between the parking area and existing farming activities.

The proposed use for this property will be generally limited to parking. Parking does not generate any demand for rural or urban services; therefore, the existing rural services are adequate to serve the proposed use and no new urban services will be extended to the site for this use. Washington County Fire District No. 2 and the Washington County Sheriff supplied service provider letters stating that the service level is adequate to serve the proposed development.

The Midway Pub is a long-standing rural commercial use at this location. Washington County's 1985 comprehensive plan, adopted in compliance with Oregon

Revised Statute Chapter 197 and LCDC Statewide Planning Goals, recognized that the Midway Pub (already in existence at that time) is an appropriate rural use, granting it an exception to Statewide Planning Goal 3 and designating Tax Lots 2000, 2001 and 2002 (on which the Midway Pub sits) as Rural Commercial.

IV. Demonstration that adequate rural services are available and that the use(s) will not require extension of any urban services into the area.

COMMENT:

The proposed use for this property will be generally limited to parking. There is an existing house located on this property that is occupied by Al Baker, and will likely remain occupied by Mr. Baker as his residence. The existing house will continue to use the services that are already being provided to it. The relationship between Al Baker and the Applicant Richard Baker is noted in General Finding No. 1 on page 4, but they are father-son, and are collaborating on this proposal.

Parking does not generate any demand for rural or urban services; therefore, the existing rural services are adequate to serve the proposed use and no new urban services will be extended to the site for this use. Washington County Fire District No. 2 and the Washington County Sheriff supplied service provider letters stating that the service level is adequate to serve the proposed development.

As required, Applicants will record a restrictive covenant with the Washington County real property records that will run with the land and that will provide that the occupant of the Subject Property will not object to commonly accepted farm and/or forestry practices on adjacent properties.

Policy 2 – Citizen Involvement

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

COMMENT:

Washington County provides extensive opportunities for involvement and effective communication between citizens and county government regarding this and other proposed quasi-judicial plan amendments. This application will be the subject of public hearings before the county's Planning Commission and Board of Commissioners, which citizens may attend and at which they may participate. Citizens will be notified of the proposed plan amendment and of their opportunity to participate in a public hearing through a posting at the property and through publication of the reviewing bodies' agenda. Property owners within 1000 feet of the property will receive mailed notice of the hearings.

Pursuant to Development Code Section 202-3, this application is a Type III Application. The Washington County Development Code does not require the Applicants to conduct a neighborhood meeting process for a Type III Application. However, Section 204-4 of the Code sets forth the notice proceedings and posting requirements for Planning staff and the Applicants. The Applicants will comply with all applicable standards contained in Section 204-4, and other relevant County procedures for citizen involvement. Based upon Applicants' willingness to adhere to the notification and posting procedures, and the County's procedures related to citizen involvement, this proposal and application complies with this criteria.

Policy 6 – Water Resources.

It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.

IMPLEMENTING STRATEGIES (portion)

a. The County will strive to ensure adequate water supply for all users by:
(portion)

5. Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within a one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.

Well logs are not required for quasi-judicial plan amendments when the designation change will not result in an increase in density (i.e., EFU to EFC plan amendments).

COMMENT:

The requested Plan Amendment will not result in new development on this subject site, but it may require an upgrade to the existing water lines that serve the subject site. The proposed use for the Tax Lot will only be as a paved parking lot and there will be no buildings or attachments of the Midway Pub encroaching on the Tax Lot. The Tax Lot is not within a Washington County water district.

Redesignating the subject site from AF-5 to R-Com to provide expanded parking for the Midway Pub will have no impact on ground water quality or quantity. The parking area will place no demands on ground water supplies. The risk to ground water and surface water quality from the proposed use is insignificant, limited only to leaks from vehicles using the parking area.

Well log reports were obtained for the section in which the site is located and for adjacent sections within one-half mile. The summary of those well log reports presents data on average well depth, average static level and average yield that demonstrate that the ground water quantity in the area has remained plentiful.

Please see the attached Well Logs and Well Log Summary for Sections 2S2 08, 2S2 09, 2S2 16 and 2S2 17 for a summary of the average well depth and yield (gallons per minute) for the surrounding areas.

b. **Ensure adequate quality of surface and groundwater by:**
(portion)

4. **Ensuring that the establishment of subsurface sewage disposal systems (e.g. septic tanks) will not adversely affect ground water quality;**

COMMENT:

The requested Plan Amendment will not result in new development on the subject site, but it may require an upgrade to the existing septic system that serves the subject site. The proposed use for the Tax Lot will only be as a paved parking lot and there will be no buildings or attachments of the Midway Pub encroaching on the Tax Lot. In reality, the existing drain field system has occupied the site for many years, and an upgrade to the existing system will improve ground water quality in the area.

Redesignating the subject site from AF-5 to R-Com to provide expanded parking for the Midway Pub will have no impact on ground water quality or quantity. The parking area will place no demands on ground water supplies. The risk to ground water and surface water quality from the proposed use is insignificant, limited only to leaks from vehicles using the parking area.

d. **Limit the alteration of natural vegetation in riparian zones and in the locations identified as significant water areas and wetlands.**

COMMENT:

According to the Pre-Application Conference Notes, there are no Drainage Hazard Areas located near the subject site. There is no stream course or Drainage Hazard Area directly abutting the subject site; the frontage of the site consists of asphalt paving, with a storm drainage ditch east of the subject site.

Given that the existing site frontage has been paved for many years, any natural vegetation that did exist along the subject site has long since been removed. Based on existing site conditions, the absence of any proposed building expansion, and the location of the Drainage Hazard, there will be minimal impact on the surrounding vegetation.

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Policy 14 – Plan Designations.

It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the county's Urban Growth Boundaries and to provide land use regulations to implement the designations.

APPLICABLE IMPLEMENTING STRATEGIES.

c. **Designate Rural Lands, for which a LCDC Goal 2 Exception is provided to LCDC Goals 3 (Agriculture) and 4 (Forestry) in the following manner:**

1) **All lands which were zoned AF-5 by the 1973 Comprehensive Plan will be designated AF-5 or AF-10 based upon existing use and the characteristics of the area, unless the criteria for RR-5 can be met.**

7) **All lands which were lawfully created, existing commercial uses shall be designated Rural Commercial (R-Com).**

COMMENT:

Goal 3: Agricultural Lands. The Subject Property is within a Washington County acknowledged exception to Statewide Planning Goal 3.

Goal 4: Forestry Lands. The Subject Property is within a Washington County acknowledged exception to Statewide Planning Goal 4.

The Midway Pub is a long-standing rural commercial use at this location. Washington County's 1985 comprehensive plan, adopted in compliance with Oregon Revised Statute Chapter 197 and LCDC Statewide Planning Goals, recognized that the Midway Pub (already in existence at that time) is an appropriate rural use, granting it an exception to Statewide Planning Goal 3 and designating Tax Lots 2000, 2001 and 2002 (on which the Midway Pub sits) as Rural Commercial.

The subject property was identified as part of 'sub-area 126' on Tax Map No. 2S2 08. Prior to the 1985 change, sub-area 126 was designated as natural resource and zoned B-2 and GFU-38 (even though the Midway Pub was already in existence and in its current place). Sub-area 126 was identified as ten (10) parcels located at the intersection of Raynard and Midway Roads, with an average parcel size of 1.05 acres (the smallest parcel was 1.0 acres and the largest parcel was 2.88 acres). Washington County noted that three of the parcels (Tax Lots 2000, 2001 and 2002) were irrevocably committed to commercial uses as a tavern (the Midway Pub). One parcel was committed to a rural fire station. Bordering this activity is land that was devoted to agricultural uses with some scattered rural residences. Applicant assumes that Tax Lot 1900, even though adjacent to Tax Lots 2000, 2001 and 2002, was designated as AF-5 simply because there was no Pub-related activity located on the tax lot in 1985.

NOTE: Applicants assume that the above-mentioned evidence presented for Policy 8 also pertains to, and complies with, the applicable standards of Statewide Planning Goal 7.

Policy 18 – Rural Lands.

It is the policy of Washington County to recognize existing development and provide lands which allow rural development in areas which are developed and/or committed to development of a rural character.

APPLICABLE IMPLEMENTING STRATEGIES.

c. Consider the identification of additional lands for the “Rural Lands” plan map designations through the plan amendment procedures in Policy 1.

d. Ensure that the proposed development will not adversely affect surrounding agricultural and/or forestry activities by requiring the applicant for residential, commercial or industrial uses on land designated for rural development to record a waiver of the right to remonstrate against accepted farm and forest practices on nearby lands.

COMMENT:

Policy 18, Rural Lands, recognizes both AF-5 and R-Com zoned lands as “Rural Lands” and provides that Washington County has taken an exception to Statewide Planning Goals 3 and 4 for these lands. Because both AF-5 and R-Com are identified as rural lands, the zone change and comprehensive plan amendment for the Subject Property from AF-5 to R-Com will not change the rural nature of the property.

The Midway Pub is a long-standing rural commercial use at this location. Washington County’s 1985 comprehensive plan, adopted in compliance with Oregon Revised Statute Chapter 197 and LCDC Statewide Planning Goals, recognized that the Midway Pub (already in existence at that time) is an appropriate rural use, granting it an exception to Statewide Planning Goal 3 and designating Tax Lots 2000, 2001 and 2002 (on which the Midway Pub sits) as Rural Commercial.

The subject property was identified as part of ‘sub-area 126’ on Tax Map No. 2S2 08. Prior to the 1985 change, sub-area 126 was designated as natural resource and zoned B-2 and GFU-38 (even though the Midway Pub was already in existence and in its current place). Sub-area 126 was identified as ten (10) parcels located at the intersection of Raynard and Midway Roads, with an average parcel size of 1.05 acres (the smallest parcel was 1.0 acres and the largest parcel was 2.88 acres). Washington County noted that three of the parcels (Tax Lots 2000, 2001 and 2002) were irrevocably committed to commercial uses as a tavern (the Midway Pub). One parcel was committed to a rural fire station. Bordering this activity is land that was devoted to agricultural uses with some scattered rural residences. Applicant assumes that Tax Lot 1900, even though adjacent to

Tax Lots 2000, 2001 and 2002, was designated as AF-5 simply because there was no Pub-related activity located on the tax lot in 1985.

Because the Midway Pub was already in existence in 1985, Washington County determined that the Tax Lots were irrevocably committed to commercial uses as a tavern. The Subject Property is immediately bordered by R-Com land and AF-5 land. Beyond the R-Com and AF-5 property, the Subject Property is surrounded by EFU zoned property. If this Plan Amendment is approved, the owners will record a waiver of the right to remonstrate against accepted farm and forest practices on nearby lands.

However, the Land Conservation and Development Commission has recently determined that "uses" located in rural zones that are in excess of 3,500 square feet need a Goal 14 (Urbanization) exception. As discussed above, Applicant has made a "reasons" explanation in support of a Goal 14 exception for the subject property.

Policy 19 – Rural Residential Development.

It is the policy of Washington County to allow rural housing in rural areas.

APPLICABLE IMPLEMENTING STRATEGIES.

a. **Adopt and implement three separate residential plan designations that will apply to lands, which are developed, or are committed to development, in a rural character.**

b. **Through the Community Development Code establish residential land use districts regulations which:**

1. **Contain a minimum lot size appropriate to the rural characteristics of the area;**
2. **Permit as primary uses, residential dwellings and accessory structures, and forest activities;**
3. **Contain lot of record provisions.**

COMMENT:

The proposed use for the Subject Property, along with the current uses for Tax Lots 2000, 2001 and 2002, are not housing, but are instead rural commercial. Therefore, Policy 19, which relates to rural housing in rural areas is not applicable to this application.

Policy 20 – Rural Commercial Development.

It is the policy of Washington County to provide rural commercial lands for support of rural residential uses, agricultural uses and forest uses.

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APPLICABLE IMPLEMENTING STRATEGIES.

a. Allow commercial uses which support the needs of rural residents and agricultural and forest uses.

c. Recognize existing, lawfully created commercial uses and allow reasonable expansion where urban services are not required, where there is conformance with the plan and where conflicts with surrounding uses can be minimized.

COMMENT:

Tax Lots 2000, 2001 and 2002, adjacent to the Subject Property, have been in commercial uses since 1937, when the site was a tavern, store and gas station. The development and expansion of the Midway Pub complies with and furthers Goal 20. The Midway Pub provides food, beverage and entertainment to the rural population located in this section of Washington County.

The Midway Pub itself, including previous variations of the tavern, has been in lawful existence on this property since 1937. The Midway Pub (tax lots 2000, 2001 and 2002), was the subject of a land use pre-application meeting in 2004 wherein Applicant initiated the proposal to expand the tavern by re-roofing the tavern and remodeling the tavern with a dutch-barn effect to reflect the local building style. The need to add paved parking to Tax Lot 1900 is an outgrowth from that proposed expansion. The expansion will be commenced once this zone change application process has been completed. The expansion is necessary to service the needs of the rural community that the Midway Pub supports. The proposed zone change for Tax Lot 1900 from AF-5 to R-Com would allow for a paved parking lot on Tax Lot 1900 in support of the Midway Pub. Safety requires that the parking must be located adjacent to the existing Midway Pub and parking facilities on Tax Lots 2000, 2001 and 2002. This location also results in the least impact on existing area resource uses, since it is located away from areas that are now actively farmed and because the adjacent roadways provide a buffer between the parking areas and the agricultural lands.

The Midway Pub is an existing, lawfully created commercial use. Washington County has already identified the food and beverage establishment as a commercial use that supports the needs of rural residents, as demonstrated by the R-Com designation on Tax Lots 2000, 2001 and 2002. This application proposes an expansion of that use only as to the supply of parking. It is reasonable to permit that expansion in order to eliminate the safety hazards that would result from over-flow and on-street parking. The expanded areas will not require any additional services. The only improvement will be a parking lot. Compliance with all of the applicable plan policies is addressed by this documents,

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Policy 22 – Public Facilities and Services.

It is the policy of Washington County to provide Public Facilities and Services in the Rural/Natural Resources Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety.

APPLICABLE IMPLEMENTING STRATEGIES.

- a. Review the adequacy of the following public services and facilities in conjunction with new development.**
 - 1. Schools.**
 - 2. Fire and Police Protection**

COMMENT:

This application is consistent with this Policy because the proposed parking area expansion does not create any needs for additional services and does not interfere with the delivery of any existing services. The Applicants have included Service Availability responses from all affected agencies, and most have responded that existing services are adequate to service the subject site.

The Midway Pub has its own well and septic system; so it does not require those urban services. The uses will be commercial, and not residential, so the property will not require use of the school district.

The Hillsboro School District, through its Superintendent, provided a response that does not state whether or not service level is adequate to serve the proposed project. The response does provide a table showing that enrollment at each the affected schools (Groner, Thomas and Hilhi) are below capacity. However, as the proposed project is the expansion of an existing rural commercial use, there will be no impact on any of the schools.

Washington County Fire District responded that service level is adequate to serve the proposed project, providing that the driveway meets Washington County fire-driveway standards.

The Subject Property is not located in a water district. However, the Subject Property does have an existing well and septic system already in place and capable of supporting the expanded business.

The Washington County Sheriff responded that service level is adequate for emergency calls only.

This policy notes that “in the rural areas, greater reliance is placed on providing on-site facilities to satisfy needs for water, sewage disposal and drainage management.” The application meets these policy requirements.

Policy 23 – Transportation.

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an Element of the Comprehensive Plan.

APPLICABLE IMPLEMENTING STRATEGIES.

a. Amendments to the Rural/Natural Resource Plan shall be consistent with the applicable policies and strategies of the Transportation Plan.

COMMENT:

This application is consistent with the Transportation Plan because it will not generate sufficient additional trips to impact the capacity or level of service of roads in the vicinity, and it eliminates safety hazards to Washington County's road system.

C. WASHINGTON COUNTY TRANSPORTATION PLAN

Policy 1 – Travel Needs Policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to provide a multi-modal transportation system that accommodated the diverse travel needs of Washington County residents and businesses.

COMMENT:

The Subject Property sits exactly at the intersection of State Highway 219, S.W. Raynard Road and S.W. Midway Road. Located in the rural part of Washington County, the Subject Property is primarily accessed by motor vehicle traffic, as opposed to bicycle traffic or pedestrian traffic. The presence of three Arterial streets intersecting at the Subject Property makes the Subject Property easily accessible for many of the rural residents.

The Oregon Department of Transportation has identified that service is adequate to serve the proposed project, but has requested that the Applicants apply for an approach permit to Highway 219 and stated that Applicants must obtain an ODOT miscellaneous permit for any work that must be done in the state highway right-of-way, and an ODOT drainage permit if Applicants are going to connect with state highway drainage facilities.

Applicants will comply with ODOT's request and will obtain any and all required permits for work done in relation to the state highway.

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Policy 2 – System Safety Policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to provide a transportation system that is safe.

COMMENT:

Applicants assume that State Highway 219, S.W. Raynard Road and S.W. Midway Road were designed, engineered and constructed in a manner to promote maximum safety for the traffic, and that Washington County duly and regularly maintains the integrity of the road systems.

As noted above, the Oregon Department of Transportation has identified that service is adequate to serve the proposed project, but has requested that the Applicants apply for an approach permit to Highway 219 and stated that Applicants must obtain an ODOT miscellaneous permit for any work that must be done in the state highway right-of-way, and an ODOT drainage permit if Applicants are going to connect with state highway drainage facilities.

Applicants will comply with ODOT's request and will obtain any and all required permits for work done in relation to the state highway and to maintain the safety of the surrounding transportation system. By complying with ODOT's requests, Applicants will be furthering this policy.

Policy 4 – System Funding Policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to aggressively seek adequate and reliable funding for transportation facilities and services, and to ensure that funding is equitably raised and allocated.

COMMENT:

The Midway Pub is a legally established commercial enterprise that pays its local, state and federal tax assessments. Applicants have done all that they can do to pay for the benefits of the transportation system that support its commercial activities. As a taxpaying entity, Applicants are furthering this policy.

Policy 5 – System Implementation and Plan Management Policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to efficiently implement the transportation plan and to efficiently manage the transportation system.

COMMENT:

As previously noted, the Oregon Department of Transportation has identified that service is adequate to serve the proposed project, but has requested that the Applicants apply for an approach permit to Highway 219 and stated that Applicants must obtain an ODOT miscellaneous permit for any work that must be done in the state highway right-of-way, and an ODOT drainage permit if Applicants are going to connect with state highway drainage facilities.

Applicants will comply with ODOT's request and will obtain any and all required permits for work done in relation to the state highway and to maintain the safety of the surrounding transportation system. By complying with ODOT's requests, Applicants will be furthering this policy.

Policy 6 – Roadway System Policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to ensure that the roadway system is designed in a manner that accommodates the diverse travel needs of all users of the transportation system.

COMMENT:

As previously noted, the Oregon Department of Transportation has identified that service is adequate to serve the proposed project, but has requested that the Applicants apply for an approach permit to Highway 219 and stated that Applicants must obtain an ODOT miscellaneous permit for any work that must be done in the state highway right-of-way, and an ODOT drainage permit if Applicants is going to connect with state highway drainage facilities.

Applicants will comply with ODOT's request and will obtain any and all required permits for work done in relation to the state highway and to maintain the safety of the surrounding transportation system. By complying with ODOT's requests, Applicants will be furthering this policy.

Further, the intersection of State Highway 219, S.W. Raynard Road and S.W. Midway Road is **not identified** as a deficiency area in Table 5: Washington County Motor Vehicle Performance Measures.

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Policy 10 – Functional Classification.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to ensure the roadway system is designed and operates efficiently through the use of a roadway functional classification system.

COMMENT:

Washington County has identified State Highway 219, S.W. Raynard Road and S.W. Midway Road as Arterial Streets, and they are intended to serve as primary connections to Principal Arterials and to connect with other Arterials, Collector and Local streets.

Policy 19 – Transportation planning coordination and public involvement policy.

APPLICABLE IMPLEMENTING STRATEGIES.

It is the policy of Washington County to coordinate its transportation planning with local, regional, state and federal agencies and to provide opportunities for citizens to participate in planning processes.

COMMENT:

The proposed plan amendment is subject to Washington County's plan policy 2, Citizen Involvement, which assures opportunities for citizen participation in the process of reviewing the request. Coordination with other agencies is assured by the application of the Transportation Planning Rule, OAR 660, Division 12, to this plan amendment application.

D. WASHINGTON COUNTY COMMUNITY DEVELOPMENT CODE

**1. Article II, Procedures
Section 202-3 Type III**

Section 202-3.1

Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgment when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive plan.

COMMENT:

This application has been submitted as a Type III development request. The information included with the application is intended to be in compliance with standards and procedures outlined in the Code.

Pursuant to Development Code Section 202-3, this application is a Type III Application. The Washington County Development Code does not require the Applicants to conduct a neighborhood meeting process for a Type III Application. However, Section 204-4 of the Code sets forth the notice proceedings and posting requirements for Planning staff and the Applicant. The Applicants will comply with all applicable standards contained in Section 204-4, and other relevant County procedures for citizen involvement. Based upon Applicants' willingness to adhere to the notification and posting procedures, and the County's procedures related to citizen involvement, this proposal and application complies with this criteria.

2. **Article III, Land Use District**
Section 348 (AF-5 District)
Section 348-1 Intent and Purpose
Section 348-5 Prohibited Uses

COMMENT:

According to Section 348-1, the intent and purpose of the AF-5 District is to retain an area's natural character and conserve the natural resources. The intent is also to provide for rural residential uses. The intent and purpose of the surrounding AF-5 zoned property will not be compromised by this Plan Amendment and Zone Change.

The Subject Parcel is already bordered on two sides by R-Com property. Further, Tax Lots 2000, 2001 and 2002, adjacent to the Subject Property, have been in commercial uses since 1937, when the site was a tavern, store and gas station.

The Midway Pub itself, including previous variations of the tavern, has been in lawful existence on this property since 1937. The Midway Pub (tax lots 2000, 2001 and 2002), was the subject of a land use pre-application meeting in 2004 wherein Applicant initiated the proposal to expand the tavern by re-roofing the tavern and remodeling the tavern with a dutch-barn effect to reflect the local building style. The need to add paved parking to Tax Lot 1900 is an outgrowth from that proposed expansion. The expansion will be commenced once this zone change application process has been completed.

Section 348-5.8 provides that outdoor parking, which is Applicants' intended use for this parcel, is a specifically prohibited use on AF-5 zoned property. Therefore, the zone change is necessary.

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**3. Article III, Land Use District
Section 362 (R-Com District)
Section 362-1 Intent and Purpose
Section 352-3 Permitted Uses**

COMMENT:

According to Section 348-1, the intent and purpose of the R-Com District is to implement rural commercial policies of the Comprehensive Plan and to meet convenience goods and service needs of rural residents while protecting the historic character of rural centers and the agricultural or forestry character of the area.

The Subject Parcel is already bordered on two sides by R-Com property. Further, Tax Lots 2000, 2001 and 2002, adjacent to the Subject Property, have been in commercial uses since 1937, when the site was a tavern, store and gas station.

The Midway Pub itself, including previous variations of the tavern, has been in lawful existence on this property since 1937. The Midway Pub (tax lots 2000, 2001 and 2002), was the subject of a land use pre-application meeting in 2004 wherein Applicant initiated the proposal to expand the tavern by re-roofing the tavern and remodeling the tavern with a dutch-barn effect to reflect the local building style. The need to add paved parking to Tax Lot 1900 is an outgrowth from that proposed expansion. The expansion will be commenced once this zone change application process has been completed.

Section 352-3.1(G) provides that eating and drinking establishments are permitted uses in an R-Com district.

Conclusion.

Applicants request that this application be approved because based upon the information contained herein and the attached documents, including the responses to the Requests for Statement of Service Availability, the documents and evidence support the following findings:

1. That the proposed use will support the needs of the rural residents and agricultural and forest uses;
2. That the proposed use meets the criteria for all Statewide Planning Goal 14 (Urbanization) exception through the Goal 2 "Reasons" exception process;
3. The proposed use, a paved parking lot, will not require any urban services and has been show to be compatible with the surrounding agricultural uses;

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4. There is a safety need for the proposed use due to the existing condition of customers of the Pub parking along the right-of-way, which is a dangerous condition that has led to fatalities at other locations with similar conditions; and
5. That the proposed use is limited to basic convenience and service needs of the rural and natural resource community and will not cause adverse impacts on surrounding farm and forest activities.



WASHINGTON COUNTY
 Dept. of Land Use & Transp.
 Land Development Services
 155 N. First Ave., Suite 350-13
 Hillsboro, OR 97124
 Ph. (503) 846-8761 Fax (503) 846-2908
 http://www.co.washington.or.us

**REQUEST FOR STATEMENT
 OF SERVICE AVAILABILITY**

- WATER DISTRICT: Tualatin Valley
- FIRE DISTRICT: _____
- TRI-MET
- TUALATIN HILLS PARK & REC. DISTRICT
- CITY OF _____
- CLEAN WATER SERVICES

PRE-APPLICATION DATE: _____

Service Provider: PLEASE RETURN THIS FORM TO:
 APPLICANT:

COMPANY: Gunn & Cain, LLP
 CONTACT: Jessica S. Cain
 ADDRESS: P.O. Box 1046
Newberg, OR 97132
 PHONE: (503) 538-8318

OWNER(S):

NAME: Richard Baker
 ADDRESS: P.O. Box 3208
Kirkland, Washington 98083
 PHONE: (206) 617-9552

Property Desc.: Tax Map(s): 2S2 08 Lot Number(s): 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy.
 Nearest cross street (or directions to site):
Intersection of S.W. Midway Road and State Highway 219.

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)
Comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5 PROPOSED USE: R-Com

IF RESIDENTIAL:	IF INDUSTRIAL/COMMERCIAL:	IF INSTITUTIONAL:
NO. OF DWELLING UNITS: _____	TYPE OF USE: <u>paved parking lot</u>	NO. SQ. FT. _____
SINGLE FAM. _____ MULTI-FAM. _____	NO. OF SQ. FT. (GROSS FLOOR AREA) <u>29,328</u>	NO. STUDENTS/EMPLOYEES/MEMBERS: _____

*****ATTENTION SERVICE PROVIDER*****

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).
RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.
 (Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

- SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SIGNATURE: _____ POSITION: _____ DATE: _____

- SERVICE LEVEL IS INADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate why the service level is inadequate.

*This property is far outside district boundaries
 TVWD has no facilities near this property*

SIGNATURE: Gay Pippin POSITION: Water Engineering Services DATE: 11/09/05
 Service1 12/11/03 00127



WASHINGTON COUNTY
 Dept. of Land Use & Transp.
 Land Development Services
 155 N. First Ave., Suite 350-13
 Hillsboro, OR 97124
 Ph. (503) 846-8761 Fax (503) 846-2908
 http://www.co.washington.or.us

REQUEST FOR STATEMENT OF SERVICE AVAILABILITY

- Hillsboro School District
- WATER DISTRICT: _____
- FIRE DISTRICT: _____
- TRI-MET
- TUALATIN HILLS PARK & REC. DISTRICT
- CITY OF _____
- CLEAN WATER SERVICES

PRE-APPLICATION DATE: _____

Service Provider: PLEASE RETURN THIS FORM TO:
APPLICANT:
 COMPANY: Gunn & Cain, LLP
 CONTACT: Jessica S. Cain
 ADDRESS: P.O. Box 1046
Newberg, OR 97132
 PHONE: (503) 538-8318

OWNER(S):
 NAME: Richard Baker
 ADDRESS: P.O. Box 3208
Kirkland, Washington 98083
 PHONE: (206) 617-9552

Property Desc.: Tax Map(s): 2S2 08 Lot Number(s): 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy.
 Nearest cross street (or directions to site):
Intersection of S.W. Midway Road and State Highway 219.

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)
comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5 PROPOSED USE: R-Com

IF RESIDENTIAL:	IF INDUSTRIAL/COMMERCIAL:	IF INSTITUTIONAL:
NO. OF DWELLING UNITS: _____	TYPE OF USE: <u>paved parking lot</u>	NO. SQ. FT. _____
SINGLE FAM. _____ MULTI-FAM. _____	NO. OF SQ. FT. (GROSS FLOOR AREA) <u>29,328</u>	NO. STUDENTS/EMPLOYEES/MEMBERS: _____

*******ATTENTION SERVICE PROVIDER*******

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).
RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.
 (Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SIGNATURE: Jenny Ryan POSITION: Superintendent DATE: 11-10-05

SERVICE LEVEL IS INADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate why the service level is inadequate.

SIGNATURE: _____ POSITION: _____ DATE: _____

Hillsboro School District 1J
3083 NE 49th Place
Hillsboro OR 97124
503-844-1500 FAX 503-844-1779

November 10, 2005

Gunn & Cain, LLP
Attn: Jessica Cain
P. O. Box 1046
Newberg, OR 97132

SERVICES AVAILABLE RESPONSE FORM

At the time of this response, the proposed development is located within the following attendance areas with the enrollment as noted:

Please note that this information does not reflect that the service level is or is not adequate to serve the proposed project.

SCHOOL	LEVEL	ENROLLMENT	
		October 1, 2005	Capacity
Groner	Elementary	206	362
Thomas	Middle School	544	800
Hilhi	High School	1478	1650

The Hillsboro School District assumes the following student population average per dwelling. These averages are based on the Beaverton School District's statistics with slight modifications for differences in multi-family development.

Students Per Dwelling	
.46	preschool children per dwelling
.29	elementary students per dwelling
.12	intermediate students per dwelling
.11	high school students per dwelling
.52	total school-age students per dwelling

Assuming the above averages this development of Tax Map 2S2 08, Lots #1900 could impact these schools as follows:

SCHOOL	LEVEL	STUDENTS
Groner	Elementary School	0
Thomas	Middle School	0
Hilhi	High School	0



WASHINGTON COUNTY
 Dept. of Land Use & Transp.
 Land Development Services
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 http://www.co.washington.or.us

**REQUEST FOR STATEMENT
 OF SERVICE AVAILABILITY**

- WATER DISTRICT: _____
- FIRE DISTRICT: Wash. Cnty. Dist. #2
- TRI-MET
- TUALATIN HILLS PARK & REC. DISTRICT
- CITY OF _____
- CLEAN WATER SERVICES

PRE-APPLICATION DATE: _____

*Service Provider: PLEASE RETURN THIS FORM TO:
 APPLICANT:*

COMPANY: Gunn & Cain LLP
 CONTACT: Jessica S. Cain
 ADDRESS: P.O. Box 1046
Newberg, Oregon 97132
 PHONE: (503) 538-8318

OWNER(S):

NAME: Richard Baker
 ADDRESS: P.O. Box 3208
Kirkland, Washington 98083
 PHONE: (206) 617-9552

Property Desc.: Tax Map(s): 2S2 08 Lot Number(s): 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy.
 Nearest cross street (or directions to site):
Intersection of S.W. Midway Road and
State Highway 219

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)

Comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5 PROPOSED USE: R-Com.

IF RESIDENTIAL:	IF INDUSTRIAL/COMMERCIAL:	IF INSTITUTIONAL:
NO. OF DWELLING UNITS: _____	TYPE OF USE: <u>paved parking lot</u>	NO. SQ. FT. _____
SINGLE FAM. _____ MULTI-FAM. _____	NO. OF SQ. FT. (GROSS FLOOR AREA) <u>29,328</u>	NO. STUDENTS/EMPLOYEES/MEMBERS: _____

******* ATTENTION SERVICE PROVIDER *******

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).
RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.
 (Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.
providing driveway meets County fire driveway standards

SIGNATURE: [Signature] POSITION: LT. DATE: 11-8-05

SERVICE LEVEL IS INADEQUATE TO SERVE THE PROPOSED PROJECT.
 Please indicate why the service level is inadequate.

SIGNATURE: _____ POSITION: _____ DATE: _____
 Service1 12/11/03 00131



Date: ___/___/___

Washington County Fire District Service Analysis

RE: Plan Amendment, changing from _____ to _____, _____ Tax Lot _____
(land use district) (map location)

Fire District: Washington County Fire District #2

Dear Washington County Fire District,

The Washington County Department of Land Use and Transportation requires a formal detailed analysis of certain Public Services to determine any adverse impact on those services by the above plan amendment.

In order to provide sufficient information for the staff's impact evaluation, your response to the following questions, in addition to the standard "Service Availability Statement", is required.

1. What is the location (in miles from the parcel(s) referenced above) of the fire station?
UNDER 500 FEET
2. What will be the average emergency response time to the parcel(s) referenced above?
TWO minutes AVERAGE 7AM to 7pm
SEVEN minutes average 7pm to 7AM
3. What is the total number of personnel and equipment available for an initial attack on fire spread at the parcel(s) referenced above?
2 career, 20 volunteer - 3 1000 gal pumps and 1 3000 gallon water tender
4. Will the addition of _____ (___) single family dwellings cause any serious impact on the current services provided?
NO significant impact,

Thank you for providing the additional information for the plan amendment request.

SIGNATURE: [Signature] DATE: 11/8/05
POSITION: Lieutenant



WASHINGTON COUNTY
 Dept. of Land Use & Transp.
 Land Development Services
 155 N. First Ave., Suite 350-13
 Hillsboro, OR 97124
 Ph. (503) 846-8761 Fax (503) 846-2908
 http://www.co.washington.or.us

**REQUEST FOR STATEMENT
 OF SERVICE AVAILABILITY**

- WATER DISTRICT: _____
- FIRE DISTRICT: _____
- TRI-MET
- TUALATIN HILLS PARK & REC. DISTRICT
- CITY OF _____
- CLEAN WATER SERVICES

PRE-APPLICATION DATE: _____

*Service Provider: PLEASE RETURN THIS FORM TO:
 APPLICANT:*

COMPANY: Gunn & Cain, LLP

CONTACT: Jessica S. Cain

ADDRESS: P.O. Box 1046
Newberg, OR 97132

PHONE: (503) 538-8318

OWNER(S):

NAME: Richard Baker

ADDRESS: P.O. Box 3208
Kirkland, Washington 98083

PHONE: (206) 617-9552

Property Desc.: Tax Map(s): 2S2 08 Lot Number(s): 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy.

Nearest cross street (or directions to site):

Intersection of S.W. Midway Road and State Highway 219.

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)

Comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5

PROPOSED USE: R-Com

IF RESIDENTIAL:

NO. OF DWELLING UNITS: _____

SINGLE FAM. _____

MULTI-FAM. _____

IF INDUSTRIAL/COMMERCIAL:

TYPE OF USE: paved parking lot

NO. OF SQ. FT. (GROSS FLOOR AREA) 29,328

IF INSTITUTIONAL:

NO. SQ. FT. _____

NO. STUDENTS/EMPLOYEES/MEMBERS: _____

*******ATTENTION SERVICE PROVIDER*******

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).

RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.

(Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.

Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SIGNATURE: _____ POSITION: _____ DATE: _____

SERVICE LEVEL IS INADEQUATE TO SERVICE THE PROPOSED PROJECT.

Please indicate why the service level is inadequate.

SIGNATURE: _____ POSITION: _____ DATE: _____

Service1 12/11/03

00133

GUNN & CAIN LLP
Attorneys at Law

♦ 201-B North Meridian ♦ P.O. Box 1046 ♦ Newberg, Oregon 97132 ♦
Telephone (503) 538-8318 ♦ Facsimile (503) 537-0591

Michael G. Gunn, P.C.
Jessica S. Cain P.C.

Sally D. Robinson
Charles E. Harrell

November 7, 2005

CleanWater Services
2550 S.W. Hillsboro Highway
Hillsboro, Oregon 97123-9379

Re: Baker land use application
Request for Statement of Service Availability

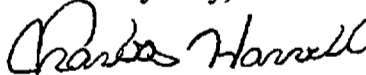
To Whom It May Concern:

Enclosed please find a Request for Statement of Service Availability which the Washington County Department of Land Use & Transportation requires be completed before Richard Baker (Applicant) can complete and submit his land use application.

Please note that the project, Al Baker's Bald Peak Inn, also comprises tax lots 2S2 08-2000, 2S2 08-2100, and 2S2 08-2200, and that the overall project is the expansion of the Bald Peak Inn (formerly known as Midway Tavern). The purpose of this land use application is a Comprehensive Plan Amendment and zone change for tax lot 2S2 08-1900 from AF-5 to R-Com to allow for the installation of a paved parking lot on tax lot 2S2 08-1900.

Please complete the enclosed Request for Statement of Service Availability and return it to this office in the enclosed self-addressed, stamped envelope. Please do not hesitate to contact me if you have any questions or concerns. Thank you for your assistance with this matter.

Yours very truly,



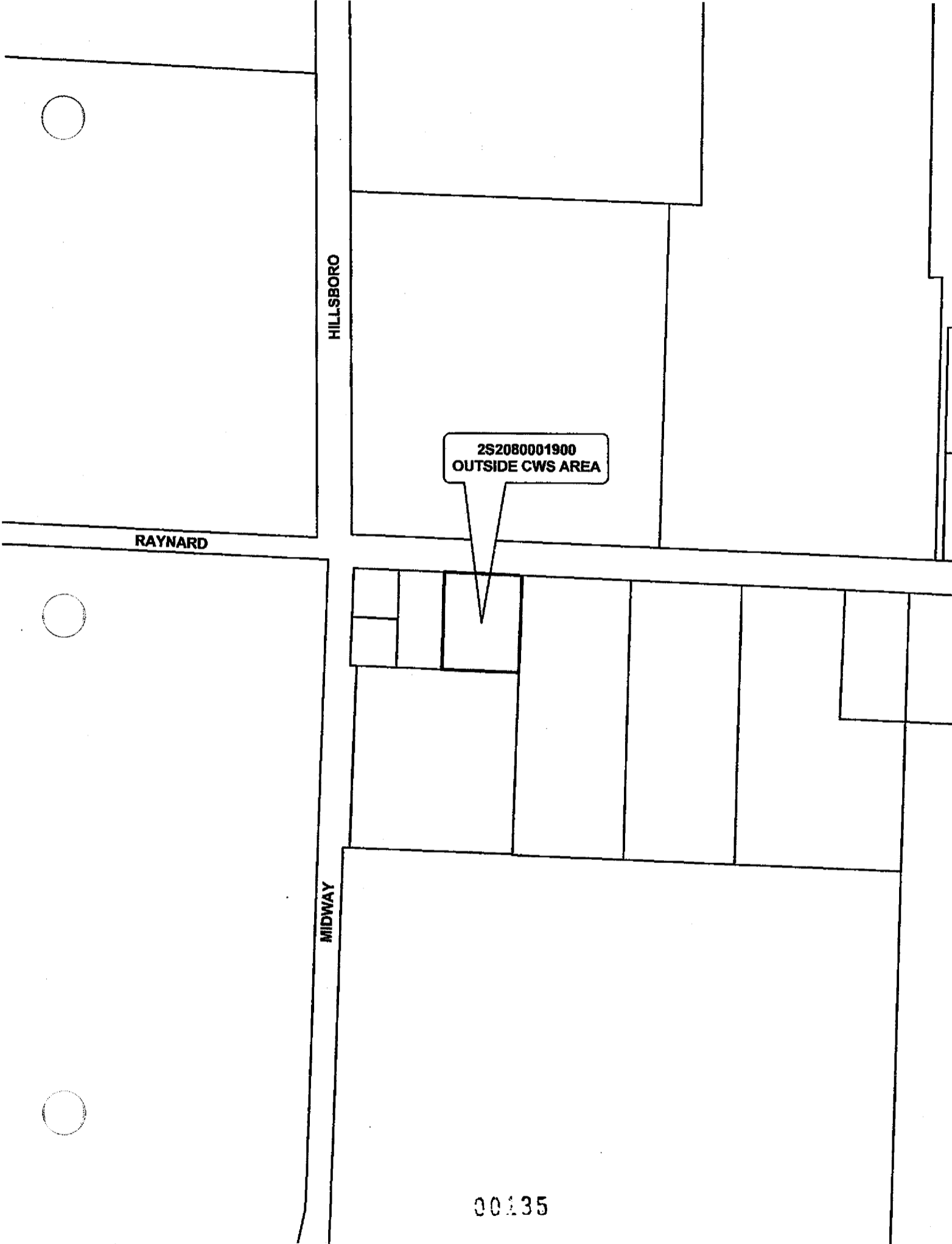
Charles E. Harrell
Harrell@gunn-cain.com

CEH:

Enclosure

cc: Al Baker
Rick Baker

00134



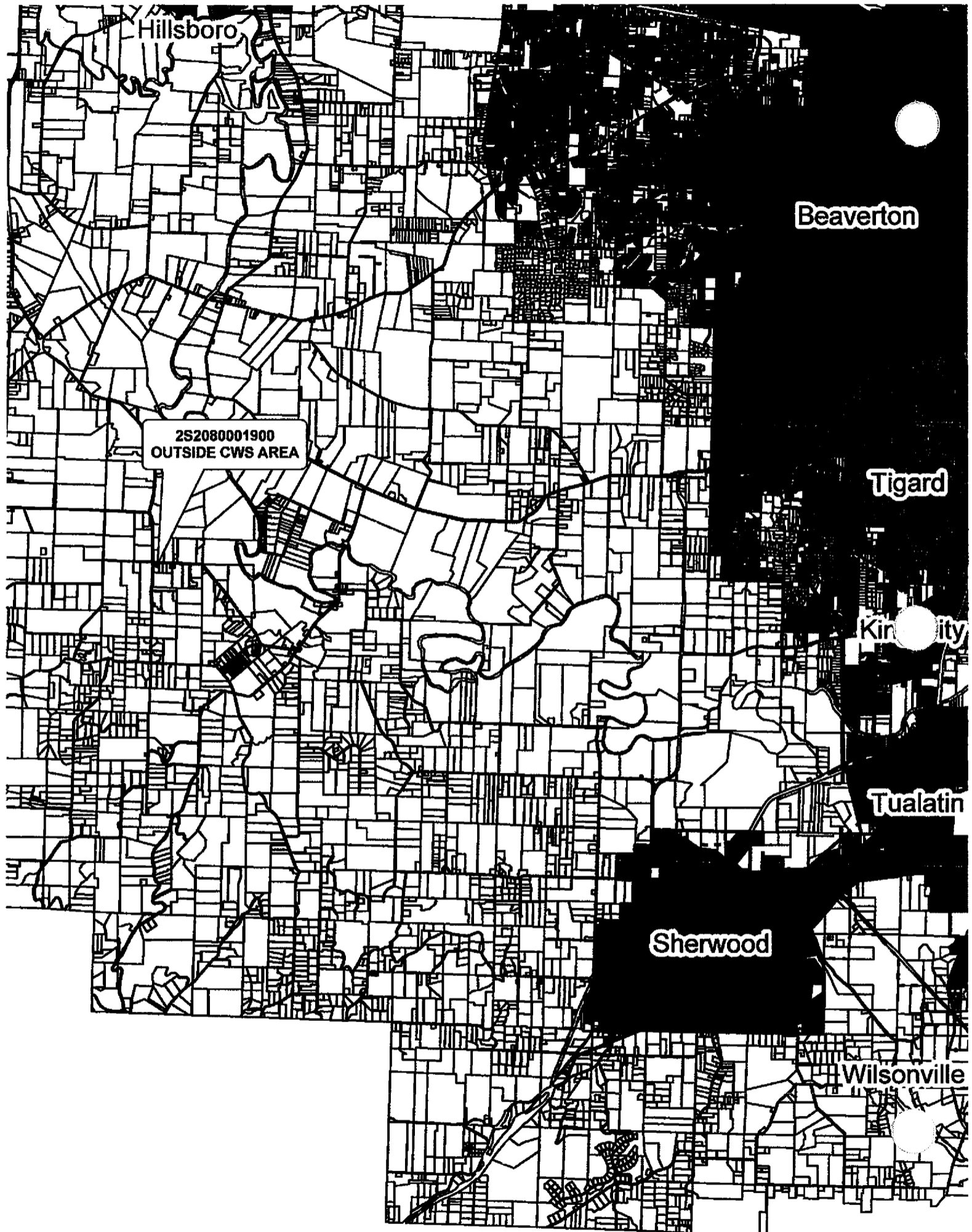
HILLSBORO

RAYNARD

MIDWAY

2S2080001900
OUTSIDE CWS AREA

00135



252080001900
OUTSIDE CWS AREA



WASHINGTON COUNTY
 Dept. of Land Use & Transp.
 Land Development Services
 155 N. First Ave., Suite 350-13
 Hillsboro, OR 97124
 Ph. (503) 846-8761 Fax (503) 846-2908
 www.co.washington.or.us

**REQUEST FOR STATEMENT
 OF SERVICE AVAILABILITY FOR
 SHERIFF OR POLICE SERVICES**

PRE-APPLICATION DATE: _____

Service Provider: PLEASE RETURN THIS FORM TO:
APPLICANT:

COMPANY: Gunn & Cain LLP
 CONTACT: Jessica S. Cain
 ADDRESS: P.O. Box 1046
Newberg, Oregon 97132
 PHONE: (503) 538-8318

OWNER(S):

NAME: Richard Baker
 ADDRESS: P.O. Box 3208
Kirkland, Washington 98083
 PHONE: (206) 617-9552

Property Desc.: Tax Map(s): 2S2 08 Lot Number(s): 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy
 Nearest cross street (or directions to site):
Intersection of S.W. Midway Road and
State Highway 219

WASHINGTON COUNTY SHERIFF

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, MINOR PARTITION, SPECIAL USE)

Comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5 PROPOSED USE: R-Com

IF RESIDENTIAL: _____ IF INDUSTRIAL/COMMERCIAL: _____ IF INSTITUTIONAL: _____
 NO. OF DWELLING UNITS: _____ TYPE OF USE: paved parking lot NO. SQ. FT. _____
 SINGLE FAM. _____ MULTI-FAM. _____ NO. OF SQ. FT. (GROSS FLOOR AREA) 29,328 NO. STUDENTS/EMPLOYEES/MEMBERS: _____

*******ATTENTION SERVICE PROVIDER*******

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).
RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.
 (Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT. (Use additional sheets if necessary.)
 Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SERVICE LEVEL IS ADEQUATE FOR EMERGENCY CALLS ONLY. Currently, the base level of police Services in Washington county is .50 officer per 1,000 population. the enhanced Sheriff's Patrol District (ESPD) has increased the level to 1.0 per 1,000 population in specified areas.

SIGNATURE: [Signature] POSITION: Records Manager DATE: 11-10-05

SERVICE LEVEL IS INADEQUATE TO SERVICE THE PROPOSED PROJECT.
 If the present or future service level is inadequate, please provide information documenting your inability to provide an adequate level of service. Please also provide information regarding whether the use of alternative means can be employed to provide an adequate service level. Documentation of adequacy and alternatives to provide an adequate service level may include but not be limited to the following:
 1. Contracting with private agency; 2. Contracting with other public agency; 3. Impact fees; 4. Any combination of these or other alternatives.

SIGNATURE: _____ POSITION: _____ DATE: _____



WASHINGTON COUNTY
Dept. of Land Use & Transp.
Land Development Services
155 N. First Ave., Suite 350-13
Hillsboro, OR 97124
Ph. (503) 846-8761 Fax (503) 846-2908
http://www.co.washington.or.us

REQUEST FOR STATEMENT OF SERVICE AVAILABILITY

- X - O.D.O.T. - Region 1
[] WATER DISTRICT:
[] FIRE DISTRICT:
[] TRI-MET
[] TUALATIN HILLS PARK & REC. DISTRICT
[] CITY OF
[] CLEAN WATER SERVICES

PRE-APPLICATION DATE:

Service Provider: PLEASE RETURN THIS FORM TO: APPLICANT:

COMPANY: Gunn & Cain, LLP
CONTACT: Jessica S. Cain
ADDRESS: P.O. Box 1046
Newberg, OR 97132
PHONE: (503) 538-8318

OWNER(S):

NAME: Richard Baker
ADDRESS: P.O. Box 3208
Kirkland, Washington 98083
PHONE: (206) 617-9552

Property Desc.: Tax Map(s): Lot Number(s):
2S2 08 1900

Site Size: .57 acres

Site Address: 14819 S.W. Hillsboro Hwy.

Nearest cross street (or directions to site):

Intersection of S.W. Midway Road and State Highway 219.

PROPOSED PROJECT NAME: Al Baker's Bald Peak Inn

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)

Comprehensive Plan Amendment and zoning change from AF-5 to R-Com.

EXISTING USE: AF-5 PROPOSED USE: R-Com

IF RESIDENTIAL: IF INDUSTRIAL/COMMERCIAL: IF INSTITUTIONAL:
NO. OF DWELLING UNITS: TYPE OF USE: Paved parking lot NO. SQ. FT.
SINGLE FAM. MULTI-FAM. NO. OF SQ. FT. (GROSS FLOOR AREA) 29,328 NO. STUDENTS/EMPLOYEES/MEMBERS:

*****ATTENTION SERVICE PROVIDER*****

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).

RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.

(Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

[X] SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.

Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

Applicant will be required to apply for an approach permit to Hwy 219. An ODOT Miscellaneous permit must be obtained for all work in the ODOT highway right-of-way. An ODOT Drainage permit is required for connection to state highway drainage facilities.

SIGNATURE: [Signature] POSITION: Senior Planner DATE: 12.13.05

[] SERVICE LEVEL IS INADEQUATE TO SERVE THE PROPOSED PROJECT.

Please indicate why the service level is inadequate.

SIGNATURE: POSITION: DATE:

Section	Time Period	No. of Wells	Average Depth	Average G.P.M.
2S2 08	1940-49	1	195	0
	No data available for well yield for one well.			
	1950-59	5	268.4	44.8
	No data available for well yield for one well.			
	1960-69	8	219.63	25.5
	Average values computed using available information.			
	1970-79	16	284.06	37.75
	Average values computed using available information.			
	1980-89	6	416.17	145.5
	Average values computed using available information.			
	1990-99	28	128.33	54.13
	No data available for well depth for 13 wells and yield for 22 wells (13 abandoned).			
	2000 - Present	3	360	35
	No data available for well depth for 2 wells and yield for 2 wells (2 wells abandoned).			
2S2 09	1960-69	14	161.75	12.89
	Average values computed using available information.			
	1970-79	11	248.45	35.27
	Average values computed using available information.			
	1980-89	5	252.4	10
	No data available for well yield for two wells.			
	1990-99	10	264.5	22.2
	No data available for well yield for one well.			
2000 - Present	9	208.75	30.25	
No data available for well depth for one well and yield for two wells.				
2S2 16	1950-59	4	213.75	20.5
	No data available for well yield for one well.			
	1960-69	8	190.13	25.75
	Average values computed using available information.			
	1970-79	26	209.15	30.54
	Average values computed using available information.			
	1980-89	5	271	63
	Average values computed using available information.			
	1990-99	8	198.63	10.25
	No data available for well yield for four (4) wells.			
2000 - Present	18	166.17	20.28	
No data available for well depth for one well and yield for ten wells.				
	1940-49	1	150	15
	Average values computed using available information.			
	1950-59	5	109.4	17.4
No data available for well depth for one well.				

2S2 17	1960-69	2	124	8
	Average values computed using available information.			
	1970-79	16	177.13	17.75
	Average values computed using available information.			
	1980-89	10	197.3	26.1
	Average values computed using available information.			
	1990-99	31	206.13	51.61
	No data available for well yield for four (4) wells.			
	2000 - Present	9	227.56	47.44
	No data available for well depth for one well and yield for one well.			



WASHINGTON COUNTY
OREGON

Date: March 17, 2006

To: Casefile 06-101-PA

From: Planning Division

Subject: WELL LOG DATA SHEETS

To conserve resources, this slip sheet is presented in place of copies of the individual well record/water well reports (obtained from the local Watermaster's office). These well reports were submitted as part of the applicant's supporting evidence for the subject plan amendment request.

Please note that in addition to the individual well reports, the applicant has submitted a summary sheet illustrating well trends compiled for each decade since the initiation of well report record-keeping, and a tabulated representation of pertinent information extracted from the source material. This tabulation and summary information is included herein.

Copies of the individual well log reports are part of the official record for this request. They are available for review by the public upon request.

F:\Shared\Plng\WPSHARE\Plan Amendments\Casefiles\2006\Midway\well log slip sheet.doc

Department of Land Use & Transportation • Planning Division
155 N First Avenue, Suite 350-14, Hillsboro, OR 97124-3072
Phone: (503) 846-3519 • Fax: (503) 846-4412 • www.co.washington.or.us

00143

00144

GUNN & CAIN LLP
Attorneys at Law

RECEIVED
APR 20 2006
PLANNING DIVISION
Land Use & Transportation

♦ 201-B North Meridian ♦ P.O. Box 1046 ♦ Newberg, Oregon 97132 ♦
Telephone (503) 538-8318 ♦ Facsimile (503) 537-0591

Michael G. Gunn, P.C.
Jessica S. Cain, P.C.

Sally D. Robinson
Charles E. Harrell

April 19, 2006

Via U.S. First Class Mail

Aisha Willits
WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
155 North First Avenue, Room 350-14
Hillsboro, Oregon 97124

Re: Baker/Midway Pub Land Use Application
Case File No.: 06-101-PA

Dear Ms. Willits:

Pursuant to your email correspondence on March 10, 2006, and April 7, 2006, this letter will provide the requested supplement/corrected information for the above Land Use Application

RE: Comprehensive Plan and Zoning Map Amendment to change Tax Map 2S2 08, Tax Lot 1900 from AF-5 to R-Com.

LEGAL DESCRIPTION: Tax Lot 1900, Map 2S2 08.

ADDITIONAL INFORMATION

1. Richard Baker and Al Baker, owners and proprietors of the Midway Pub ("Applicants"), seek to remodel the Midway Pub, and will eventually rename the facility the Bald Peak Inn. The purpose of this application is to add paved parking for the Midway Pub on Tax Lot 1900. However, the current AF-5 zoning for Tax Lot 1900, does not allow for paved parking as a permitted use. Community Development Code Section 348-5.8 provides that outdoor parking or storage of any five (5) or more operable vehicles on a single lot or parcel for than for forty-eight (48) hours, except in conjunction with an approved development or with a farm use, is a **prohibited use** in an AF-5 Agriculture and Forest District.

00145

Letter to Aisha Willits
April 19, 2006
Page Two

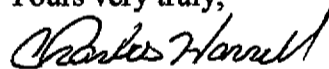
2. The Midway Pub (tax lots 2000, 2001 and 2002), was the subject of a land use application in 2004 wherein Applicants expanded the tavern by re-roofing the tavern and remodeling the tavern with a dutch-barn effect to reflect the local building style. The need to add paved parking to Tax Lot 1900 is an outgrowth from that expansion.

3. The Midway Pub expansion will encompass all tax lots: Tax Lots 1900, 2000, 2001 and 2002. However, the only impact on Tax Lot 1900 will be the addition of paved/overflow parking onto Tax Lot 1900. There will be extensive structural and building changes, revisions and remodels to the actual Midway Pub, but those changes are not encompassed within the parameters of this Land Use Application.

4. The addition of paved parking and overflow parking to Tax Lot 1900 will add a total of approximately 68 parking spaces to Tax Lot 1900. Approximately 38 of these spaces will be paved and or covered with concrete. The engineer is still finalizing the exact design, but these spaces will abut and be closest to the right-of-way and the actual Inn building. The additional/overflow 30 parking spaces will be located where the drain field is located and the surface will be graveled. Given the Department of Environmental Quality's standards and criteria for vehicle emissions, Applicant does not believe that oil leaks or other fluid discharges from parked customer vehicles will pose any danger or harm to the soil, ground water or environment.

Thank you for your continued assistance with this matter. Please do not hesitate to call me if you have any questions or need any further documentation.

Yours very truly,



Charles E. Harrell
Harrell@gunn-cain.com

CEH:

cc: Al Baker
Rick Baker

00146

GUNN & CAIN LLP

Attorneys at Law

• 201-B North Meridian • P.O. Box 1046 • Newberg, Oregon 97132 •
Telephone (503) 538-8318 • Facsimile (503) 537-0591

Michael G. Gunn, P.C.
Jessica S. Cain P.C.

Sally D. Robinson
Charles E. Harrell

FAX TRANSMITTAL

TO: Aisha Willits
WASHINGTON COUNTY LAND USE AND
PLANNING

FR: Charles E. Harrell

FAX NBR: (503) 846-4412

RE: Land Use Application

DATE: April 24, 2006

NOTES: Aisha, please see the attached map of the properties. The only configuration changes will be the rotation of the freight container on Lot 1900 45 degrees, so that it runs north-south instead of east-west. I have left a message for Larry Fenster regarding his position on paved parking over drain fields. The "existing houses" and "sheds" will remain intact.

Please treat the attached map as a "proposal" only. Once the zone change and comprehensive plan amendment is finalized and approved, steps will be taken in earnest to finalize the designs and configuration of all of the lots. Obviously, nothing will be done without the necessary approvals from Washington County. According to Larry Fenster, all sewage issues have been resolved by the sewer tanks and the drainfields and any complaints on file are now simply historical.

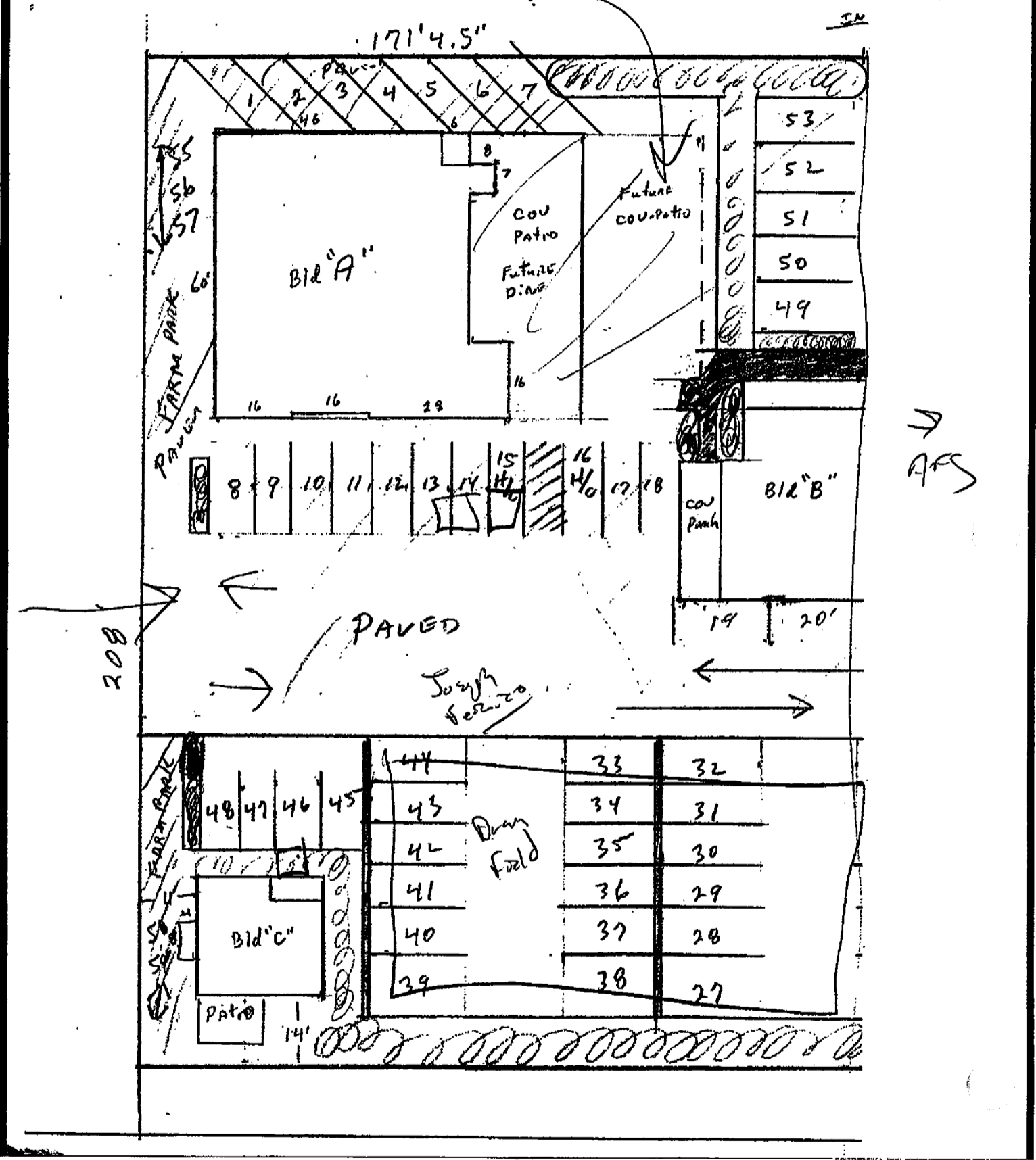
WE ARE TRANSMITTING FROM A TOSHIBA 851. IF YOU DO NOT RECEIVE ALL THE AFORESAID PAGES, TELEPHONE 503-538-8318 IMMEDIATELY!

CONFIDENTIALITY NOTE

The information contained in this transmission is confidential and/or legally privileged. It is intended for the use of the individual or entity named above. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify this office immediately by telephone to arrange for the return of the original documents to his office. Thank you.

00147

Handwritten signature or initials at the top left of the page.



00148

GUNN & CAIN LLP
Attorneys at Law

♦ 201-B North Meridian ♦ P.O. Box 1046 ♦ Newberg, Oregon 97132 ♦
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April 26, 2006

Via Hand Delivery

Aisha Willits
WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
155 North First Avenue, Room 350-14
Hillsboro, Oregon 97124

Re: Baker/Midway Pub Land Use Application
Case File No.: 06-101-PA

Dear Ms. Willits:

Enclosed please find twelve (12) copies of the revised land use application criteria response memorandum for the above case file. The revised criteria response memorandum incorporates the corrections, revisions and clarifications we discussed.

Please note that the only currently outstanding, or unresolved, issue is with regard to the availability of parking, paved or otherwise, over an existing drain field. Al Baker had received information from the State of Oregon that it had jurisdiction/authority over this issue and that parking on a drain field was not a problem.

My conversation with Mr. Larry Fenster of the Washington County Department of Health and Human Services indicates that Washington County believes otherwise. We will hope to have this matter resolved in time for the Planning Commission meeting and to be able to report at that time what we believe the final determination will be.

Nevertheless, any future development on Tax Lots 1900, 2000, 2001 and 2002 will only be done pursuant to approval from whatever agency is determined to have ultimate jurisdiction and authority over the matter. If it is ultimately determined that parking is not authorized on a drain field, the parking map will be reconfigured to accommodate that requirement.

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Letter to Aisha Willits
April 26, 2006
Page Two

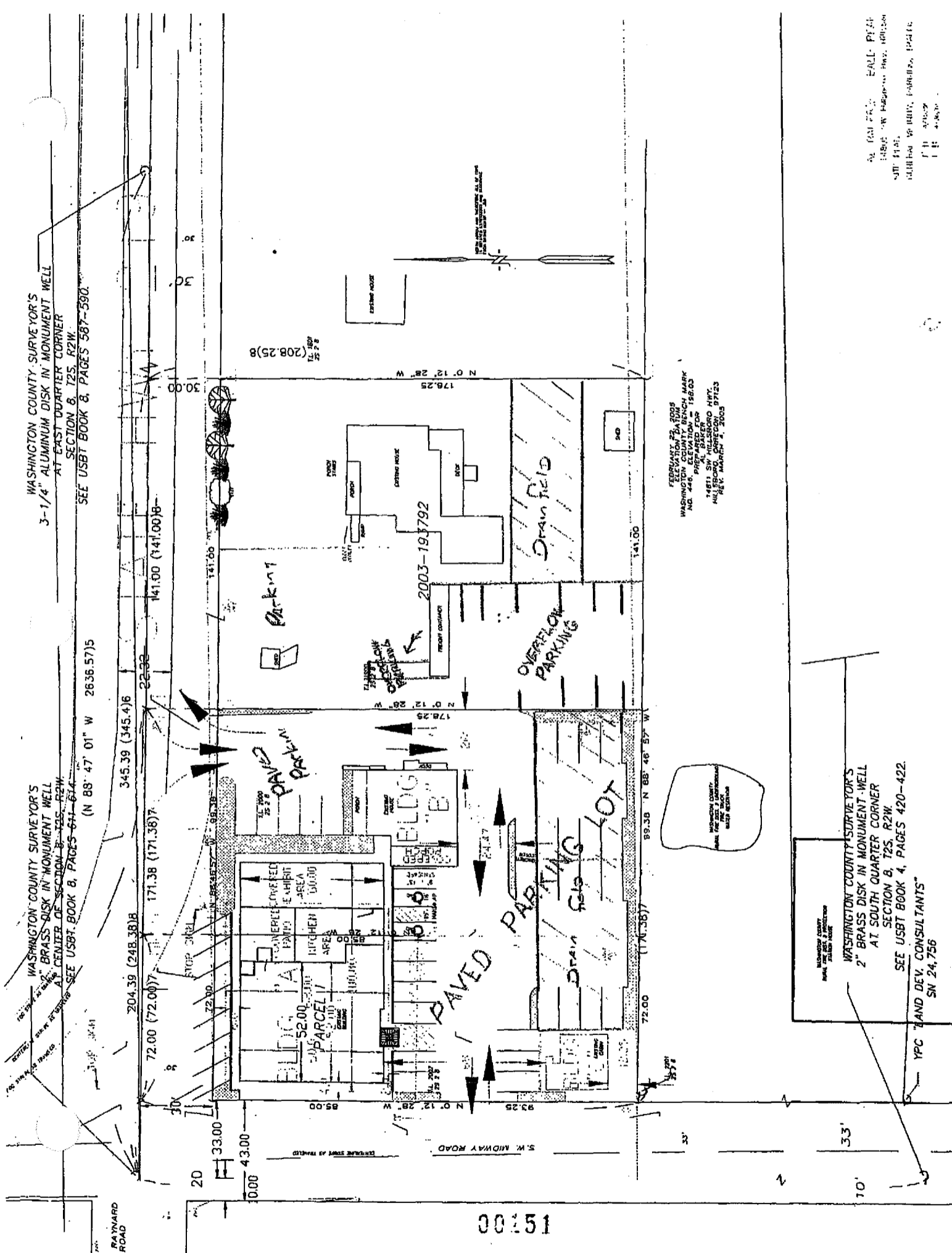
Thank you for your continued assistance with this matter. Please do not hesitate to call me if you have any questions or need any further documentation.

Yours very truly,


Charles E. Harrell
Harrell@gunn-cain.com

CEH:
Enclosures
cc: Al Baker
Rick Baker

00150



WASHINGTON COUNTY SURVEYOR'S
 3-1/4" ALUMINUM DISK IN MONUMENT WELL
 AT EAST QUARTER CORNER
 SECTION 8, T2S, R2W.
 SEE USBT BOOK 8, PAGES 587-590.

WASHINGTON COUNTY SURVEYOR'S
 BRASS DISK IN MONUMENT WELL
 AT CENTER OF SECTION 8, T2S, R2W.
 SEE USBT BOOK 8, PAGES 611-614.
 (N 88° 47' 01" W 2636.57)5

ELEVATION 28.5000
 WASHINGTON COUNTY BENCH MARK
 NO. 446
 PREPARED FOR
 L. BAKER
 14811 SW 14TH AVE. HWY 7
 HILLSBORO, OREGON 97123
 REV. MARCH 1, 2005

WASHINGTON COUNTY SURVEYOR'S
 2" BRASS DISK IN MONUMENT WELL
 AT SOUTH QUARTER CORNER
 SECTION 8, T2S, R2W.
 SEE USBT BOOK 4, PAGES 420-422.
 YPC LAND DEV. CONSULTANTS
 SN 24,756

BY: JACQUES ELLIOTT
 DESIGNER
 14811 SW 14TH AVE. HWY 7
 HILLSBORO, OREGON 97123
 DATE: 4-2005

00151