



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

February 2, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Harney County Plan Amendment
DLCD File Number 002-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: February 16, 2007

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
Jon Jinings, DLCD Regional Representative
Brandon McMullen, Harney County

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FORM 2

DEPT OF

DLCD NOTICE OF ADOPTION

JAN 29 2007

This form **must be mailed** to DLCD **within 5 working days after the final decision**

ORS 197.610 and OAR Chapter 660 - Division 18

LAND CONSERVATION
AND DEVELOPMENT

(See reverse side for submittal requirements)

Jurisdiction Harney County

Local File # 06-45
(If no number, use none)

Date of Adoption December 20, 2006
(Must be filled in)

Date Mailed 01/26/2007
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD _____

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

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

Zone change from EFRU-1 to Rural Recreational

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

Same.

Plan Map Change From _____ to _____

Zone Map Change From EFRU-1 to R-2

Location: T23S R30E Sec. 26 TL200 Acres Involved: 237.54

Specify Density: Previous _____ New _____

Applicable Statewide Planning Goals: Goals 3 and 14

Was an Exception adopted? Yes No

DLCD File # 002-06(15425) DLCD Appeal Deadline _____

Did the DLCD receive a Notice of Proposed Amendment **FORTY-FIVE (45) days prior to the first evidentiary hearing?** Yes No

If no, do the Statewide Planning Goals apply? Yes ____ No ____

If no, did the Emergency Circumstances Require immediate adoption? Yes ____ No ____

Affected State or Federal Agencies, Local Government or Special Districts: _____

Local Contact Brandon M. McMullen, Planning Director Phone: (541) 573-6655

Address 450 North Buena Vista

City Burns Zip Code + 4 97720

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within five (5) working days after the final decision**
Per ORS 197.610 and 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 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 not later than **five (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this Notice of Adoption **within five working days** of the final decision. Appeals to LUBA may be filed **within twenty-one (21) days** of the date the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You may copy this form on **8½ X 11" green paper only**; or call the DLCD office at (503) 373-0050; or fax your request to (503) 378-5518; or e-mail your request to Larry.French@state.or.us - Attention: Plan Amendment Specialist.

Revised: 01/01/2000

7-414

20070054

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

In the Matter of Application to Rezone)
Property Owned by Jay Winn From EFRU-1) **ORDER**
to R-1)

This matter having come before the Harney County Court on the 20th day of December 2006 and the Court being fully advised in the premises, hereby

FINDS that the applicable criteria supporting the rezone have been satisfied and the findings included in the Staff Report are adopted by the court and constitute the findings of the court. The Staff Report is attached hereto and incorporated herein as though fully set forth in this document.

Now, therefore, it is hereby ordered that applicant Winn's request to rezone is hereby granted.

DATED this 20th day of December 2006.



Steven E. Grasty
Steven E. Grasty
County Judge

Dan Nichols
Dan Nichols
Commissioner

Jack Drinkwater
Jack Drinkwater
Commissioner

STATE OF OREGON }
County of Harney } ss
I certify that the within instrument was received
for record on the 10th day of January
2007 at 9:25 o'clock A.M. and
recorded Microfilm number 20070054
Dad Records of said County.
Maria Iturriaga, County Clerk
D. R. Deputy

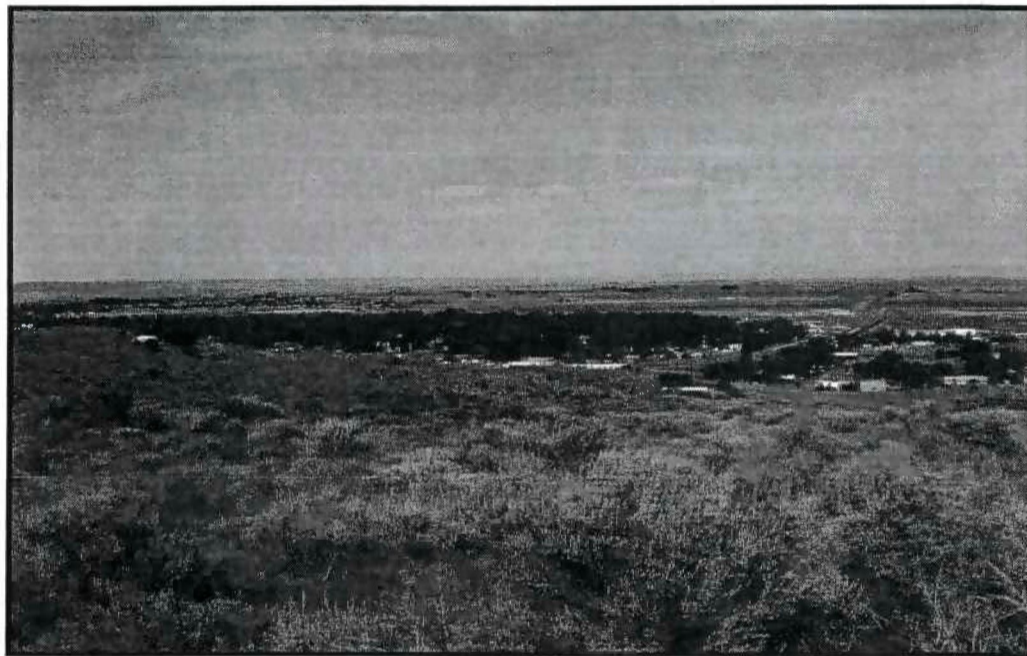
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Comprehensive Plan Amendment, Zone Change and Exception to Goals 3 and 14

“WINN ADDITION”

Rezone from Exclusive Farm and Range
Use (EFRU-1) to Rural Residential (R-1)



Looking east across proposed exception site, Hines in the distance.

Prepared by

Robert Paramore, Applicant's Representative

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In cooperation with

Harney County Planning Department

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Graph 4 – Total Sales 2000-2005, Verified and Confirmed Sales by Class Code21

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Description of the Proposal

The proposal is to rezone a 237-acre parcel from Exclusive Farm and Range Use (EFRU-1) to Rural Residential (R-1) with a 5-acre minimum, which is how the current R-1 Zone provisions specify. Eventually, the process will be followed to create a subdivision with 40-46 buildable parcels with homes being constructed over a 5-10 year period. The property is located immediately west of the City of Hines, in the EFRU-1 Zone. A portion of the parcel is within the Urban Growth Boundary of the City of Hines (60 acres) and a larger portion of the parcel (177 acres) is outside of the UGB.

In order to bring all of the applicable materials together the following items are being submitted for review:

1. **Comprehensive Plan Amendment** – Adding text to Section 7.4, “Rural Residential Exceptions To Goal 3 – Agriculture” dealing with the addition of a R-1 Zone located west of Hines with a portion of the parcel being inside (60 acres) and a larger portion (177 acres) being outside of the Urban Growth Boundary of the City of Hines.
2. **Zone Map Change** - The rezone would also modify the current Zoning Map to include the proposed exception site as R-1 instead of the EFRU-1 (See Map 10a)
3. **Exception to Goal 3** – The criteria that would determine whether the removal of the proposal site from resource to nonresource land is appropriate.
4. **Exception to Goal 14** – The criteria that would allow the proposal to have a 5-acre minimum lot size rather than a 10-acre minimum lot size as outlined in OAR 660-004-0040 (7).

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**Amending the Harney County Comprehensive Plan, Section 7.4 to
add additional language for the Exception to Goal 3, "Winn
Addition"**

The following text is found in the Harney County Comprehensive Plan. The additional text is underlined and found in "Section Three (D) Winn Addition."

7.4 Rural Residential Exceptions To Goal 3 - Agriculture

There are areas of Rural Residential zoning located around and west of Burns and Hines. The majority of this zoned area encompasses large areas of Land Capability Class IV and VI Composition 1 soils. Only a relatively small part of Harney County is suitable for cultivation, and yet, as is typical in many places, this is the area that has been subdivided for rural residential use.

The Harney County Court, based on the study and recommendations of the Harney County Planning Commission, the Agricultural Advisory Committee, and the Board of the Soil and Water Conservation District, has determined that it is in the Public and County's best interest to designate most of the areas east of Burns and Hines as EFRU. The existing and proposed zoning is shown on maps and this will not cause any impact on what rural residential uses there are in this area, other than prohibiting the future creation of lots less than the minimum lot size of the EFRU zones limiting uses to those allowed in the zones. All existing lots will be legally nonconforming, or "grandfathered" and will not be restricted in their utilization other than conforming to the use provisions of the zones.

The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements.

As this area is made up of Class VI soils, an Exception must be taken to LCDC Goal 3 - Agriculture that requires the preservation of all Class I through VI soils in Eastern Oregon.

The following Rural Residential Zone material consists of two sections, Section One will deal with Highland Ranch Estates and Garland Acres and Section Two will deal with the North Burns Area and the Hebener Tracts. The land subject to the exception is

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physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

Section One

... (Text not included)

Section Two

The area north of Burns to which the County is taking an exception to the agricultural goal, contains ~~396~~ 434 acres. There are ~~two~~ three distinct areas that must be treated separately for the purpose of taking an exception (See Map 16, 17 and 17a).

A. Hebener Tracts

... (Text not included)

B. North Burns Rural Area

... (Text not included)

C. Radar Lane Rural Area

(Text not included but also being added)

D. Winn Addition

The fourth area is known as the Winn Addition. The property consists of 237 acres and is on the west boundary of the City of Hines in the Urban Growth Boundary. The hilly nature of the parcel along with the rocky conditions has made this parcel difficult to farm over the years. Thus, removing this property from the resource base of the County will not create adverse impacts.

The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. **The area is inherently nonresource land.** The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vie "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.

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Also, the parcel in question has a variety of landscapes – rolling hills, steep slopes, etc. The development would be required to conform to building sites that meet applicable provisions for building on this type of terrain. Thus, there may not be exactly 40-46 parcels where some parcels might need to larger to incorporate the unbuildable landscape.

2. **The overall land use pattern will be consistent with the surrounding area.**
The parcel in question is immediately adjacent to the City of Hines with residential development and commercial uses nearby. There are other Rural Residential (R-1) Zones adjacent to this parcel as well. The creation of an additional 40 - 40-46 parcels will fit well within the current land use pattern of the area.

Map 10a & 10b, "Winn Addition"

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Zone Map Change and Description

The affected parcel is found at the following descriptions:

Legal: T23S, R30E, within Section 26 and Tax Lot 200
Consisting of 237 acres.

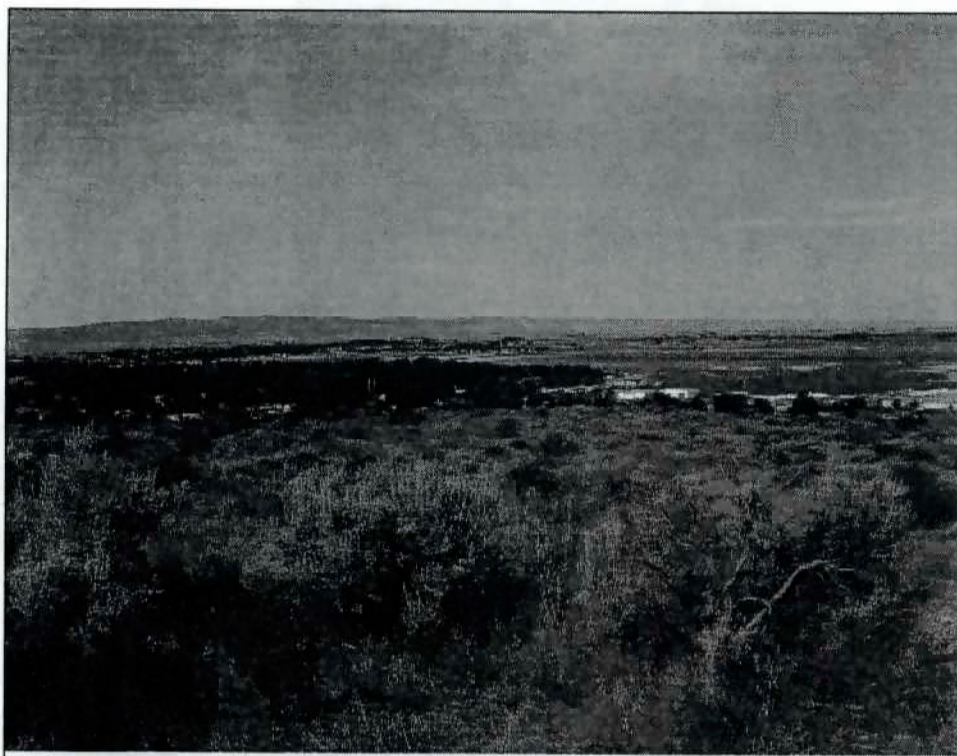
Currently Zoned EFRU-1 and would be changed to R-1.

See Map 10a

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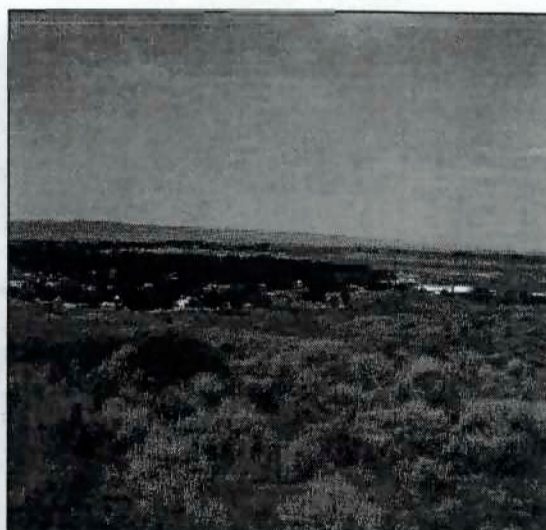
Photos of proposed exception site, taken July 2006.



Looking east across the proposed exception area seeing the City of Hines.



Looking north at the upper end of the property



Looking northeast towards Burns/Hines area.
Note the higher elevation.

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Looking south along the existing access road.



Looking west toward Hines Logging Road.

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**PART A, Taking an Exception to Goal 3, Agricultural Lands:
Rezoning a parcel from EFRU-1 to Rural Residential (R-1) In
Harney County**

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

- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.
- (2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:
 - (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;
 - (b) "Areas which do not require a new exception cannot reasonably accommodate the use":
 - (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;

FINDING: There are a number of areas that are zoned Rural Residential (R-1 Zone) currently in the County (see attached maps).

1. Garland Acres (Map 1a & 1b)
2. Hebener Tracts (Map 2a & 2b)
3. Highland Ranch Estates (Map 3a & 3b)
4. Norris Addition (Map 4a & 4b)
5. North Burns Area (Map 5a & 5b)
6. Radar Lane Rural Area, (Map 6a & 6a)
7. Choate Addition/Revak Tracts (Map 7a & 7b)
8. Skelton Addition (Map 8a & 8b)

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(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?

FINDING: There are a number of R-1 Zones as mentioned above. Each has an area for development and for the most part, each zone has been irrevocably committed with development. There are currently 270 parcels that are contained in the R-1 Zones throughout the County and of those parcels 215 have homes already built or in the process of being built. Thus, 80 percent of the buildable parcels are committed. Of the remaining 55 parcels it is difficult to determine just how many are buildable; why hasn't development occurred on the parcel yet, and whether the property owners want to sell the parcels. These are questions that cannot be answered at this time.

The proposal calls for the creation of 40-46 additional parcels to become rural residential. Could the development be located in areas already zoned for rural residential? It is feasible to assume that additional home sites could be located in existing rural residential zones. The unknown factor that causes some doubt, however, is whether the parcels that have not been developed in the current R-1 Zones are available to be developed. There has not been an exhaustive review of each parcel with the current property owners to determine of the 55 parcels that are undeveloped which ones could be sold and/or developed. Some possible reasons for the parcels not being developed may be terrain, soils, or unwillingness by the property owners to sell. This criterion is met.

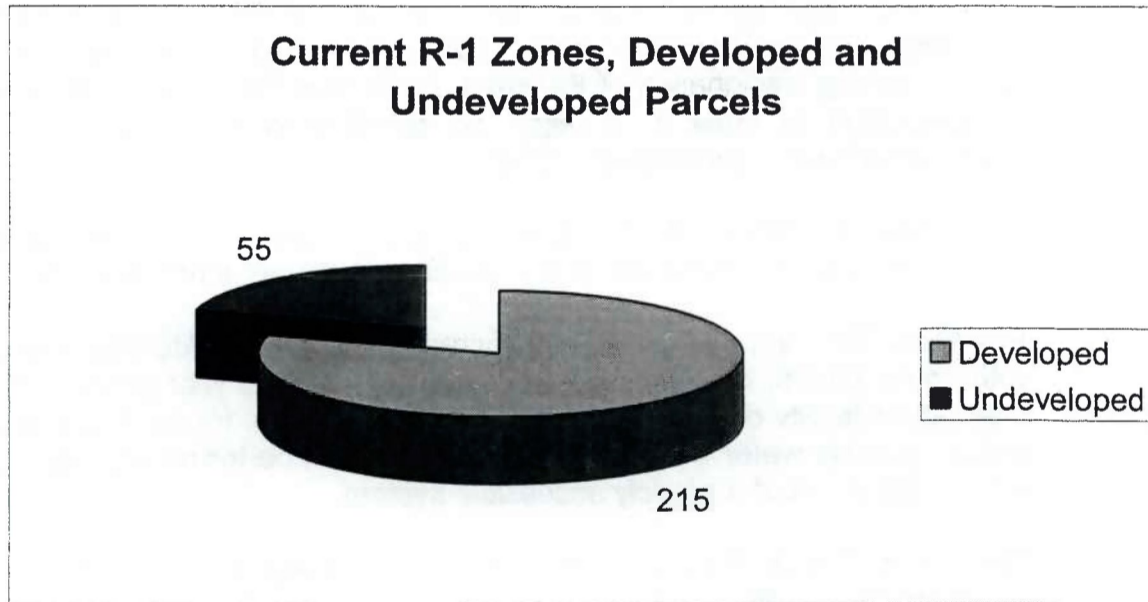
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**Current R-1 Zones
Developed and Undeveloped Parcels**

Name of Zone Area	In a UGB?	Number of Acres	Number of Parcels	Number of Developed Parcels	Number of Undeveloped Parcels
Garland Acres	Y	249	55	34	21
Hebener Tracts	N	287.5	36	31	5
Highland Ranch Estates	N	69	34	26	8
Norris Addition	Y	38	64	63	1
North Burns Area	N	109	25	19	6
Radar Lane Rural Area	N	34	3	3	0
Choate Addition & Revak Tracts	Y	31	20	12	8
Skelton Addition	Y	33	33	27	6
		850.5 acres	270 lots	215 lots	55 lots

Table 1 – Current R-1 Zones, Developed and Undeveloped Parcels

1



Graph 1 – Current R-1 Zones, Developed and Undeveloped Parcels

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- (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?

FINDING: The proposal would be to create 40-46 additional parcels on this property and then each parcel would have a rural non-farm dwelling placed on it. The proposal could not reasonably be placed on resource land that is already irrevocably committed to nonresource uses. There are no other parcels that fit this description that would allow the proposal to be sited in a resource zone. The number of parcels that are requested could not be located on land zoned resource (EFRU) where a subdivision would be required or the qualification of the parcel for non-farm dwellings. This criterion is met.

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

FINDING: A portion of the proposed development (60 acres) is within an urban growth boundary with the remaining portion of 177 acres being immediately adjacent to the west. The entire parcel of 237 acres is within the Hines Urban Growth Boundary (See Map 10a). The land has a County zoning designation of Exclusive Farm and Range Use, requiring an Exception to Goal 3. It might be possible to accommodate this development within the adjacent UGB.

- (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

FINDING: The proposal calls for the creation of 40-46 additional parcels with home sites to be constructed on each over a 5-10 year period. The only public facility or service would be a septic system for each parcel as well as potable water wells. These systems would be for private use only with no provision of a publicly accessible system.

The Urban Growth Boundary Joint Management Agreement as found in the Harney County Comprehensive Plan, Section 7.2.4 "Hines Urban Growth Joint Management Agreement" paragraph (H) states:

"H. Urban facilities and services, including sewer and water, will not be extended to a property unless the property is annexed. Exceptions may be made to this policy only when annexation is impossible or economically unfeasible for the city and when there is a threat to public health by not allowing the extension of facilities."

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Thus, public facilities and services such as water and sewer cannot be extended to this development unless an exception to the policy is justified. This criterion is met.

- (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 another party specifically describes such sites with facts to support the assertion that the sites are more reasonable during the local exceptions proceeding.
- (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;

FINDING: The exception at the proposed site would have far less impacts on the long-term environmental, economic, social and energy consequences than if it were to be placed on other land also requiring an exception. This criterion is met.

... which resource land is least productive. The parcel in question is not valuable farmland due to soils, terrain and geology. The parcel sits on a rocky, volcanic deposit that has shallow soils. Native vegetation can grow on the parcel but

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converting it to more valuable agricultural land would be unreasonable (See Map 9, "Soils").

... ability to sustain resource uses near the proposed use. There are resource use or agricultural uses adjacent to this property mainly on the west side boundary. The uses are low impact such as grazing. The placement of additional home sites on the parcel in question would have minimal impacts. This particular property sits in between two other residential subdivisions and would make a perfect fit for this particular use. The homes and accessory development would not adversely impact agricultural practices on adjacent property as there are little to none on the adjacent property to the West and the South, East and North side's boarder developed housing and commercial property.

...irreversible removal of the land from the resource base. The long-term economic impact of this property being taken out of the resource base would be non-existent. The reason for this "no impact" determination is because this parcel has not contributed much to the resource base in the past. The soils and terrain do not allow this parcel to be a productive feature of the overall resource base of this area of the County.

- (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.

FINDING: The parcel on which the proposal would be placed is compatible with the adjacent areas. There is currently another R-1 Zone adjacent (Skelton Addition to the north) along with residential and commercial uses within the City of Hines. There are farm uses adjacent to this property where grazing occurs periodically to the west and this is very steep terrain and has not been used for agriculture purposes for many years. There may be minimal impacts to the area because of this development, although the criteria clearly state that "compatible" is not intended as an absolute term meaning "no interference or adverse impacts of any type with adjacent uses." Thus, there may be impacts to adjacent property from this development, but not to such a degree as to warrant a prohibition of this property being eligible for an exception. This criterion is met.

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- (3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

FINDING: The exception does not include more than one area. The only area would be located on the single parcel of property that is listed in the Land Use Permit Application as T23S, R30E within Section 26 and Tax Lot 200 consisting of 237 acres. This criterion is not applicable to this proposal.

- (4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

FINDING: This proposal does not call for an expansion of an Unincorporated Community or for an Urban Unincorporated Community. This criterion is not applicable to this proposal.

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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) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. 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:
 - (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
 - (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
 - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

FINDING: The proposed use is provided for in subsequent sections of the rule, which will follow. The use is rural residential and that specific use is covered in Section (2) below. Thus, the remaining criteria in Section (1) do not need to be addressed.

- (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

FINDING: The Harney County Comprehensive Plan was initially adopted in the early 1980s and formulated in the late 1970s. Chapter 5 of the Plan, unfortunately, has not

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been updated to reflect more current trends and needs from those expressed in the earlier timeframe. The following comes from page 141 of the Harney County Comprehensive Plan, Chapter 5, subsection 2 entitled, "Outlook":

"5.2 Outlook

The Burns/Hines urban area and most of Harney County can expect little change in the economic outlook over the next few years. Based on historical trends, the overall civilian labor force in all of Harney County can be expected to increase by about 2 to 2.45 percent a year. Normal seasonal patterns will occur including differing employment levels in agriculture, trade, construction, and government. Livestock production, timber harvesting, and weed products are the present major industries of Harney County. There appears to be various opportunities to develop certain types of recreational and tourist facilities within the county. Due to the lack of all modes of transportation, the distance to large markets, and available labor supply, it has been difficult to attract new industries to Harney County. Future socio-economic growth will depend on the expansion of the agricultural and timber industries and the further development of the recreation and tourist industry, which ranks third among the major economic segments of the community."

Market trends seem to ebb and flow with the changes in economics and desire. Recently Harney County has experienced a surge in families and individuals moving here for employment, retirement and other similar reasons. Of course, it is difficult to track where people are coming from and why it is that they are moving to the area, but from the following numbers it is shown that there has been a rise in the number of sales over the past several years as well as the number of new homes and manufactured homes being built/placed.

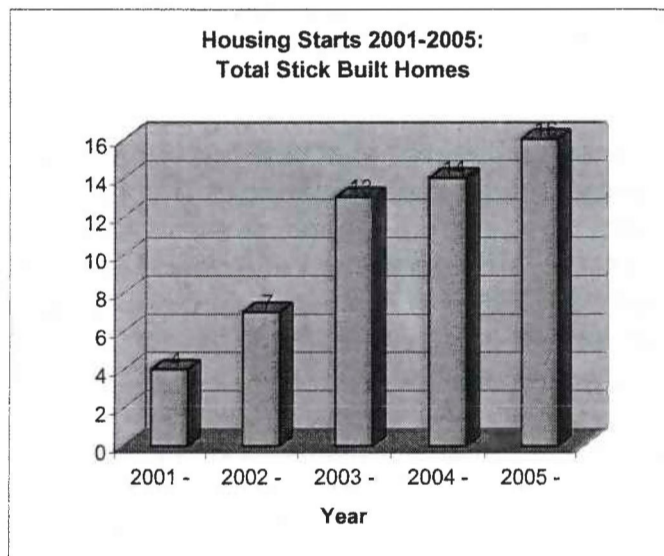
Table 1 shows that from 2001 until the end of 2005 there has been a steady increase in the number of new stick built homes being constructed. The numbers come from monthly reports provided to the County by Inspections, Inc., the contracted County Building Department, of the various permits being issued. Thus, in the year 2001 there were only four new home permits issued and in 2005 there were 16 new home permits issued, which is a 400 percent increase. This trend most likely will continue, in that more and more persons will continue to move here and depending upon housing stock will either move into an existing home or build a new one. New stick built homes are a good indicator of positive trends for an areas growth. Building a new home by the person or a developer shows an interest for long-term residency and eventually a contribution to the local economy. Not only is the home being built and material being purchased locally but also the ones living in the home will more than likely be permanent residents for at least two years and possibly even longer. New homebuyers tend to stay in an area longer than ones that rent, lease or live in less expensive housing.

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**Housing Starts 2001- 2005
Building Permits for Stick Built Homes**

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							1	0	1	2	0	0	4
2002 -	0	1	0	1	0	1	0	0	2	1	0	1	7
2003 -	0	0	0	3	1	2	1	1	0	4	1	0	13
2004 -	0	1	1	2	1	2	2	1	1	0	1	2	14
2005 -	0	0	0	2	0	6	2	0	3	0	1	2	16
													54

Table 2 - Housing Starts 2001-2005: building permits issued for stick built homes



Graph 2 – Housing Starts 2001-2005: building permits issued for stick built homes

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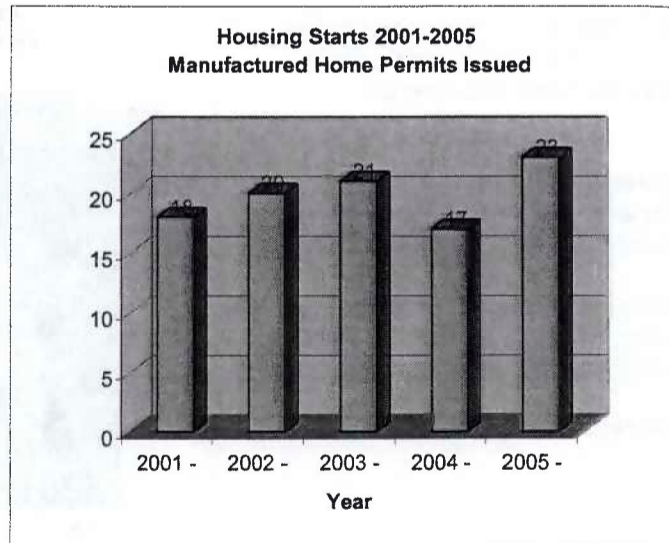
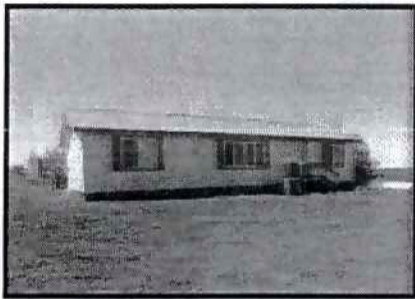
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Table 2 shows the number of permits that were issued for manufactured homes either new or used from 2001-2005. Similar to the stick built home permits, these permits are issued through Inspections, Inc. and are reported monthly to the County. The number of permits issued over the past several years seems to remain relatively stable with little fluctuation. Manufactured homes, for the most part, are affordable housing and have a much faster construction timeframe. Of course, manufactured homes, although more affordable and predictable, tend to serve a more temporary living experience. Nonetheless, there are a steady number of manufactured homes being set up each year and the probability of these numbers remaining at or above those in previous years are very high.

**Housing Starts 2001- 2006
Manufactured Home Placement Permits Issued**

Year	J	F	M	A	M	J	J	A	S	O	N	D	TOTAL
2001 -							5	2	2	3	2	4	18
2002 -	0	0	0	2	2	0	6	3	3	0	4	0	20
2003 -	3	1	1	2	1	2	4	1	2	4	0	0	21
2004 -	0	0	3	1	1	1	1	4	2	2	2	0	17
2005 -	1	1	3	2	1	2	3	3	3	1	0	3	23
													99

Table 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.



Graph 3 – Housing Starts 2001-2005: building permits issued for manufactured homes.

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The Sales from 2000-2005 also shows an increase in the number of persons possibly relocating to this area and the need for housing. The County Assessor's Office reports the sales data. The numbers reported here are termed "Verified and Confirmed Sales", which means that these sales were via a contract, deed or other instrument for real market value. There has been a steady increase with a spike happening this past year of more than 318 sales. There may be a number of reasons for the increase in sales, but one possibility is that people are moving to this area and using the amiable housing stock. And it is a rule of trends that as the numbers rise they will continue to rise until it reaches a critical mass and levels out the activity. Thus, sales will continue to increase until there is nothing left that is valuable, desirable or is available to sell in terms of housing.

**Total Sales 2000-2005, Verified and Confirmed Sales
By Class Code (types of use)**

Year of Report	Class Code (Type of Use)										Total
	100	101	109	400	401	409	550	551	5509	800	
2000 -	12	53	16	26	6	7	26	13	5	0	164
2001 -	5	55	10	26	2	12	20	9	9	0	148
2002 -	7	59	14	47	4	6	12	9	10	3	171
2003 -	12	71	11	26	1	7	21	11	8	2	170
2004 -	6	76	17	40	3	10	25	19	10	4	210
2005 -	15	118	14	76	6	12	30	20	23	5	319

Table 4 - Total Sales 2000-2005: Verified and Confirmed Sales by Class Code

Taken from a Report generated from County Assessor Database, June 22, 2006

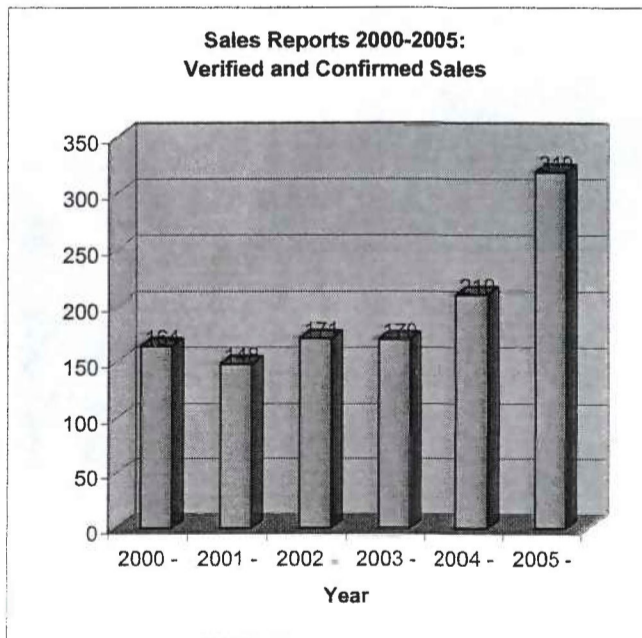
Class Code Legend:

- Class 100 - Residential Lot, no improvements
- Class 101 - Stick built home on residential lot
- Class 109 - Manufactured structure on residential lot

- Class 400 - Rural tract no improvements
- Class 401 - Rural tract with a stick built home
- Class 409 - Rural tract with manufactured home

- Class 550 - Farm tract, no improvements
- Class 551 - Farm tract with a stick built home
- Class 559 - Farm tract with manufactured home

- Class 800 - Recreational Lot, no improvements



Graph 4 - Total Sales 2000-2005, Verified and Confirmed Sales by Class Code

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The following provisions do not apply to this proposal:

- (3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:
- (4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:
- (5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
- (6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:
- (7) Goal 16 -- Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:
- (8) Goal 16 -- Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:
- (9) Goal 17 -- Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:
- (10) Goal 18 -- Fore-dune Breaching: A fore-dune may be breached when the exception demonstrates an existing dwelling located on the fore-dune is experiencing sand inundation and the grading or removal of sand is:
- (11) Goal 18 -- Fore-dune Development: An exception may be taken to the fore-dune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:
- (12) Goal 12 -- Transportation Improvements on Rural Lands. Transportation improvements not allowed on rural lands as provided for in OAR 660-012-0065 require an exception pursuant to OAR 660-012-0070 and this division.

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**PART B, Taking an Exception to Goal 14 – Urbanization, Rezoning
a portion (177 acres) of a parcel from EFRU-1 to Rural Residential
(R-1) In Harney County**

Why are we also taking an exception to Goal 14? The requested rezone from EFRU-1 to R-1 proposes a 5-acre minimum lot size. According to OAR 660-004-0040 (7)(i) the minimum lot size must be at least 10 acres for new rural residential areas unless an exception to Goal 14 is taken. Thus, an exception to Goal 14 is required.

**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.

FINDING: It is found that the property in question has two different classifications. There is 60 acres that is within the Urban Growth Boundary of Hines. That portion of the parcel would not have an Exception to Goal 14, as it would not be termed "undeveloped rural land". That portion of the parcel is rural land that is designated by the Harney County Comprehensive Plan, Section 7.2.4 as committed to urban development.

"7.2.4 Hines Urban Growth Joint Management Agreement

The parties to this Joint Management Agreement shall be the Cities of Burns and Hines, Oregon, and Harney County, Oregon.

The terms of this Joint Management Agreement shall be applicable to the Cities of Burns' and Hines' urban growth area. **For the purposes of this Agreement, the Urban Growth Area shall be defined as that area of land extending from the Cities of Burns' and Hines' corporate limits to the City of Burns' and Hines' urban growth boundary** as referenced and mapped in the City of Burns Comprehensive Plan, the City of Hines Comprehensive Plan and the Harney County Comprehensive Plan, and hereby incorporated into and made a part of this document. The development priority areas shall also be as referenced and mapped in the City of Burns Comprehensive Plan, the City of Hines Comprehensive Plan and the Harney County Comprehensive Plan."

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The remainder of the parcel, which is 177 acres, is outside of the Urban Growth Boundary of Hines and would be termed "undeveloped rural land". An Exception to Goal 14 would be taken on this portion of the parcel. Thus, the 60 acres would have a 5-acre minimum lot size and the 177 acres would have a 5-acre minimum lot size. The remaining criteria for taking an exception to Goal 14 will only apply to the 177-acre portion of this parcel (See Map 10a).

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

FINDING: Harney County has had as the minimum lot size for the established Rural Residential (R-1) Zone of 5 acres since the initial adoption of the Zoning Ordinance in 1983 instead of the requirement of 10 acres for a new rural residential parcel as required by Administrative Rule. The Administrative Rule was modified during the 2001 legislative session that made the minimum lot size for a new parcel in a newly created rural residential zone to be 10 acres. Initially, the County questions whether the difference between the 5-acre minimums to 10 acres minimums constitutes "urban density". Nonetheless, the fact that development on 5 acres constitutes urban density has been set by the State.

The reasons that this area should be rezoned to be Rural Residential (R-1) as the County currently has outlined in the Harney County Zoning Ordinance, Section 3-090 is as follows:

1. **The area is inherently nonresource land.** The area in question is found to be for all intents and purposes "nonresource" land. The soil survey defines the soil in the general area as Class Vie "Tablelands". The property is very difficult to farm with the rocky, volcanic rock deposits. The native vegetation is sagebrush with shallow soils. The land has not and never will be converted to irrigated crop land and the conversion of this land from resource to nonresource land will be a benefit rather than a detriment to the overall land use pattern of the area.

Also, the parcel in question has a variety of landscapes – rolling hills, steep slopes, etc. The development would be required to conform to building sites that meet applicable provisions for building on this type of terrain. Thus, there may not be exactly 40-46 parcels where some parcels might need to larger to incorporate the unbuildable landscape.

2. **The overall land use pattern will be consistent with the surrounding area.** The parcel in question is immediately adjacent to the City of Hines with residential development and commercial uses nearby. There are other Rural Residential (R-1) Zones adjacent to this parcel as well. The creation of an additional 40 - 40-46 parcels will fit well within the current land use pattern of the area (see Map 10a & 10b, "Winn Addition").

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(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;

FINDING: The 177 acre portion of the parcel could reasonably be accommodated through an expansion of the existing urban growth boundary. The challenge, however, would be to show the need to expand the UGB of Hines to include such a large parcel.

Between 1998 and 2000 there was a modification of the UGB of Hines where portions of this parcel were taken out of the UGB in order to straighten the UGB line. Prior to the change the line work traveled along the contour of the land at the 4,300-foot elevation line. This mark was set previously to ensure that any development that might come into the City of Hines could be served by their existing water system. That line work was changed to run down various quarter section lines. At that time, the UGB was not expanded to include this parcel of ground. That is not to say that some 6 years later that a need could not be shown to expand the existing UGB, however, it is the desire of the applicant to move the project forward without additional time and expense. If the Department determines that it would be to the best interest of the State and local jurisdictions to expand the UGB of Hines rather than take an Exception to Goal 14 it would be considered. In either case, however, the entire parcel, which is in and out of the UGB, would be developed at similar densities of 5-acre parcels and it could be a condition of the approval to go through the expansion process within two years of approval of the exception.

(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

FINDING: The amount of land included within the boundaries of the proposed urban development is appropriate for the specified uses. The desired use is for home sites and the 5 acres on which the home sites would be located (5 acres each) would be enough land to accommodate the required services to support these homes. Additionally, the size of the 177 acres would be appropriate when considering the development of the entire parcel and the current "nonresource" use of the land. Previously in this document, a need was shown for small parcels for development of home sites. The trends are moving in a positive direction for

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additional need for home sites on smaller acreage and this area of the County has always been viewed as the best location for this type of development.

(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.

FINDING: It is found that the air, water, energy and land resources would be available for the proposal and the proposal would not adversely affect these resources. The proposal calls for the creation of 40-46 additional home sites, which does require a certain amount of air, water, energy and land for the home sites themselves. This criterion is met.

Air: There would be some disturbance of the air canopy during development and the movement of soil and the like. However, after development occurs there would be no pollutants or other disturbance to the air canopy that is known at this time from these home sites.

Water: The affect of additional potable water wells into the current aquifer is unknown. There is no credible survey or study at this point for the aquifer in this area of the County as to the volume currently used and to the rate of recharge. It would be feasible to assume that the addition of the 40-46 homes would impact the current potable water supply to some degree: it would be difficult to determine to what extent.

Energy: The usage of energy for the proposed home sites would be moderate. Of course, there would be demand for electrical and other low voltage energy systems (cable, phone, etc.). At this time it is assumed that those systems can handle additional loads represented by what 40-46 additional home sites would require.

Land: The creation of 40-46 parcels of 5 acres each would be enough room to handle the development of home sites and the placement of the services that are required to serve these homes (septic, wells, driveways and open space). Additionally, the soils are shallow and the septic system will require more than the typical area for a working drain field and the replacement area.

(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

FINDING: It is found that there are no cities or service districts that will be impacted since the proposed site will not receive any services from a city or

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service district. All services such as water and septic will be provide by the landowner through private systems. Also when reviewing the service district of public safety such as law enforcement, schools and medical it is found that 40-46 additional homes would create an impact, however, the impacts would be moderate to where these public facilities would be able to continue to provide an adequate level of service.

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

FINDING: The nearby and adjacent resource management practices of adjacent property owners can be continued with a high degree of certainty. The agricultural practices on nearby proerpty are very minimal and seasonal at best. Grazing at certain times of the year is the typical use of the adjacent property, which would only be felt on the western boundary of the property in question.

It is difficult to speculate just what impacts there might be due to personal activities or hobbies of those living in the homes resulting from this proposal. There may be some impacts but those impacts such as noise, domestic animals, etc. would be termed "compatible" and could be managed to lessen any impacts felt by adjacent property owners. This criterion is met.

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

FINDING: The landowners themselves are actually providing the public facilities and services that would serve these parcels (i.e. water and septic). Thus, the water well and sanitary septic system are not termed "public" in the strictest sense of the word. These systems will only serve the home sites and not other development. Nonetheless, these services will be provided in a timely manner.

Also, the other public facilities and services such as emergency services and public education would be provided in a timely fashion as these services are able to handle additional development at this time. This criterion is met.

(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.

FINDING: It is found that the establishment of new urban development on undeveloped rural land is coordinated and consistent with the Harney County Comprehensive Plan, which is the guiding document for this development area. The Harney County Comprehensive Plan makes clear statements as to the overall intent and need to provide rural non-farm housing on either resource or nonresource land. A portion of the

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text found in Section 7.4 "Rural Residential Exceptions to Goal 3 - Agriculture " is as follows:

"The Court has also determined that there is a **need for Rural Residential Housing**, as was shown earlier in this Plan element. It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines. Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements.

The Court has also determined that there is a need for Rural Residential Housing, as was shown earlier in this Plan element. **It has been determined that the only appropriate places for this type of housing is adjacent to urban areas and especially adjacent to Burns and Hines.** Therefore, the proper location is to the west of the Cities where the vast majority of the land is rolling and of poorer soils with Class IV and higher designations. There is some grazing in this area; however, there are no intense operations. Much of this land has been zoned R-1 in the past, however, the Court has determined that the area should be made larger to "make up" for the loss of extensive R-1 zoning east of the Cities, and to assure adequate land to meet the need given that any development will have to be at very low densities to meet septic requirements."
(Emphasis added)

Thus, the creation of a new rural residential area is consistent with the Harney County Comprehensive Plan and the determination that there is a need for rural development in the County when the review criteria are met. Also, the statement that the area west of Hines is the most likely area for this type of development also makes this type of proposal even more credible and consistent with the perspective of those formulating the County Comprehensive Plan. This criterion is met.

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

FINDING: The criterion is not applicable to this proposal. The development is for rural residential and not for rural industrial development.



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Harney County Government
Planning Department

Richard H. Jennings, Planning Director
450 N. Buena Vista, Burns, OR 97720
Voice: (541) 573-6655
FAX: (541) 573-8387
Email: planning@co.harney.or.us
Website: www.co.harney.or.us

STAFF REPORT

Date of Public Hearing:	August 23, 2006
Type of Proposed Land Use Permit Application:	Rezone – EFRU-1 to R-1
File #	06-45
Applicant Name and Address:	Jay Winn Great Basin Construction PO Box 1412 Hines, OR 97738
Current Property Owner:	Jay Winn Great Basin Construction PO Box 1412 Hines, OR 97738
Account #	41005
Map #	23 – 30 – 26
Tax Lot #	200
Code #	30-4
Class #	40 – Rural Tract with no improvements
Zoning:	EFRU-1
Acres:	237 acres
Floodplain Status:	Zone D, 410083-0625-B, 4/17/84 (Zone D is NOT a Special Flood Hazard Zone with the definition being “Areas of undetermined flooding.”)

Project Description (taken directly from the application materials - #23, page 6 of the application):	“Applicant would like to rezone the property to be R-1 and divide it into 5 acre parcels to be used as home sites.”
Applicable Criteria: Zoning Ordinance and/or Subdivision and Partitioning Ordinance	Review the attached packet.

T-444

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Criteria and ORS and/or
OAR provisions:

**Recommendation
from the Harney
County Planning
Department:**

The property lies on the west side of Hines with 60 acres inside the UGB and 177 acres outside of the UGB. The rezone for the 60 acres is the most logical place for a rezone to occur since the UGB is where growth should take place and was set up for that purpose. Typically, those 60 acres would be annexed into the city to take advantage of the city services. However, developing the property into 5 acres parcels would still allow the annexation in the future with additional lots being created at that time (if it were to happen). City services cannot be extended to this development, there must be individual wells and septic.

The larger portion of the parcel is outside of the UGB and that is where the Exception criteria of Goal 3 and 14 have effect. The packet has similar information as the County/Dunn Rezone proposal. The criteria seem to be met where the land has little agricultural value.

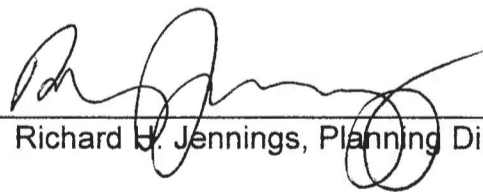
Some precautions may be:

Development of home sites can be larger than 5 acres if need be because of the terrain (steep slopes that cannot be built on).

Access will be dealt with more particularly at the Subdivision stage.

In recent conversations with the public it was indicated that there was an old Huns Lumber dumpsite on the 60 acres that may pose some challenges with DEQ.

Please review the packet thoroughly.



Richard B. Jennings, Planning Director

Thursday, August 10, 2006

Date



2007 0034

Project Application #: 06-45 7-446

Date Received: 7-19-06

Final Decision or Public Hearing Date: 8-16-06 (PC)

Harney County Planning Land Use Permit Application 2006

This application must be submitted to the Harney County Planning Department, 450 N. Buena Vista, Burns, OR 97720, (541) 573-6655, and must be accompanied by a non-refundable application fee(s). Acceptance of the application and fee(s) does not guarantee approval. **PLEASE COMPLETE THIS APPLICATION BY PRINTING CLEARLY WITH A BLACK INK PEN (copies come out better). THANK YOU.**

Section 1: Contact Information

Name of Applicant: JAY WINN

Address: P.O. Box 1412

City, State, Zip: HINES, OR 97738

Email & Telephone Number: 541-589-2300

Name of current Property Owner(s):
(If Property Owner is not the applicant) JAY WINN

Address: _____

City, State, Zip: _____

Email & Telephone Number: _____

The applicant or an appointed representative MUST be in attendance at the Public Hearing (if required) of the Harney County Planning Commission in order to explain the project. Planning Commission meetings occur every 3rd Wednesday of the month at 7 PM in the Harney County Courthouse basement meeting room.

If there is no representative present during the scheduled Public Hearing for this Land Use Permit Application, the application will be tabled until the next regularly scheduled meeting.

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Section 2: Type of Application and Fees

Check all application (s) being submitted.

<input checked="" type="checkbox"/>	Type of Application: (Alphabetically Listed)	Fee(s):	Process Summary			
			Public Comment Period	Open Record Hearing	Decision Made By	1 st and 2 nd Level Appeal
<input type="checkbox"/>	Comp. Plan Amendment	\$200.00	20 + days	PC	CC	LUBA
<input type="checkbox"/>	Conditional Use Permit (Including a Non-Farm Dwelling)	\$125.00 **	20 + days	PC	PC	CC and LUBA
<input type="checkbox"/>	Farm Dwelling and other Permitted Uses requiring Admin. Review (Lot of Record Dwelling)	-.**	20 + days	-	PD	CC and LUBA
<input type="checkbox"/>	Property Line Adjustment	\$50.00 *	20 + days	-	PD	CC and LUBA
<input type="checkbox"/>	Partition (Divide parcel into 3 - parcels)	\$175.00 *	20 + days	PC	PC	CC and LUBA
<input type="checkbox"/>	Subdivision (Divide parcel into 4 + lots)	\$200.00 + \$10 /lot *	20 + days	PC	CC	LUBA
<input type="checkbox"/>	Variance	\$125.00	20 + days	PC	PC	CC and LUBA
<input type="checkbox"/>	Zone Change (Rezone) (Map/Text, Requires Petition)	\$200.00	20 + days	PC	CC	LUBA

* Partitions, Property Line Adjustments and Subdivisions: Tax Map Maintenance Fee.	\$35 and \$35/lot on subdivisions
Site Plan Review (required for all applications):	\$35.00
County Clerk Recording Fee of Findings and Decision:	\$50.00
** Rural Addressing: When constructing a home.	\$50.00/ea
TOTAL FEE:	\$

Key for Abbreviations used above:
PD - Planning Director, PC - Planning Commission, CC - County Court, LUBA - Land Use Board of Appeals

It should be noted that appeals above LUBA would go to the Oregon Court of Appeals and possibly the Oregon Supreme Court

Advertisement Costs: All land use applications will also have additional costs to be billed to the applicant **AFTER** the application is processed - actual costs for public notice in the Burns-Times Herald and \$2.00 for every adjacent landowner that receives a public notice by mail.

Appeals: There is a non-refundable fee when appealing to the Harney County Court of \$125.00

NOT All Sections of this Land Use Permit Application **may** be applicable to every type of application. Sections 1-3, p. 1-8 and Sections 13, 15, p. 18 -20 are required for every application, Only complete the remaining sections that apply: Sec. 4, p. 8- a home or business, Sec. 5, p. 9 - depends on the permit, Sec. 6, p.10- Property Line Adjustment, Sec. 7, p. 11 - Partition, Sec. 8, p. 12 -Farm Dwelling, Sec. 9, p. 14 - Non-Farm Dwelling, Sec. 10, p. 15 - Lot of Record Dwelling, Sec. 11, p. 16 - Rural Addressing, Sec. 12, p. 17 - Road Naming.

2007 0054 T-448

Section 3: Property Information

Complete this section for ALL applications.

1. Location of Property (Provide directions you would give someone to get to the property):	DRIVE SOUTH ON HWY 20 THROUGH HINES, PROPERTY SITS ON HILLSIDE, STARTING AT END OF REVAK STREET & CONTINUES ALL THE WAY THROUGH TO THE PAVED HINES LOGGING ROAD
2. Has the Property or dwelling received a Rural Address? If so, what is it?	<input type="checkbox"/> Yes: _____ <input checked="" type="checkbox"/> No
3. Assessor's Account Number(s) for the Property:	Parcel 1: <u>41005</u> Parcel 2: _____ Parcel 3: _____
4. Assessor's Tax Lot Number(s) for the Property:	Parcel 1: <u>200</u> Parcel 2: _____ Parcel 3: _____
5. Legal Description of Property: Township: <u>23S</u> Range: <u>30E</u> Section: <u>26</u> Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".	
6. Current Zoning Classification:	<input checked="" type="checkbox"/> EFRU-1 <input type="checkbox"/> EFRU-2 <input type="checkbox"/> FU or OTHER _____
7. Current Use of Property:	<u>NONE - BARE GROUND</u>
8. Surrounding Uses of Property:	<u>RESIDENTIAL - COMMERCIAL - AGRICULTURE</u>
9. Size of Property: (acres)	<u>237.54</u>
10. Does the Property reside in a Floodplain? If the Property is in a Floodplain (Zone Ax) you will need to complete a Floodplain Development Permit before building.	Zone: <u>C</u> Panel Number: _____ Will building permits eventually be applied for on this project? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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<p>11. Is the property located in wetlands as listed on the National Wetlands Inventory maps?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>12. What road provides ACCESS to the Property?</p>	<p>HIGHWAY 20 - STATE ROCK PIT, SHELTON ROAD - HINES LOGGING ROAD</p>
<p>13. Will the Property need an Access Permit onto a County Road or State Highway? (If so call Kerry Landers, County Road master, 573-6232, or ODOT, 541-889-9115).</p>	<p><input checked="" type="checkbox"/> Yes, if so please contact the proper authority and provide that documentation with this application. <input type="checkbox"/> No</p>
<p>14. Are there any easements that provide the MAIN ACCESS for the Property OR adjacent properties?</p>	<p><input checked="" type="checkbox"/> Yes, if so please provide the documentation with this application. <input type="checkbox"/> No</p>
<p>15. Does the Applicant hold Title to the Property? If not, what is your interest in the Property?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, who does? _____</p>
<p>16. Include a narrative of the types of Fish and Wildlife Habitat found on the Property: (This information MUST be obtained from Ron Garner, Oregon Department of Fish and Wildlife, 237 Hines Blvd, Hines, OR 97738, 541-573-6582.)</p>	<p>The description from ODFW is NOT necessary for Partitions and Property Line Adjustments. RABBITS, DEER, GROUND SQUIRRELS.</p>
<p>17. What type of Water Use/Rights is present on this Property? Describe type of Water Use - domestic wells, surface water rights, etc. (Contact June Miller, OWRD, County Courthouse, 573-2591.)</p>	<p><input checked="" type="checkbox"/> No water uses/rights present. <input type="checkbox"/> Yes, there are water uses/rights. Circle those that apply: Stock Wells, Domestic Wells, Irrigation Wells</p>
<p>18. What is the environmental health of this Property? For example are there any dumpsites, pollutants, etc. which makes this Property environmentally unhealthy?</p>	<p><input checked="" type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor, if so, please explain:</p>

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19. Are there any **natural hazards** found on the Property?

- Yes, if so, please explain:
 No

20. Are there any **Archeological Sites** on this Property? (If during construction, remains are uncovered please contact the Harney County Planning Department immediately)

- Yes, if so, please describe:
 No

21. Is the Property considered a **Legal Lot of Record**? This means that the parcel or lot was created according to required procedures. Mark which description applies and provide documentation (i.e. Property Deed Card - Assessor's Office):

- A lot in an existing, duly recorded **subdivision**; or,
 A parcel in an existing, duly recorded major or minor land **partition**; or,
 An existing unit of land for which a **survey** has been duly filed which conformed to all applicable regulations at the time of filing, or,
 Any unit of land **created PRIOR to zoning** and partitioning regulations by deed or metes and bounds description, and recorded with the Harney County Clerk, provided, however that contiguous units of land so created under the same ownership and not conforming to the minimum property size of the underlying zone shall be considered one (1) lot of record.
 The Property does not meet any of the above descriptions.

22. Projected **timeline** of proposal: (If applying for a Conditional Use Permit it should be noted that if there is no substantial development begun within 1 year from the date of approval, an extension must be written and approved by the Harney County Planning Commission before the permit expires [the 1 year anniversary date]. There is a limit to one extension.)

23. Provide a **description of proposal**:

APPLICATE WOULD LIKE TO RE-ZONE THIS PROPERTY TO R-1 ZONE AND DIVIDE IT INTO 5 ACRE PARCELS TO BE USED AS HOME SITES

2007 0054 T-451

Section 4: Facilities and Services to Serve Project

Complete this section ONLY if applying for a dwelling.

All facilities and services provided in Harney County are listed below. Please indicate who will provide each facility/service (either public or private) by providing name, address, and phone. For example, if a private domestic well were providing the drinking water, the provider would be the property owner.

Facilities and Services	Name of Provider, Address and Phone
24. Potable (drinking) Water:	<input checked="" type="checkbox"/> Private Property Owner, <input type="checkbox"/> Other _____
25. Sanitary Sewage Disposal:	<input checked="" type="checkbox"/> Private Property Owner, <input type="checkbox"/> Other _____
26. Electrical Services:	<input checked="" type="checkbox"/> Harney Electric Co-op, <input type="checkbox"/> Idaho Power
27. Solid Waste (trash):	<input checked="" type="checkbox"/> C & B Sanitary, <input type="checkbox"/> Landfill: _____
28. County Roads:	Harney County Road Department, 266 S. Date, Burns, OR 97720, 573-6232
29. Law Enforcement:	Harney County Sheriffs Department, 485 N. Court, Burns, OR 97720, 573-6156
30. Structural Fire Protection:	(Currently there is no Rural Fire District in the County to provide structural Fire Protection.)
31. Public Schools:	BURNS & HINES SCHOOLS
32. Telephone:	Centurytel - (800)-637-9843

33. Will there be any **undue impacts** on public facilities and services as a result of this land use proposal? (Attach additional pages if necessary.)

Yes, if so, please explain.
 No

NOTE: "Undue impacts" are when the public facilities or services mentioned above will be adversely impacted or reach a point where they can no longer provide adequate levels of service to the general public.

2007 0054 T-452

Section 5: Multiple Permits (Comprehensive Plan Amendment, Conditional Use Permit, Variance OR Zone Change) Complete this section ONLY if submitting an application type listed above. If applying for a Conditional Use Permit - Non-Farm Dwelling, complete Section 9 as well.

34. Proposed Zoning Classification of the Property:	<input type="checkbox"/> No Change in Zoning <input checked="" type="checkbox"/> New Zoning Proposed: <u>R-1</u>
35. Proposed Use of the Property:	HOME SITES - 5 ACRE
36. What is the nature and purpose of this Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change?	TO RE-ZONE THIS PROPERTY TO BUILD ON 5 ACRE HOME SITES,
37. What are the reasons this Property needs and is suited for a Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change?	EXCELLENT LOCATION CLOSE TO TOWN, THERE IS A GREAT NEED FOR HOME SITES WITH ACREAGE, THE LAND IS BEST SUITED FOR THIS TYPE OF ZONING, & USE
38. What effects might the Comprehensive Plan Amendment, Conditional Use Permit, Variance, or Zone Change have on <u>adjoining property</u> ?	IT WILL IMPROVE THE PROPERTY VALUE OF ALL SURROUNDING HOMES.

39. Complete if applying for a **Variance**:

Setback

Required Minimum Setback: 20 feet Proposed: _____

Lot Size

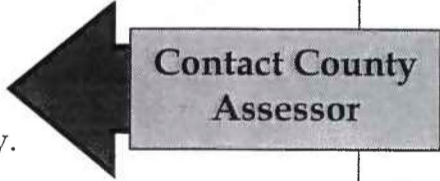
Required Minimum Lot Size: _____ Proposed: _____

2007 0054 T-453

Section 13: Required Application Materials

86. These materials are to be submitted with the application: The proceeding page is to be used as a base for the site plan. This drawing DOES NOT take the place of any maps required to be submitted by a Licensed Surveyor. This site plan will show what is or will be on the property. Additional material may be requested.

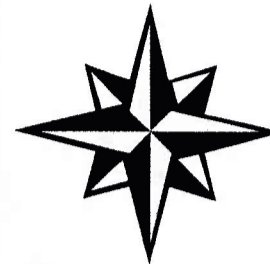
<input checked="" type="checkbox"/>	Materials to be submitted for ALL types of Applications:
<input checked="" type="checkbox"/>	a) Completed Application form .
<input type="checkbox"/>	b) Applicable Application fees .
<input type="checkbox"/>	c) Site Plan Marked Exhibit B (see proceeding page) to include:
<input type="checkbox"/>	• North Arrow
<input checked="" type="checkbox"/>	• Site area showing Property boundaries and dimensions
<input checked="" type="checkbox"/>	• Proposed and existing structures with dimensions to nearest Property lines.
<input type="checkbox"/>	• Location of existing wells
<input type="checkbox"/>	• Location of existing septic systems (i.e. tanks, drain fields)
<input type="checkbox"/>	• Widths and names of roads adjacent to the site as well as existing roads, which provide direct access to the Property.
<input checked="" type="checkbox"/>	• Existing access points (driveways, lanes, etc.)
<input checked="" type="checkbox"/>	• Easements and rights-of-ways
<input type="checkbox"/>	• Existing utility lines (above and below ground)
<input type="checkbox"/>	• Approximate location of any unusual topographical features
<input type="checkbox"/>	• Major geographic features
<input type="checkbox"/>	• Location of all creeks, streams, ponds, springs and other drainage ways.
<input checked="" type="checkbox"/>	d) Vicinity Map - Assessor's map of the Property.
<input checked="" type="checkbox"/>	e) Quick Print showing property details.
<input checked="" type="checkbox"/>	f) The Deed of the Property in question.
<input checked="" type="checkbox"/>	g) Property Deed Card and description of property.
<p>PROPERTY LINE ADJUSTMENT Applications All applications for Property Line Adjustments must have a Record of Survey Map completed by a Surveyor licensed in the State of Oregon, showing the proposal to County standards as found in the Harney County Subdivision and Partitioning Ordinance, Article 5</p> <p>PARTITION and SUBDIVISION Applications: A Surveyor licensed in the State of Oregon must submit a Preliminary Plat showing the proposal to County standards as found in the Harney County Subdivision and Partitioning Ordinance, Article 5.</p>	



2007 0054

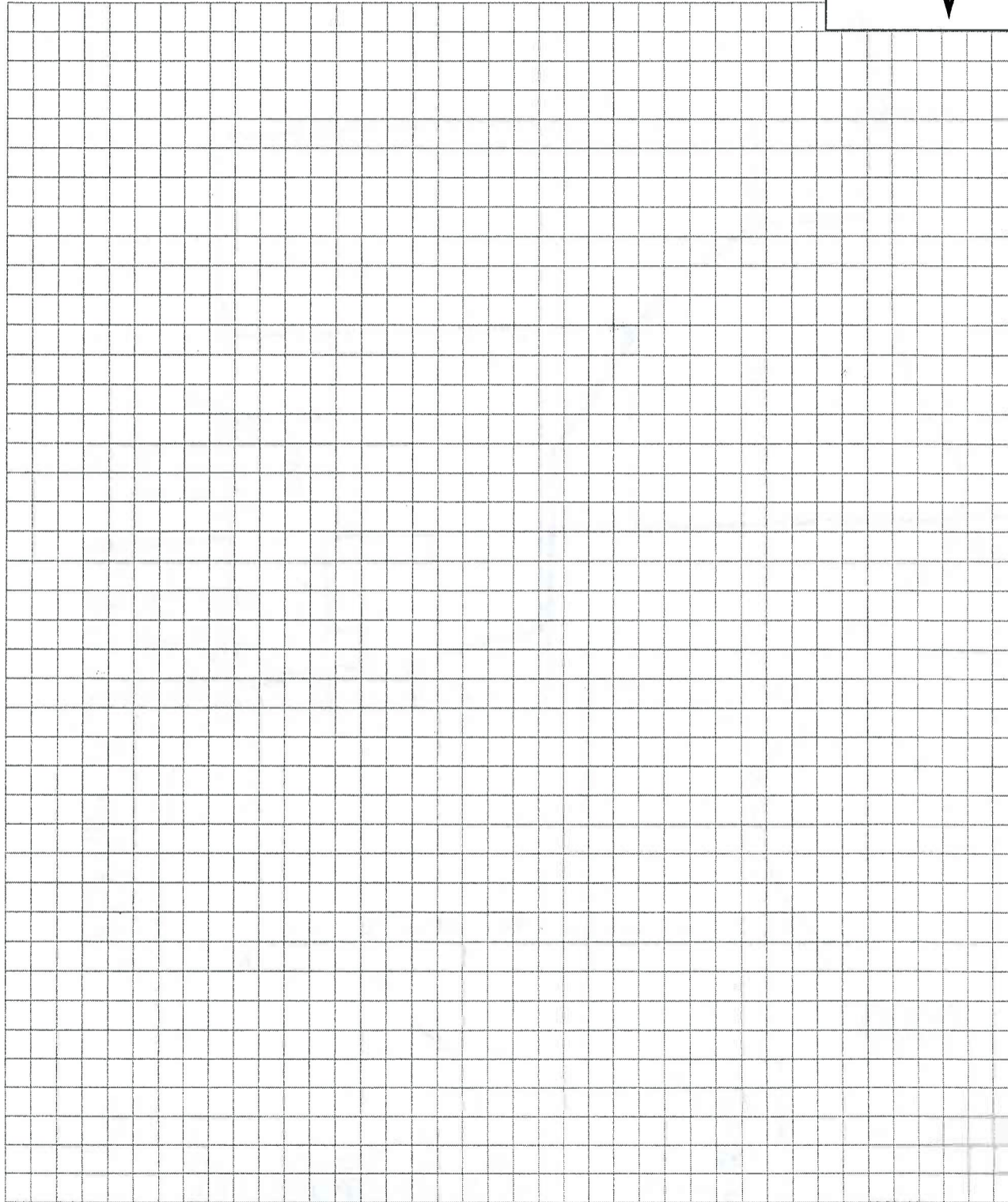
T-454

N



**Exhibit B
Site Plan**

SEE ATTACHED MAP!



20070054

T-455



Property of Interest

- HWY
- Street
- Walking Trail
- Sanitary Drain
- Government
- Fire Hydrant
- Hospital
- Park
- School
- Church

Burns City Limits
 Burns UGB
 Vicksburg UGB
 Indian Lands

City Map

1 inch equals 618.88 feet

0 200 400 600 800 1000 Feet

Created by: Peter Smith, Inc., Jan. 2008
 This map was prepared by Peter Smith, Inc. for Burns, Oregon.
 Burns, Oregon is a community of approximately 10,000 people.
 The map shows the city limits and the city's jurisdiction.
 The map is for informational purposes only and does not constitute a legal document.
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HARNEY COUNTY, OR
 The Bureau of Land Management
 Burns District Office, Burns, Oregon
 541 375-9199, www.blm.gov/burns



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

2007 0034

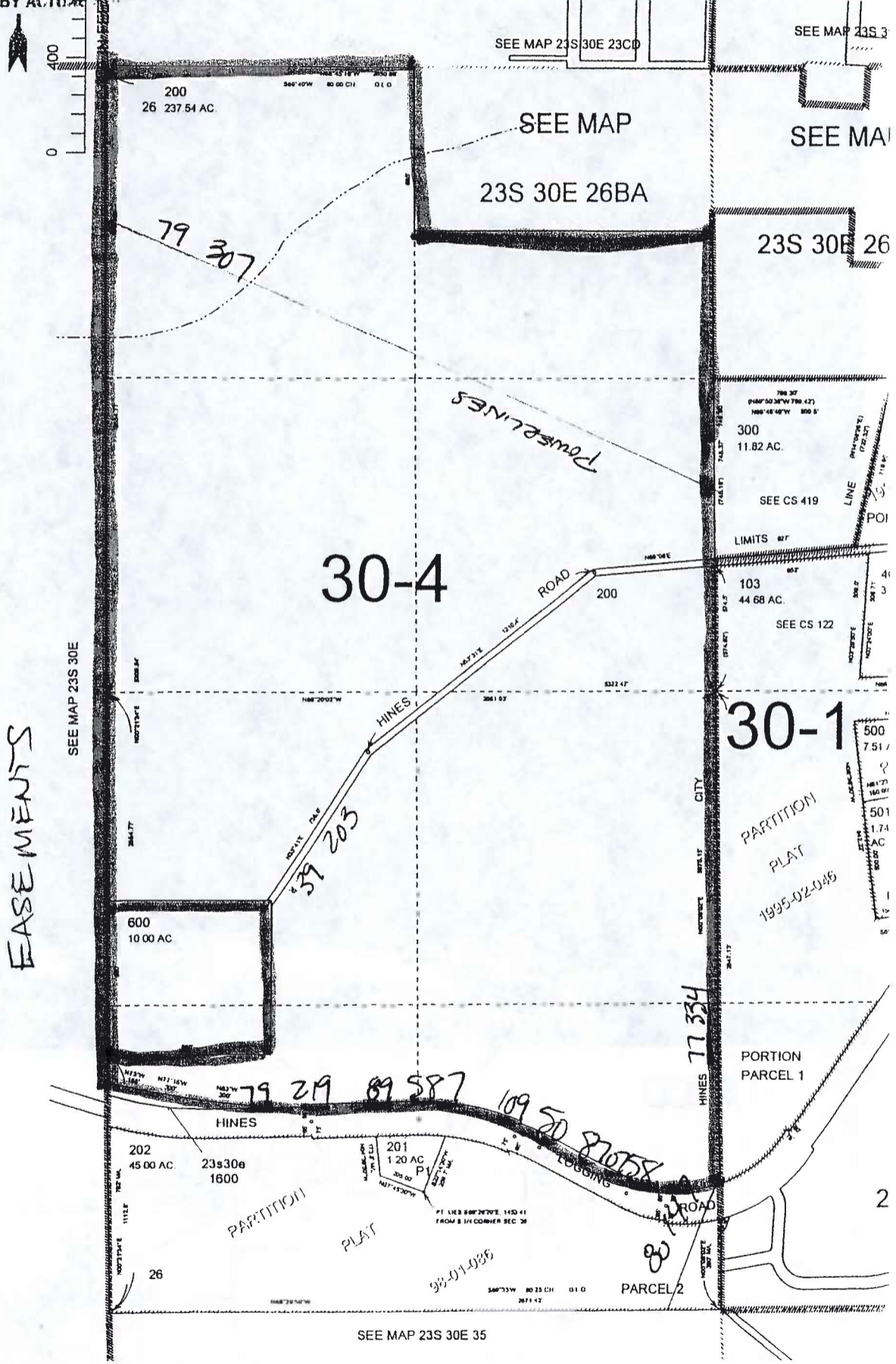
SECTION 26 T.23S

HARNEY CO

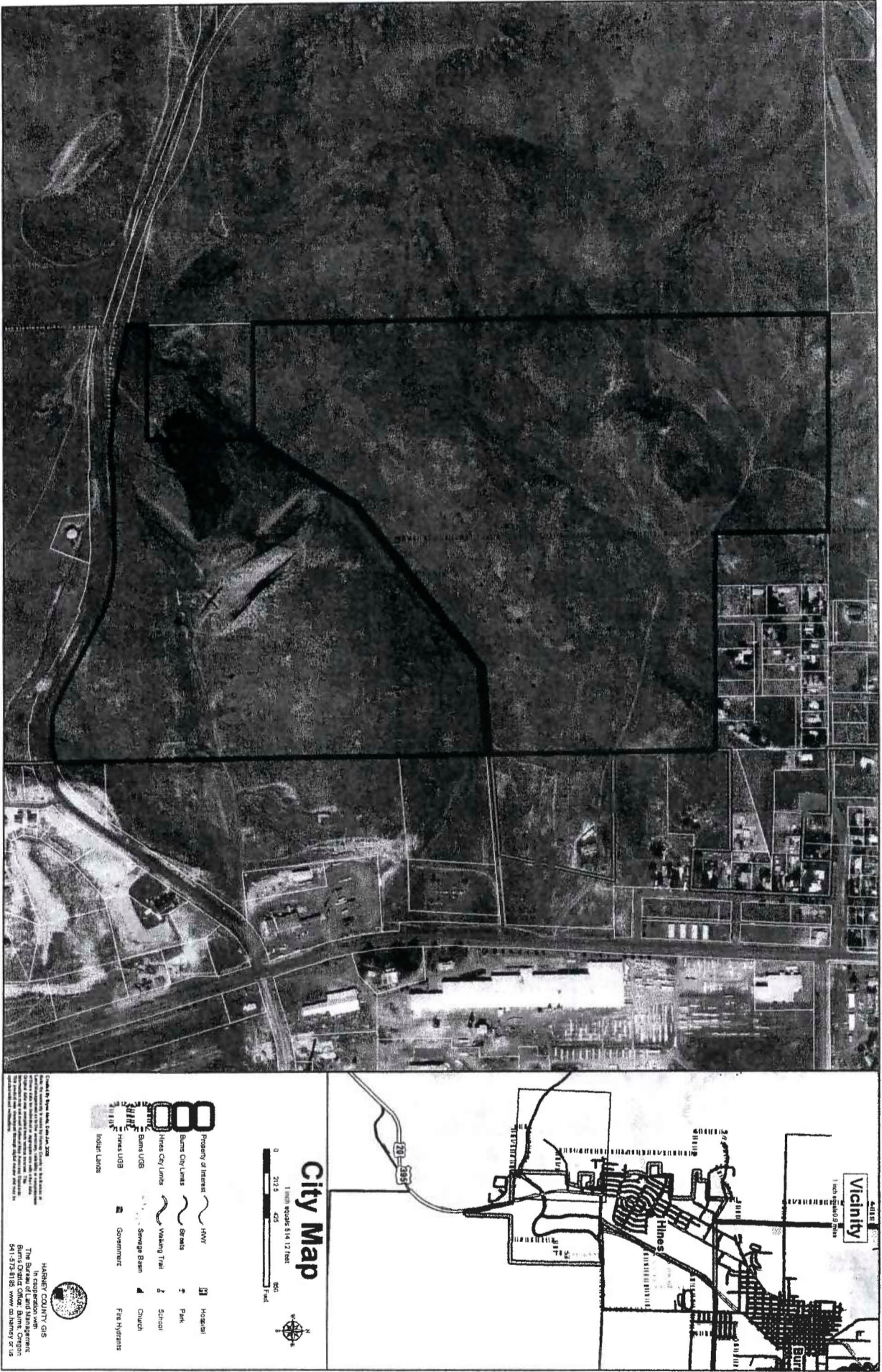
1" = 400'

T-456

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING SAID PREMISE AND THE COMPANY ASSUMES NO LIABILITY FOR VARIATIONS, IF ANY, IN DIMENSIONS OR POSITIONS ASCERTAINED BY ACTUAL SURVEY.



2007 0034 T-457



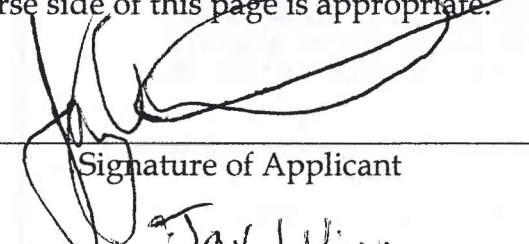
2007 0054

T-458

Section 15: Certification

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. It is further understood that the signing of this application if for a dwelling will preclude any lawsuits related to the by-products (i.e. noise, dust, order, etc.) of farming operations.

ALL Property Owners with any interest in the properties being effected by this Land Use Permit Application must sign and date this form. If more room is needed signing the reverse side of this page is appropriate.

X  _____ Date 7-19-00

Signature of Applicant

Jay Winn

Printed Name of Applicant

X  _____ Date 7-19-00

Signature of Property Owner

Jay Winn

Printed Name of Property Owner

X _____ Date _____

Signature of Property Owner

Printed Name of Property Owner



Is there anyone else besides the property owner and adjacent property owners who would like to receive notice of this application during its' review period and notice of decision? (Realtor, perspective buyer, etc.) If so, provide name and mailing address:

Name: ROBERT PARAMORE Name: _____

Mailing Address: P.O. BOX 1379 Mailing Address: _____
HINES, OR 97738

951314 **2007** 0054 T-459

BARGAIN AND SALE DEED

ALLISON PARTNERSHIP, consisting of PATRICK E. ALLISON, PATRICIA E. ALLISON and MICHAEL E. ALLISON, called Grantor herein, hereby conveys to ALLISON LLC, called Grantee herein, the following described real property:

See attached Exhibit "A"

SUBJECT TO easements, reservations and restrictions of record.

Tax: Code 30-4, Map No. 23-30-26, Lot 101, Ref No. 59152 (needs segregating)

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPEPTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this transfer is exchange of partnership interest for equal interest in LLC.

Dated : January 13, 1995

Until further notice, send all tax statements to:

Allison LLC
PO Box 207
Hines, OR 97738

ALLISON PARTNERSHIP

By: Patrick E. Allison
Patrick E. Allison

By: Patricia E. Allison
Patricia E. Allison

By: Michael E. Allison
Michael E. Allison

STATE OF OREGON)
) ss 8-11, 1995 . (For Recorder's Use)
County of Harney)

Personally appeared the above named Patrick E. Allison, Patricia E. Allison and Michael E. Allison and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me
Terrri Jo Morgan
Notary Public for Oregon
My commission expires 12-19-98



STATE OF OREGON)
County of Harney) ss.

I certify that the within instrument was received for record on the 13 day of January, 1995 at 4:50 clock P.M. and recorded Microfilm number 951314. Record of said County. By: Alison County Clerk



Prepared by
STEPHEN D. FINLAYSON, ATTORNEY
709 Ponderosa Village
Burns OR 97720
Tel: (503) 573-2151

Return to
Allison LLC
PO Box 207
Hines, OR 97738

351314 **20070054** T-4600

EXHIBIT "A"

Land in Harney County, Oregon, as follows:

In Twp. 23 S., R. 30 E., W.M.:

Sec. 26: That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{4}$ SE $\frac{1}{4}$ lying West of the Central Oregon Highway right of way, as said right of way is described in Deeds recorded September 16, 1926, in Book 32, Page 490, recorded May 13, 1954, in Book 58, Page 349, recorded July 17, 1957, in Book 63, Page 505, and recorded November 26, 1975, in Book 99, Page 584, Deed Records, EXCEPTING THEREFROM the following parcels:

Parcel No. 1: Beginning at a point which is 2560.00 feet South, and 1710.39 feet West of the Northeast corner of said Sec. 26 (which point is more conveniently described as being 160 feet North and 150 feet West of the point of intersection of the center line of the Central Oregon Highway, in a curve of said highway in front of the Edward Hines Lumber Co., and from which point of intersection the said highway bears N. 03° 28' 50" E.); thence N. 89° 47' 11" W. 310 feet; thence N. 03° 28' 50" E. 509 feet, more or less, to the South boundary of the State of Oregon right of way; thence N. 86° 08' E., along said South boundary, 310 feet, more or less, to a point which is N. 03° 28' 50" E. of the point of beginning; thence S. 03° 28' 50" W. 530 feet, more or less, to the point of beginning.

Parcel No. 2: Beginning at a point on the North-South quarter section line of said Sec. 26; which is N. 00° 13' 20" E. 574.5 feet from the center quarter section corner; thence N. 86° 08' E. 627.0 feet; thence N. 14° 12' E. 722.4 feet, more or less, to the one-sixteenth section line; thence N. 89° 46' 40" W., along said one-sixteenth line, 800.50 feet, more or less, to the said North-South quarter section line; thence S. 00° 13' 20" W., along said one-quarter section line, 745.37 feet, more or less, to the point of beginning.

Parcel No. 3: A parcel of land being 30 feet in width, 15 feet on each side of the following described center line: Beginning at a point on the North-South center line of said Sec. 26, which is 535 feet North of the center quarter section corner; thence N. 86° 08' E. 1131 feet to the center line of the Central Oregon Highway at Engineer's center line Station 1631+67, said point being the end of said described center line.

Allison Partnership to Allison LLC
Bargain & Sale Deed

351314

20070054 T-461

Parcel No. 4: All that portion of the SE $\frac{1}{4}$ lying Southwesterly of the Central Oregon Highway right of way, as said right of way is described in deeds recorded May 13, 1954, in Book 58, Page 349, recorded July 17, 1957, in Book 63, Page 505, and recorded November 26, 1975, in Book 99, Page 584, Deed Records, and lying Southeasterly of the following described line: Beginning at the point of intersection of the North line of the Hines Ochoco Logging Road, as it existed on August 25, 1966, with the North-South center line of said Sec. 26, which is N. 00° 14' 17" E., 245 feet of the South quarter section corner of said Sec. 26; thence following the Northerly right of way line of said logging road, N. 59° 04' 17" E. 50 feet; thence N. 34° 04' 17" E. 70 feet; thence N. 12° 49' 17" E. 75 feet; thence N. 04° 07' 43" W. 227 feet; thence N. 13° 47' 17" E. 227 feet; thence N. 61° 49' 17" E. 405 feet; thence N. 50° 39' 17" E. 105 feet; thence N. 44° 44' 17" E. 530 feet; thence N. 35° 44' 17" E. 390 feet; thence N. 56° 29' 17" E. 120 feet to the point of intersection of the Northerly line of said logging road with the Westerly line of the Central Oregon Highway right of way, said point being the end of the said described line.

Parcel No. 5: A parcel of land in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ described as follows: Beginning at a point on the Northerly right of way boundary of the Burns-Izee County Road, formerly the Ochoco National Forest Road R1911, as same is described in easement recorded in Book 88, Page 35, Deeds. Said point being 100 feet Westerly of the Central Oregon Highway Engineer's Centerline Station 1603+10 and being N. 33° 40' 45" E., 2176.32 feet from the South One-Quarter Section Corner of said Section 26; thence along the said Northerly boundary of the Burns-Izee County Road S. 74° 06' 00" W., 40.93 feet; thence along a 560 foot radius curve to the left 217.14 feet (the long chord bears S. 62° 59' 30" W., 215.79 feet); thence leaving said County Road at S. 85° 34' 40" W., 243.28 feet; thence N. 08° 36' 30" W., 445.16 feet to a point that is S. 51° 32' 40" E., 842.55 feet from the Center One-Quarter Section Corner of said Section 26; thence N. 74° 06' 00" E., 434.59 feet to a point 100 feet Westerly of the centerline of the Central Oregon Highway; thence S. 15° 54' 00" E., parallel to the Central Oregon Highway 448.40 feet to the Point of Beginning.

2007 0054 T-462

OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTIES
Office of County Assessor - Harney County

Reference # 92067

Code Area 30-1

Map # 23 30 26

Tax Lot # 103

Acres 35.61

Legal Description	Date	Deed Record
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Land in the City of Hines, Harney County, Oregon, as follows:
In Township 23 S., Range 30 E., W.M.
Section 26: Parcel 3 of Partition Plat #05-02-166, recorded
February 11, 2005, Instrument #20050282, Harney County
Plat Records.

Snow Mountain Pine of Oregon, Ltd.	12/8/89	891762
Easement	6/25/90	900888
Easement	10/1/90	901453 <i>OTC Phone</i>
<hr/>		
WD: Snow Mountain Pine of Oregon, Ltd. a California Limited Partnership to Allison Partnership, a partnership consisting of Patrick E. Allison & Michael E. Allison	2/1/95	950157
<hr/>		
B&S: Allison Partnership to Allison, LLC	8/14/95	951314
Ordinance No. 235	3/15/99	990472
Ordinance No. 241	7/1/99	991437
Partition Plat #05-02-166 Filed	2/11/05	20050282

THIS SPACE RESERVED FOR RECORDER'S USE
20061052

2007 0054 T-463

After recording return to:
JAY WINN
P.O. BOX 1412
HINES, OR 97738

Until a change is requested all
tax statements shall be sent to
The following address:

JAY WINN
P.O. BOX 1412
HINES, OR 97738

STATE OF OREGON } ss
County of Harney

I certify that the within instrument was received
for record on the 22 day of May
2006 at 2:40 o'clock P.M. and
recorded Microfilm number 20061052
Deed Records of said County.

Maria Iturriaga, County Clerk
By: Maria Iturriaga

STATUTORY WARRANTY DEED

THE MILLENNIUM REAL ESTATE DEVELOPMENT GROUP, LLC, Grantor(s) hereby convey and
warrant to JAY WINN, Grantee(s) the following described real property in the County of HARNEY and State of Oregon
free of encumbrances except as specifically set forth herein:

SEE EXHIBIT "A" CONSISTING OF ONE PAGE ATTACHED HERETO.

ACCT# 41005; CODE# 30-4 MAP: 23S 30E 26 LOT 200

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and
those shown below, if any:

The true and actual consideration for this conveyance is \$195,000.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE
TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1,
OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES NOT ALLOW
USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE
LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS
INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK
WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR
FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF
NEIGHBORING PROPERTY OWNERS, IF ANY UNDER CHAPTER 1, OREGON LAWS 2005
(BALLOT MEASURE 37 (2004)).

Dated this 22 day of May, 2006.

THE MILLENNIUM REAL ESTATE DEVELOPMENT GROUP, LLC

BY: [Signature]
FRANK L. HO, MEMBER

BY: [Signature]
TUAN ANH TRAN, MEMBER

BY: [Signature]
JAMES Q. LAM, MEMBER

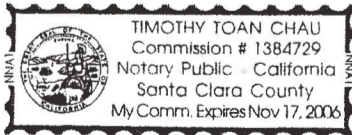
BY: [Signature]
ROBERT Q. LAM, MEMBER

State of California
County of Santa Clara

On this 22 day of May, 2006, before me, Timothy Toan Chau the undersigned, a Notary Public in and
for said State, personally appeared FRANK L. HO, TUAN ANH TRAN, ROBERT Q. LAM and JAMES Q. LAM as Members of
THE MILLENNIUM REAL ESTATE DEVELOPMENT GROUP, LLC a Limited Liability Company, known to me to be the
person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in such
capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this instrument first
above written.

[Signature]
Notary Public for
Residing at: Santa Clara
Commission Expires: Nov. 17, 2006



2007 *0034* *T-064*
2006 *1052*

EXHIBIT "A"

Land in Harney County, Oregon, as follows:

In Twp. 23 S., R. 30 E., W.M.:

Sec. 26: W $\frac{1}{2}$, SAVE & EXCEPT the following three parcels:

Parcel No. 1: Beginning at a point on the West line of said Sec. 26, which is 1117.8 feet North of the Southwest corner of said Sec. 26; thence East, at right angles to said Sec. line, 660 feet; thence North 660 feet; thence West 660 feet to said West Sec. line; thence South, along said Sec. line, 660 feet to the point of beginning.

Parcel No. 2: Beginning at the North quarter corner of said Sec. 26; thence West, along the North line of said Sec., 1345 feet; thence South, parallel to the North-South midsection line of said Sec., 685 feet; thence East, parallel to the North line of said Sec., 1345 feet; thence North, along the North-South midsection line of said Sec., 685 feet to the point of beginning.

Parcel No. 3: Parcels No. 1 and 2 of Partition Plat No. 98-01-086, recorded January 6, 1998, Instrument No. 980035, Harney County, Plat Records, located in the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 26, Twp. 23 S., R. 30 E., W.M.

2007 0054 T-465

OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTIES
Office of County Assessor – Harney County, Oregon

Reference # 41005 Code Area 30-4

Map # 23 30 26 Tax Lot # 200 Acres 237.54

Legal Description	Date	Deed Records
Land in Harney County, Oregon, as follows: In Township 23 S., Range 30 E., W.M. Section 26: That portion of the W1/2 lying North of the Hines Forest Service Logging Road. SAVE & EXCEPT the following parcels:		
<u>Parcel #1:</u> Beginning at a point on the West line of said Section 26, which is 1117.8 feet North of the Southwest corner of said Section 26; thence East, at right angles to said section line, 660 feet; thence North, 660 feet, thence West, 660 feet; thence East, 660 feet to the Point of Beginning.		
<u>Parcel #2:</u> Beginning at the North quarter corner of said Section 26; thence West, along the North line of said Section, 1345 feet; thence South, parallel to the North-South midsection line of said Section, 685 feet; thence East, parallel to the North line of said Section, 1345 feet.		
<u>Parcel #3:</u> Parcels No. 1 and 2 of Partition Plat No 98-01-086 recorded January 6, 1998, instrument No 980035, Harney County, Plat records, located in the S1/2SW14 of Sec. 26, TWP 23 R 30 E., W.M.		
Easement		77 238
Easement		77 334
Easement		79 307
Easement		80 147
WD: Robert Hebener & LaVerne Hebener, husband & wife to George Glerup & Burtta Jean Glerup, husband & wife	4/7/75	98 308
Contract of Sale: George Glerup & Burtta Jean Glerup, husband & wife to Robert Hebener & LaVerne Hebener, husband & wife	2/10/77	103 94
WD: George Glerup & Burtta Jean Glerup, husband & wife to Robert Hebener & LaVerne Hebener, husband & wife	11/2/81	115 636
Circuit Court #88-10-9490-E in favor of Dorland Ray		
B&S. Robert Hebener & LaVerne Hebener, husband & wife to Peter B. Hebener	6/28/89	890913

2007 0051 T-466

Harney County Planning Commission: Findings & Decisions	3/6/98	980402
=====		
WD: Peter B. Hebener to: Frank L. Ho	12/30/05	20052544
WD: Frank L. Ho to: The Millennium Real Estate Development Group, Inc (No Legal)	1/13/06	20060088
=====		
WD: Frank L. Ho to: The Millennium Real Estate Development Group, Inc (re-recorded to add legal)	1/23/06	20060138
=====		
WD: The Millennium Real Estate Development Group, Inc to: Jay Winn	5/24/06	20061052

20000390 2007⁰⁰⁹⁴ T-467

<burns.039>

City of Hines Ordinance No. 245

AN ORDINANCE AMENDING
THE ZONING ORDINANCE TEXT AND THE ZONING MAP
FOR THE CITY OF HINES,
AND DECLARING AN EMERGENCY

The City of Hines does hereby ordain:

Section 1. Legislative Background. The City of Hines adopted a Comprehensive Plan and Comprehensive Plan Map on May 31, 1979 with Ordinance No. 153. In 1999, as a result of an Urban Growth Boundary Analysis, the City amended a minor portion of the Urban Growth Boundary and adopted revisions to its Comprehensive Plan with Ordinance No. 241. Subsequently, the City caused the entire western boundary of the Urban Growth Boundary to be adjusted and, with the property owners' consent, removed approximately 87 acres from the eastern boundary area. That land must be rezoned to allow only resource-based land uses.

Section 2. Adoption of Exhibit 3. A map revising the zoning of the above-referenced tract is attached as Exhibit 3 and is hereby adopted. The Land Use Designation for this property shall be Exclusive Farm Use (EFU).

Section 3. Background Information and Findings of Fact. The background information and findings-of-fact justifying these Urban Growth Boundary revisions have been adopted and incorporated by reference into the City's Comprehensive Plan Text as an addendum.

Section 4. Zoning Ordinance Text. A revised Zoning text regarding the land removed from the Urban Growth Boundary is adopted as follows.
Exclusive Farm Use (EFU)

11.600 Purpose and Intent

In the Comprehensive Plan Map Amendment of 2000, the City removed approximately 87 acres of land from the eastern boundary of the Urban Growth Boundary and added approximately 87 acres of land to the western boundary. The land that was removed, while legally inside the exiting city limits, shall be designated Exclusive Farm Use (EFU) on the City's Comprehensive Plan Map and Zoning Map. A separate Exclusive Farm Use Zone text shall be

2007 0054 T-468
INSTRUMENT # 2000 0270

prepared and adopted for this land, allowing only those land uses specifically identified in ORS 215.283 and associated administrative rules (OARs).

11.610 Permitted and Conditional Uses

Only those uses identified in ORS 215.283 and the associated administrative rules shall be allowed.

This text shall be placed in the City's Zoning Ordinance as Section 11.600 and 11.610.

Section 5. General Savings Provision/Severability. The provisions of this Ordinance and Exhibit 3 are severable. If any section, paragraph, sentence, clause, or phrase is found to be invalid by any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance or the listed attachments.

Section 6. Emergency Clause. This Ordinance being enacted by the Common Council in the exercise of its police power, and for the purpose of meeting an emergency, and being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this Ordinance shall take effect immediately upon being enacted. It is necessary that this Ordinance, including said Zoning Map amendment, become effective immediately to replace obsolete ordinances and to submit same for post-acknowledgement review by the Land Conservation and Development Commission, as mandated by law.

APPROVED by the Common Council of the City of Hines

this 15th day of February, 2000.

Christina M. Hill
Christina M. Hill, Mayor

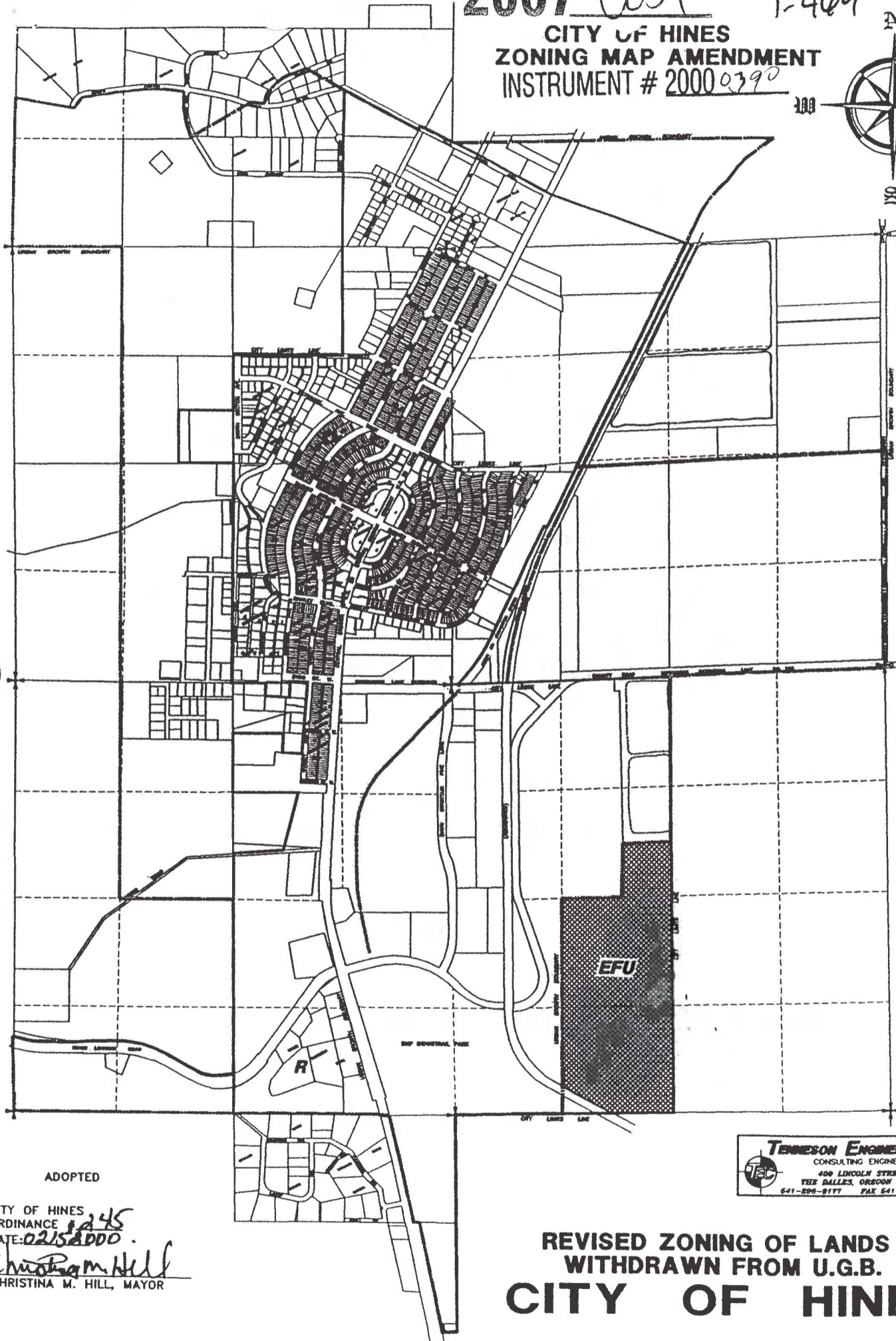
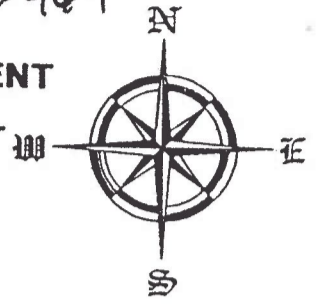
ATTEST:

Pamela L. Mather by Ramona Hofman
Pamela L. Mather, City Recorder

STATE OF OREGON }
County of Harney } ss
I certify that the within instrument was received
for record on the 15th day of February
2000 at 2:20 clock PM and
recorded Microfilm number 20000290
Deed Records of said County.
Maria Turriaga, County Clerk
By: Maria Turriaga Deputy

2007 0054 T-469

CITY OF HINES
ZONING MAP AMENDMENT
INSTRUMENT # 2000 0390



ADOPTED

CITY OF HINES
ORDINANCE # 245
DATE: 02/15/2000
Christina M. Hill
CHRISTINA M. HILL, MAYOR

TENNESON ENGINEERING CORP.
CONSULTING ENGINEERS
400 LINCOLN STREET
TEXAS DALLES, OREGON 97068
641-298-9177 FAX 641-298-8857

REVISED ZONING OF LANDS
WITHDRAWN FROM U.G.B.
CITY OF HINES

INSTRUMENT # ~~2000~~ ⁰³ **2007** ₀₅₄ T-470

boundary. The land that was removed, while legally inside the exiting city limits, shall be designated Exclusive Farm Use (EFU) on the City's Comprehensive Plan Map. A separate Exclusive Farm Use Zone text shall be prepared and adopted for this land, allowing only those land uses specifically identified in ORS 215.283 and the associated administrative rules (OARs).

This policy shall be placed in the City's Comprehensive Plan as Policy 5 of the Agricultural Lands Policies, on Page 12 of the Comprehensive Plan.

Section 5. General Savings Provision/Severability. The provisions of this Ordinance and Exhibits 1 and 2 are severable. If any section, paragraph, sentence, clause, or phrase is found to be invalid by any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Ordinance or the listed attachments. The Comprehensive Plan Map amendments approved herein for individual site amendments may be judged separately without impacting the validity of one another. If a site map amendment or property within said site is found to be invalid, the remainder of said site amendment and the other site(s) amendments shall remain in full force and effect.

Section 6. Emergency Clause. This Ordinance being enacted by the Common Council in the exercise of its police power, and for the purpose of meeting an emergency, and being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this Ordinance shall take effect immediately upon being enacted. It is necessary that this Ordinance, including said Comprehensive Plan amendments and Comprehensive Plan Map amendments, become effective immediately to replace obsolete ordinances and to submit same for post-acknowledgement review by the Land Conservation and Development Commission, as mandated by law.

APPROVED by the Common Council of the City of Hines

this 15th day of February, 2000.

Christina M. Hill
Christina M. Hill

ATTEST:

Pamela L. Mather by Ramona Hofman
Pamela L. Mather, City Recorder

STATE OF OREGON }
County of Harney } ss

I certify that the within instrument was received for record on the 22 day of February, 2000 at 2:23 clock P.M. and recorded Microfilm number 20000291

Deed Records of said County.
Maria Turriaga, County Clerk
By: Maria Turriaga Deputy

20000391

T-471

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burns.039>

City of Hines Ordinance No. 246

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN TEXT
AND COMPREHENSIVE PLAN MAP TO REVISE THE URBAN GROWTH
BOUNDARY FOR THE CITY OF HINES, AND
DECLARING AN EMERGENCY.**

The City of Hines does hereby ordain:

Section 1. Legislative Background. The City of Hines adopted a Comprehensive Plan and Comprehensive Plan Map on May 31, 1979 with Ordinance No. 153. In 1999, as the result of an Urban Growth Boundary Analysis, the City and County amended a minor portion of the Urban Growth Boundary and adopted revisions to its Comprehensive Plan with City Ordinance No. 241 and placed the remaining recommendation on hold pending further analysis. That analysis is now complete and this Ordinance will conclude the process.

Section 2. Adoption of Exhibit 1. A map revising the Urban Growth boundary of the City is attached as Exhibit 1 and is hereby adopted. The amendment map also shows Site #1, which was included earlier within the Urban Growth Boundary by the adoption of Ordinance No. 241. The Land Use Designations for the revised Urban Growth Boundary Area are as shown on the attached Exhibit 1. All other Comprehensive Plan Map designations as adopted by Ordinance No. 153, as amended, shall remain in full effect.

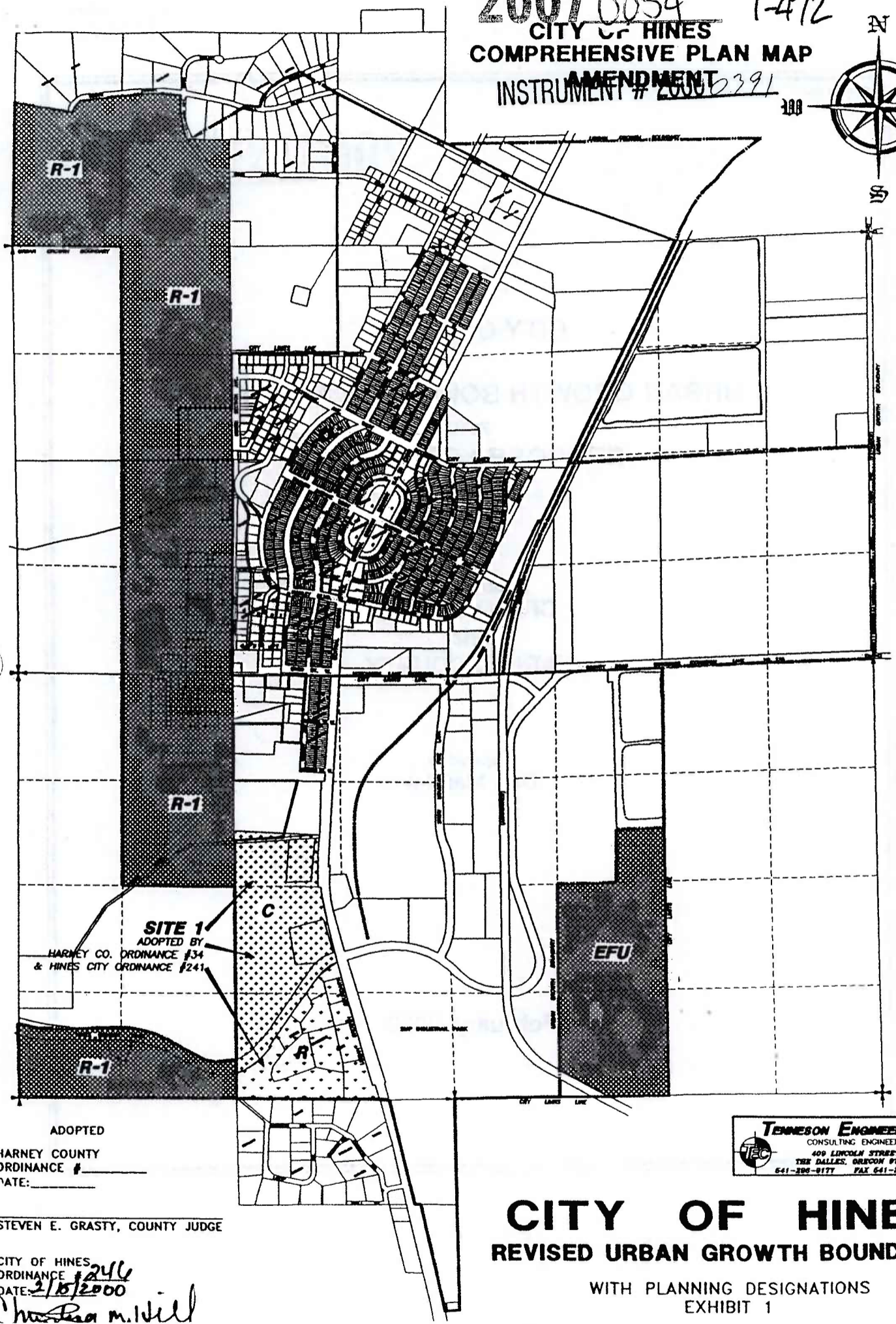
Section 3. Background Information and Findings of Fact. The background information and findings-of-fact justifying these Urban Growth Boundary revisions are attached as Exhibit 2 and are adopted and incorporated herein by reference into the City's Comprehensive Plan Text as an addendum.

Section 4. Comprehensive Plan Text. A revised policy regarding the land removed from the Urban Growth Boundary is adopted as follows.

New Policy – Agricultural Lands -- Policy 5

In the Comprehensive Plan Map Amendment of 2000, the City removed approximately 87 acres of land from the Urban Growth Boundary and added approximately 87 acres of land to the western

2007 0054 T-472
CITY OF HINES
COMPREHENSIVE PLAN MAP
AMENDMENT
INSTRUMENT # 2000 0391



ADOPTED
HARNEY COUNTY
ORDINANCE # _____
DATE: _____

STEVEN E. GRASTY, COUNTY JUDGE

CITY OF HINES
ORDINANCE # 246
DATE: 2/15/2000
Christopher M. Hill

TENNESON ENGINEERING CORP.
CONSULTING ENGINEERS
409 LINCOLN STREET
THE DALLES, OREGON 97068
641-296-9177 FAX 641-296-8957

CITY OF HINES
REVISED URBAN GROWTH BOUNDARY
WITH PLANNING DESIGNATIONS
EXHIBIT 1

T-473

<burns.048>

2007 0054

CITY OF HINES
URBAN GROWTH BOUNDARY ANALYSIS
and
PROPOSED REVISIONS
2000

prepared for the
CITY OF HINES
and
HARNEY COUNTY

prepared by
Dan Meader

February, 2000

2007 0051 T-47H

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T-475

City of Hines

URBAN GROWTH BOUNDARY REVISIONS

INTRODUCTION AND PURPOSE

The City of Hines, along with the City of Burns, began an analysis of their individual Urban Growth Boundaries with an aid of a Technical Assistance grant from the Department of Land Conservation and Development in the fall of 1998. That Technical Assistance project was completed in June 1999, with formal adoptions of revisions to the City of Burns Urban Growth Boundary and a minor housekeeping clarification to the City of Hines Urban Growth Boundary. As part of that project, the City of Hines along with Harney County, also adopted a new Urban Growth Boundary Management Agreement and some minor text amendments to its Comprehensive Plan to compliment the proposed map amendments.

The primary map amendment of the City of Hines Urban Growth Boundary under consideration in the Technical Assistance project was held in abeyance and tabled by the City Council and County Court pending an additional study of the westerly line of the City's Urban Growth Boundary. The decision to table the proposal was based upon property owner objections at the north and south ends of the Urban Growth Boundary, and the City's conclusion that the proposal just to straighten the boundary line did not provide substantial benefits to the City. This additional study is being funded as a joint effort by the City of Hines, Harney County, and the property owners involved in the analysis. The purpose of the study is to revisit the western line

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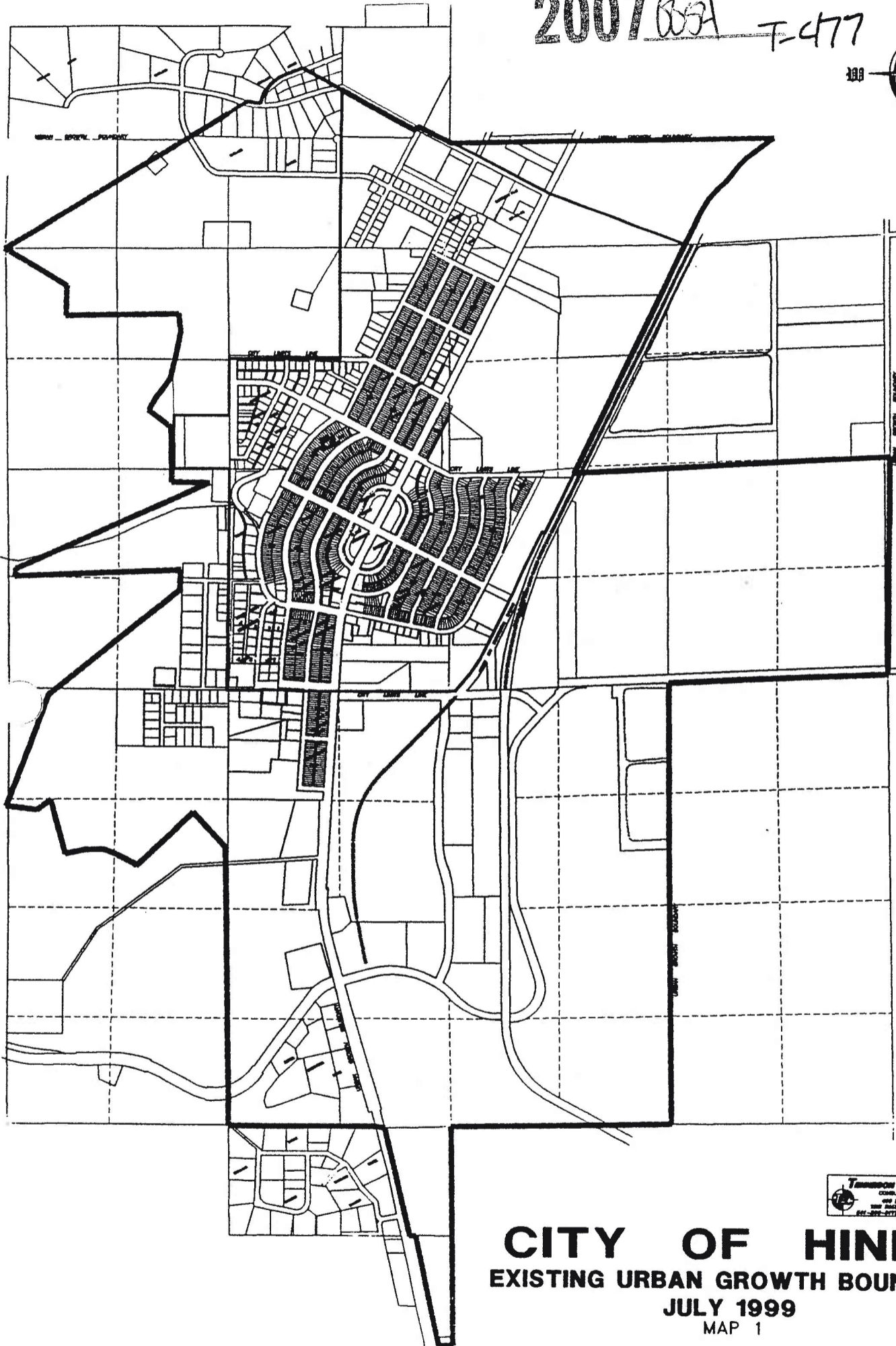
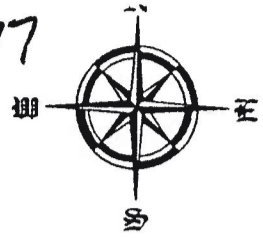
of the City's Urban Growth Boundary and, with willing property owners, effectuate a trade similar to the City of Burns.

Prior Study

The original issue was whether or not to correct the existing Urban Growth Boundary line established along the westerly edge of the City Limits as seen on Map 1. The western Urban Growth Boundary was established along the foothills bordering the City along the 4,300 foot contour line because that was, at the time, the elevation to which the City's water system was limited for service. The line creates a saw tooth like boundary, which is extremely difficult to administer because of the inability to determine the line location in the field. This is further complicated by the manner in which the boundary cuts through a number of private properties. The basic premises on which the initial project was predicated was; a) that there would be no net gain in land acreage within the Urban Growth Boundary, and b) any lands traded out of the existing Urban Growth Boundary be higher quality resource lands than that which would be brought into the Urban Growth Boundary.

In the initial study, after a number of discussions over potential boundaries it became apparent there was perhaps a simple solution. That was simply to straighten the Urban Growth Boundary line down the quarter section line immediately west of the City Limits. See Map 2, Area "B". That would have resulted in a slight reduction of acreage within the Urban Growth Boundary. However property owners at both the north and south ends of the Urban Growth Boundary objected because of the exclusion of their properties from the proposed boundary. The property on the north would actually lose lands, which are currently in the boundary. The property on the

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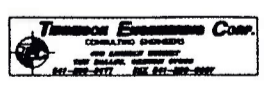
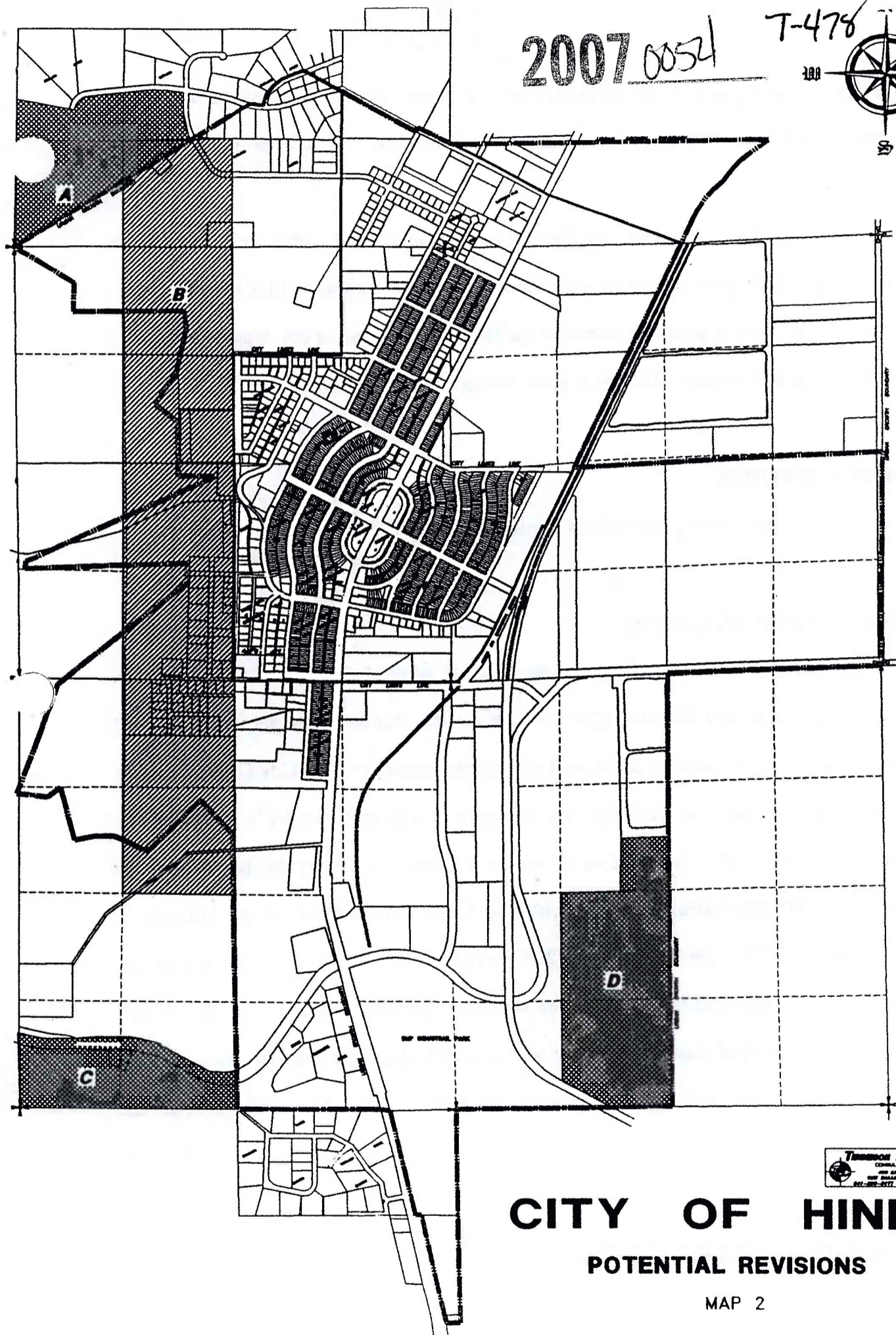
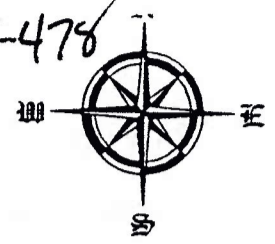


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CITY OF HINES
EXISTING URBAN GROWTH BOUNDARY
JULY 1999
MAP 1

2007 00524

T-478



CITY OF HINES

POTENTIAL REVISIONS

MAP 2

2007 0054 T-479

south appears to be much more suited for further development than the lands within the existing boundary. The two areas of interest are shown on Map 2 as Area "A" and Area "C".

To respond to the DLCD mandate, that there be no net gain of land within the Urban Growth Boundary, one of the property owners has offered to withdraw a portion of his ownership from the City's Urban Growth Boundary to ensure that there is no net gain in developable acreage for the Urban Growth Boundary. This area is seen on Map 2 as Area "D".

SITE DESCRIPTIONS

The following information is provided as a thumb nail sketch of the four areas involved.

Existing Urban Growth Boundary

The existing Urban Growth Boundary on the westerly edge of the City is a sawtooth-like boundary, which meanders along the 4,300-foot contour line. The amount of land area contained within the boundary and adjacent to the existing westerly boundary of the City Limits line, seen on Map 1, contains 294 acres. It cuts directly through a number of ownership's, particularly on the north and south ends. There is a small 10-acre parcel of City Limits that juts out into the Urban Growth Boundary area. The lands within the Urban Growth Boundary are primarily of the soil series "Teguro", very cobbly loam 2-20 percent slopes. The Soil Capability Class for this soil is VI-E. The land is not being used for active agricultural production. The original concept of the Technical Assistance project was to simply straighten this line along the one-quarter section west of the existing City Limits. See Map 2, Area "B". This would contain seven 40-acre sections for a total of 280 acres which is a slight reduction of land in the Urban

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T-4860

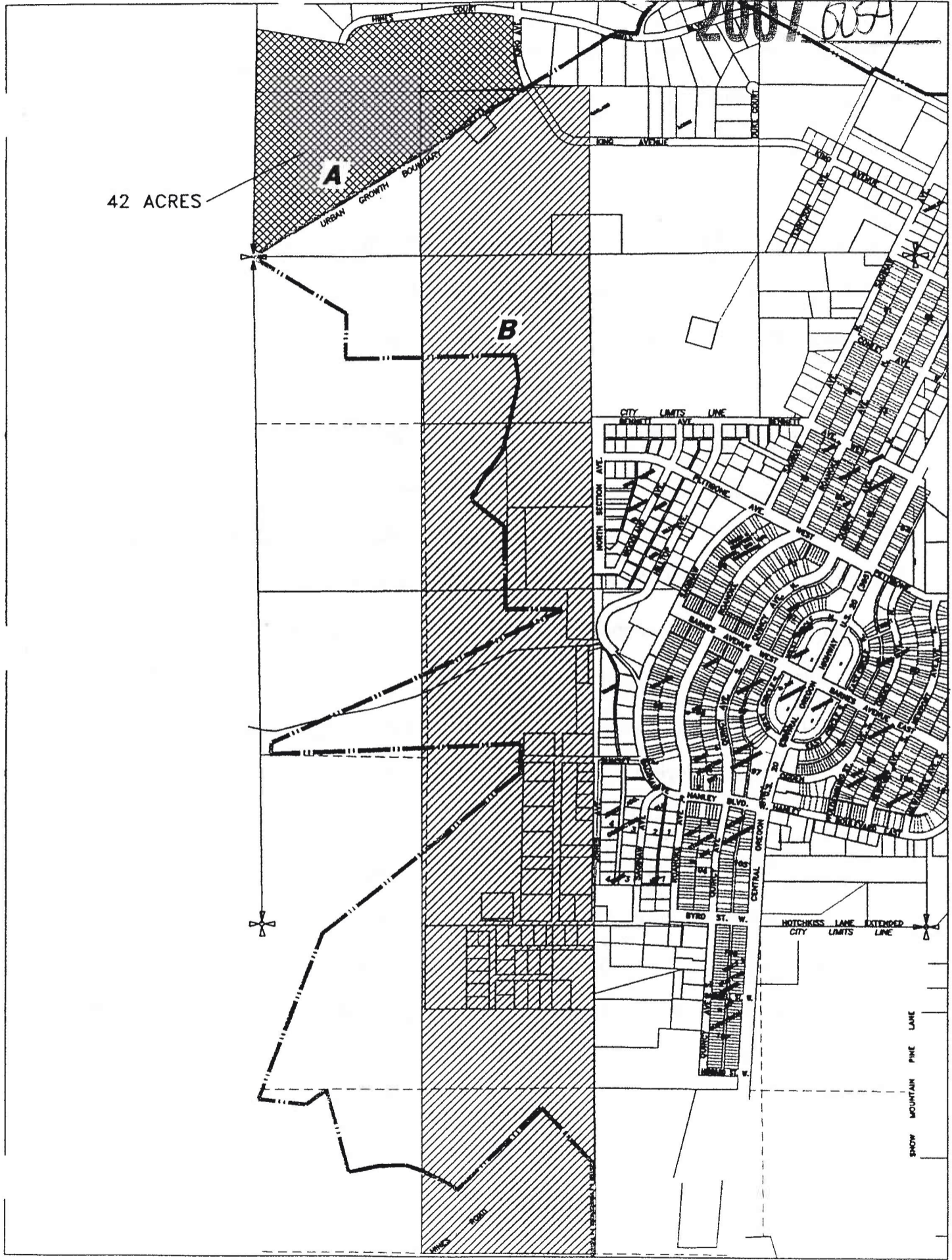
Growth Boundary in this area. As noted earlier, property owners on the north and south objected and requested that the City consider other options.

Area "A"

Area "A" is a small triangular shaped piece at the northwesterly corner of the City's Urban Growth Boundary. The current boundary runs diagonally through the two 40 acre sections, which are under one ownership. See Map 3. The property owner involved has requested that all of this property be included within the Urban Growth Boundary. In the original proposal, the northwesterly quarter would have been taken out of the Urban Growth Boundary and the acreage that is currently within the boundary would have been lost to the property owner for development potential. In this 80-acre ownership, approximately 53 acres are within the boundary and approximately 27 acres are outside the current boundary. The proposal is to square up both 40-acre sections and include these lands within the Urban Growth Boundary. In addition, there is 15 acres of land in the same ownership, just to the north, which lies adjacent to an existing subdivision. The subdivision is active and currently being developed. The inclusion of this unplatted piece is a logical progression for the future of the City.

The soils on this site are a combination of the Erakatak-Merlin-West Butte complex with 10 to 60 percent slopes. All three have the soil capability Class VI-E. A breakdown of the specific soils is contained in the Appendix. This land is currently not being used for agricultural purposes. Vegetation consists mainly of sagebrush and Juniper. The total acreage to be included is 42 acres. The property is currently zoned EFRU by Harney County.

T-481
2007 0057



42 ACRES

A

B

URBAN GROWTH BOUNDARY

CITY LIMITS LINE

HITCHKISS LANE EXTENDED CITY LIMITS LINE

MAP 3

2007 0054 T-482

currently there is no basis to justify expansion of the Urban Growth Boundary in either City. Any adjustment to either boundary will have to occur as a trade off situation.

PROPOSED URBAN GROWTH BOUNDARY REVISIONS

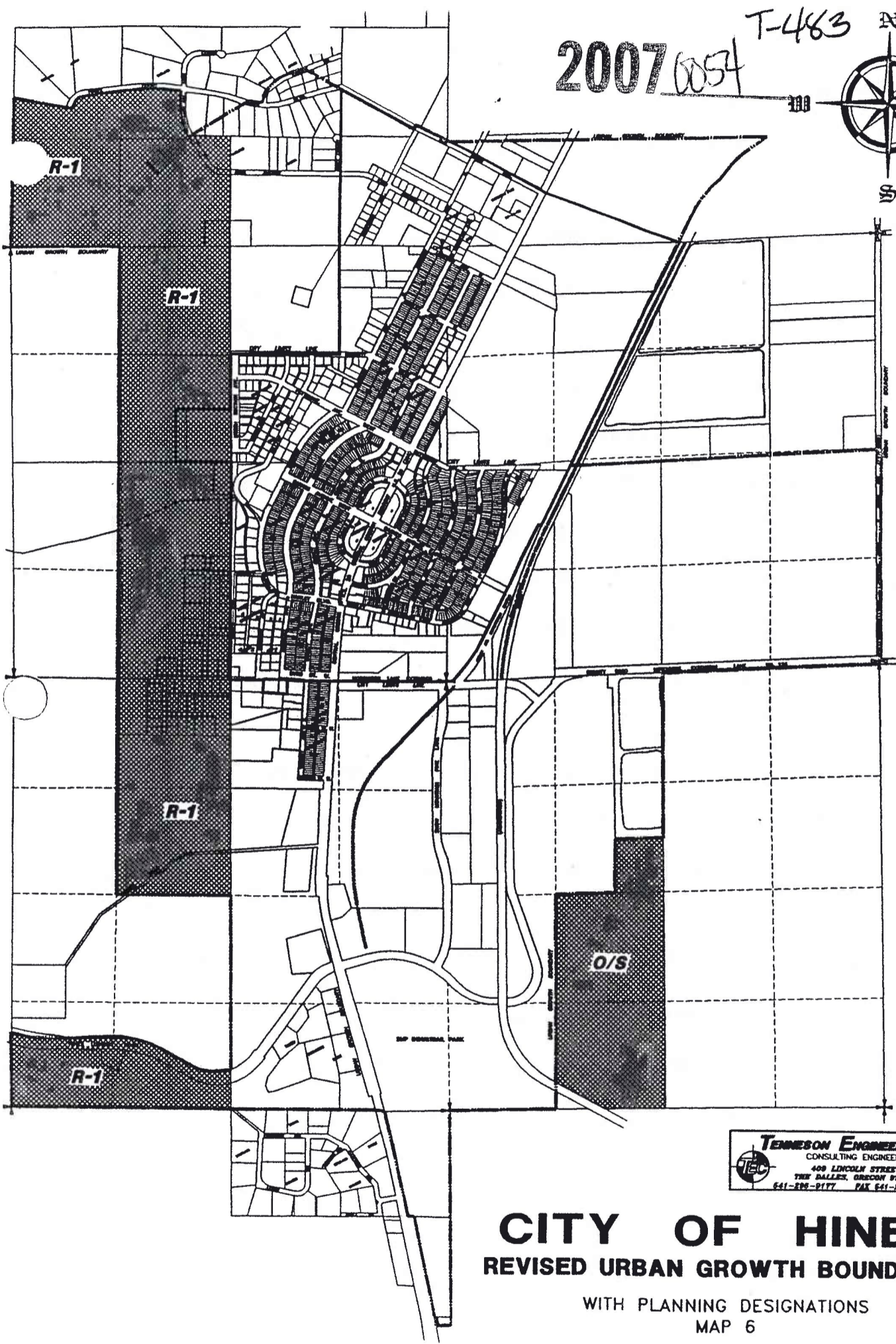
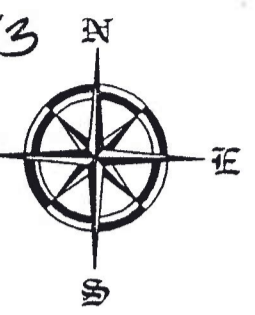
For the City of Hines, there is the opportunity to trade more valuable resource lands for less valuable and currently unused lands without increasing the overall size of the Urban Growth Boundary. It is also the opportunity to correct the meandering boundary line on the westerly edge of the City. The city proposes to bring in Area "A" and "C" to the Urban Growth Boundary, revise the Urban Growth Boundary as shown in Area "B" on the westerly edge, and finally remove Area "D", 87.7 acres from the boundary. Area "D" will become planned and as Open Space and zoned as Open Space. The City will adopt an Open Space zoning text similar to the City of Burns. The City's Comprehensive Plan Map would be revised to reflect the amendments shown on Map 6.

The following findings of fact to address the Oregon Statewide Planning Goals 14, ORS 197.298, the Transportation Planning Rule, and a general Exception Statement under Statewide Planning Goals, Goal 2, Part 2, follow for each area as required.

PROPOSED FINDINGS OF FACT

The following material is presented as proposed findings of facts to meet the required state planning rules to justify amending the City of Hines Urban Growth boundary. The first deals with the seven factors amending an Urban Growth Boundary found in Goal 14.

2007 0054 T-483



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409 LINCOLN STREET
THE DALLES, OREGON 97068
541-326-9177 FAX 541-326-8857

CITY OF HINES

REVISED URBAN GROWTH BOUNDARY

WITH PLANNING DESIGNATIONS
MAP 6

2007 0054 T-484

- **Area "A"**

1. **Demonstrated need to accommodate long range population growth requirements consistent with LCDC goals.**

Finding: The proposed amendments will not result in an increase in the size of the Urban Growth Boundary, therefore establishment of need is not a relevant criteria in this issue. The purpose of this amendment is to preserve higher quality resource lands within the existing boundary for agricultural and Open Spaces uses and allow future residential development on areas adjacent to the City on lands which are less suited for resource use.

2. **Need for housing employment opportunities and livability.**

Finding: This proposed revision to the Urban Growth Boundary is not based on need, but simply maintain the same amount of lands available within the boundary and that preserve higher quality resource lands in trade for lesser quality resource lands on the fringe of the Urban Growth Boundary. This is an acre for acre trade and will not result in a larger Urban Growth Boundary than currently exist in the City of Hines. The land is needed for future housing opportunities in the City.

3. **Orderly and economic provision of public facilities and services.**

Finding: Area "A", containing approximately 42 acres, lies immediately adjacent to an existing development partially within the City's Urban Growth Boundary. The City's services including water and sewer are already provided to nearby lots and can be readily extended to the lands to be

2007 0051 T-485

included within the boundary. The property is all under single ownership and has been available for residential development as the need occurs. The original development plan was prepared for this acreage in the early 1970s.

4. **Maximum efficiency of land uses within and on the fringe of the existing Urban Area.**

Finding: Area "A" provides the opportunity to continue an existing development pattern existing within the current Urban Growth Boundary.

5. **Environmental, energy, economic, and social consequences.**

➤ **Environmental Consequences**

Finding: The purpose of this site inclusion on the Urban Growth Boundary is to preserve higher quality resource lands in trade for the site which is of a lower quality resource use. The use of this land as residential will have little or no environmental consequences. The land can be served quite readily with City services.

➤ **Energy Consequences**

Finding: This site is immediately adjacent to an existing development and the extension of services will not result in increased energy consequences.

➤ **Economic Consequences**

Finding: When completed, with the proposed trade will preserve an 87 acre block of resource land for agricultural land use on the lowlands by the City. This land availability will create positive economic consequences in the long

2007 0054 T-480

term. The economic consequences of developing this property are minimal because of the proximity of existing facility services.

➤ **Social Consequences**

Finding: The proximity of this site to existing development is a logical extension of the residential community of Hines. There are no significant social consequences foreseen.

6. Retention of agricultural land as defined.

Finding: This site, containing approximately 42 acres, consists primarily of sagebrush and Juniper trees. It is undeveloped and unused for agricultural purposes. The soil Capability Classification is VI-E. There are no active agricultural operations nearby. The site Area "D" proposed to be withdrawn from the Urban Growth boundary is currently under agricultural use. It is used for grazing land and the soils on this site are predominately soil Capability Classification V-S, a higher quality resource land.

7. Compatibility of the proposed urban uses with nearby agricultural activities.

Finding: There are no active intensive agricultural uses nearby or adjacent to this property. The predominate land use immediately adjacent to the property is residential to the northeast with vacant open land on the other sides of the property.

2007 0854 T-487

Additional Required Findings of Fact

Oregon Revised Statute Chapter 197.298 establishes a priority for lands to be included within an Urban Growth Boundary.

1. **The first priority of land to be included within the Urban Growth Boundary is lands which may be designated as urban reserve under ORS 195.145.**

Finding: The City of Hines original plan indicated urban reserve areas, however, prioritization maps are no longer available. For all intent and purposes there are no urban reserve lands designated in Hines.

2. **Use of committed exceptions.**

Finding: There are no other committed exception areas immediately adjacent to the City's Urban Growth Boundary.

3. **Marginal lands as designated under ORS 197.247 are the third priority.**

Finding: Harney County is not involved in the marginal lands program.

4. **The fourth priority for lands to be included in the Urban Growth Boundary which may be used for urban use are those which are designated for agricultural or forestry use.**

Finding: Area "A" is designated as Exclusive Farm and Range Use (EFRU) by Harney County, however, the soil capability classes on this site are generally lower than the lands being removed from the existing Urban Growth Boundary. Area "A" is not in agricultural use. It consists primarily of sagebrush and Juniper trees. Lands being taken out of the

2007 0034 7-488

Urban Growth Boundary are currently used for agricultural production, that of grazing lands.

Transportation Planning Rule

The Transportation Planning Rule (TPR) requires that proposed amendments at least be evaluated with regards to the transportation rule. The property involved in Area "A" lies adjacent to existing county road, with no immediate access to the state Transportation System highways. Development on the property will require additional local roads and streets, which can be readily extended to this property.

Exception Statement

A general exception statement for Area "A" is required under the Oregon Statewide Planning Goals, Goal 2, Part 2. This rule sets up four criteria by which the exception is measured. These criteria are as follows:

1. **Reasons justify why the state policy embodied in the applicable goal do not apply.**

Finding: Inclusion of the proposed exception area within the City's Urban Growth Boundary is done in cooperation with private property owners who have agreed to trade existing agricultural lands out of the Urban Growth Boundary and to include adjacent lands within the Urban Growth Boundary which are not currently used for agricultural purposes on an acre for acre basis. There will be no net gain in the City's Urban Growth Boundary. The resulting trade of lands on an acre for an acre basis

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complies with requirements of ORS 197.298 which establishes a priority for lands to be included within the Urban Growth Boundary.

2. **Areas which do not require a new exception cannot reasonably accommodate the use.**

Finding: There are no other existing exception areas immediately adjacent to the City's Urban Growth Boundary.

3. **Long term environmental, economic, social, and energy consequences.**

➤ **Environmental Consequences**

Finding: The purpose of this site inclusion on the Urban Growth Boundary is to preserve higher quality resource lands in trade for the site which is of a lower quality resource use. The use of this land as residential will have little or no environmental consequences. The land can be served quite readily with City services.

➤ **Energy Consequences**

Finding: This site is immediately adjacent to an existing development and the logical extension of services will not result in increased energy consequences.

➤ **Economic Consequences**

Finding: When completed, with the proposed trade will preserve an 87 acre block of resource land for agricultural land use on the lowlands by the City. This land availability will create positive economic consequences in the

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long term. The economic consequences of developing this property are minimal because of the proximity of existing facility services.

➤ Social Consequences

Finding: The proximity of this site to existing development is a logical extension of the residential community of Hines. There are no significant social consequences foreseen.

4. **Proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.**

Finding: The only active land use, other than vacant lands adjacent to Site "A", is existing residential use on the northeast. Proposed future development of this land for residential use will be compatible with existing uses.

• Area "B"

1. **Demonstrated need to accommodate long range population growth requirements consistent with LCDC goals.**

Finding: The purpose of the Urban Growth Boundary amendment is to adjust the existing boundary to a more manageable configuration for the future land use of the City. No increase in the size of the Urban Growth Boundary has been proposed. In fact, it is slightly smaller than what currently exists on the City's Plan Map. The current boundary contains 294 acres in this area. The revised boundary will contain 280 acres in this area not including the acre for acre land trade.

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Area "B"

Area "B" is a reconfiguration of the existing boundary to form a straight line down the westerly quarter section line and would consist of essentially seven 40 acre pieces, some of which are developed. See Map 3.

The soils are primarily "Teguro", cobbly loam, 2 to 20 percent slopes. The soil capability classification is VI-E. This establishment of this line as a common Urban Growth Boundary would simplify planning activities for both the City and the County.

Area "C"

This piece connects to the existing Urban Growth Boundary and would contain approximately 45 acres. There is a small 1.2-acre parcel, which contains the City's new water reservoir. This land is not currently in agricultural production. See Map 4. The property is zoned EFRU by Harney County.

The soils are predominately the "West Butte" soil, 40 percent, "Lambring" series 30 percent, and rock outcrop and similar inclusions 15 percent. The soil classification for the "West Butte" and "Lambring" soil series is VI-E. Copies of the soil data are contained within the Appendix.

This property is served by an improved county road and offers some development potential. The land is currently vacant except for the City reservoir as noted. Additional City services can readily be provided.

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Area "D"

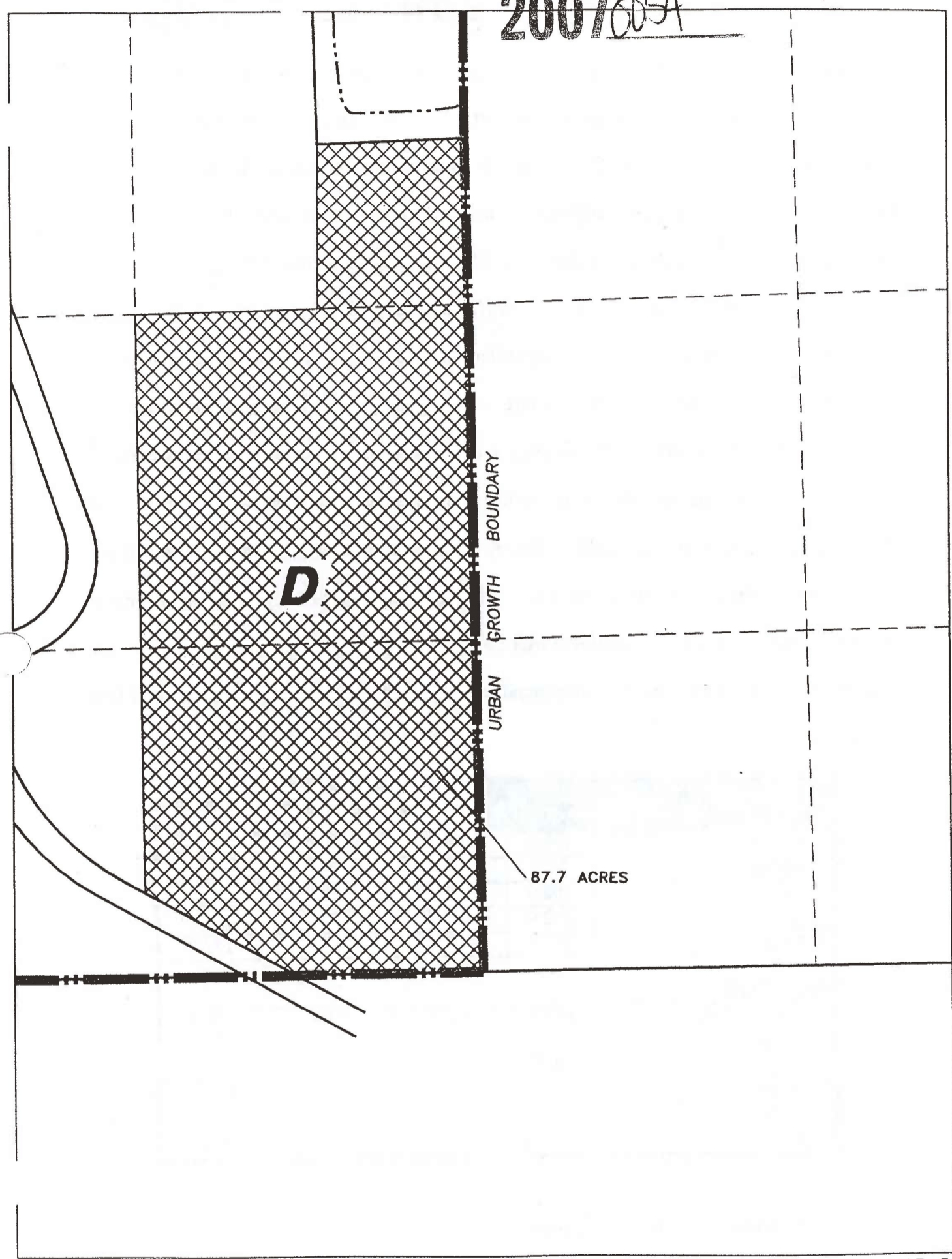
This land is proposed to be removed from the City's Urban Growth Boundary. It is on the edge of the Urban Growth Boundary and contains approximately 87 acres. See Map 5. The property owner involved is willing to trade this land out of the Urban Growth Boundary for the inclusions of Areas "A" and "C" into the boundary. The property would remain within the City Limits. An Open Space planning and zoning designation would be placed on the property with requirements similar to the Open Space zoning of the City of Burns. The property is currently zoned C-1, Commercial/Industrial. However, as will be seen, the land is not necessary for the commercial/industrial land base of the City.

The soils on the property are Fury series on approximately 35 percent of the property, Skidoosprings series on 30 percent, and Opie soil and other similar inclusions on 20 percent. The Fury and Opie soils have Soil Capability Classification of V. The Skidoosprings soil is Classification VI-S. The Oregon State Extension Service in Burns has provided a letter, a copy of which is in the Appendix, indicating that the property can be used for grazing, and, in fact, it is currently leased to a local farmer who does run cattle on the property.

HARNEY COUNTY BUILDABLE LANDS INVENTORY

The Harney County Planning Department undertook a Countywide Buildable Lands Inventory in 1997. The Buildable Lands Inventory was used to determine available buildable lands in the County and included both the Cities of Burns and Hines and a number of unincorporated rural communities. The Buildable Lands Inventory was conducted under a rigorous application of the land use planning rules and included a tabulation of all vacant lands. The thoroughness of the

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study caused some concern by local officials. There was concern that lands were being included that were not readily available or may be committed to other uses, such as gardens, storage, and private open space. However, a brief review of the mapping work completed in both Burns and Hines indicates that, while a strict adherence to the definition of vacant lands was held, all in all, determinations were accurate and defensible. The following table indicates by zone the total acreages and buildable acreages in the City of Hines. It should be noted, the Buildable Lands Inventory acreages prepared by the County differ by a factor of approximately 15 percent less than the acreages presented in this report, due primarily to differing methodologies of determining the total acreages. The information presented in this report is calculated from a computer base map and includes roads, streets and other public rights-of-way factors. The Buildable Lands Inventory conducted by Harney County is a tabulation of the Assessor lot size determinations, which are generally net acres. What is readily apparent is the significant amount of acres designated as Commercial/Industrial use in the Hines Urban Growth Boundary. The County's C-1 zone is a combined Commercial/Industrial use and allows a wide variety of land use activities.

City of Burns	Total Acres	Area Built	Area not Buildable	Net Area Buildable
Commercial	109.7	42.1	3.8	63.8
Industrial	19.8	5.0	0	14.8
Public	108.9	102.9	3.2	0
Residential	252.9	154.7	9.9	88.3
Subtotal	491.3	304.7	13.7	172.9
Hines UGB				
Commercial (C-1)	649.5	134.7	15.8	498.9
Exclusive Farm Use (EFRU-1)	298.5	19.2	0	279.3
Residential	153.9	40.0	1.8	112.1
Subtotal	1,101.9	193.9	17.6	890.3
Totals	1,593.2	498.6	31.3	1,063.3

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POPULATION PROJECTIONS

The population history for the County and the two Cities is presented below for general information.

YEAR	HARNEY COUNTY	CITY OF BURNS	PERCENT OF COUNTY POPULATION	CITY OF HINES	PERCENT OF COUNTY POPULATION
1970	7,215	3,293	46%	1,407	20%
1978	7,775	3,520	45%	1,525	20%
1980	8,230	3,579	43%	1,632	20%
1985	7,350	2,830	39%	1,470	20%
1990	7,060	2,913	41%	1,452	20%
1995	7,050	2,890	41%	1,445	20%
1998	7,600	3,015	40%	1,550	20%

The City of Burns, the largest city and county seat of Harney County, has experienced a declining ratio of the County's population over the years. The City of Hines proportion of the County population has remained constant. The City would be expected to continue to hold that share of the County's population. It is anticipated that as the future unfolds and the rural unincorporated communities of the County begin to reach their holding capacities in terms of residential land use, that Burns will regain a majority of the County's population, particularly if realistically developable residential lands are available.

Office of Economic Analysis

The Oregon State Office of Economic Analysis in the Department of Administrative Services provided long-range population forecasts for each and every county in the State of Oregon. These population forecasts are considered the best information available and have been accepted statewide by the Department of Land Conservation and Development for the future development

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of Oregon's communities. These projections are to be updated on a regular basis and, as will be shown, there is ample reason to do so in Harney County.

For Harney County, the population projections for the next twenty years are as follows.

YEAR	HARNEY COUNTY	CITY OF BURNS	PERCENT	CITY OF HINES	PERCENT
2000	7,531	3,088	41	1,506	20
2005	7,606	3,194	42	1,521	20
2010	7,651	3,290	43	1,530	20
2015	7,694	3,385	44	1,538	20
2020	7,744	3,484	45	1,548	20

Analysis

The extremely low population projection would seem to be based on a trend that is no longer occurring in the Harney County area. The County's 1998 certified population is 7,600, well above the projection for the Year 2000. Indeed, a projection over twenty years for a growth of 213 persons Countywide from the Year 2000 to the Year 2020 is not viable, particularly when reviewing recent trends. The City of Hines' 1998 certified population already exceeds the Office of Economic Analysis Projection for the year 2020.

RECENT DEVELOPMENT TRENDS IN BURNS AND HINES

Economic development activity in Burns and Hines has been significant over the last two years. There have been a number of residential and commercial developments and significant public additions to the economic wellbeing of the communities. Of significance is establishment of a State of Oregon Youth Corrections Facility in the City of Burns, creating over 50 local jobs. The City has just approved two new 40-unit multi-family apartment complexes to provide new residential housing in the community. There are two new motels located on the strip between

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Hines and Burns, in the City of Hines. There is a new restaurant in Hines, which also creates new jobs. The Harney Coach Works, an RV manufacturer, is located on the old mill site in Hines. With 300 jobs currently available, the owners have indicated this would be increased to 650 jobs if housing were available for the employees.

Burns City Airport has been improved and the runway has been extended to 6,200 feet, one of the longest in Eastern Oregon, and provides excellent operational services for the County. The Paiute Indian Tribe has established a working casino at the site known as Old Camp. Their intentions are to build an RV park and motel at this same site. They are intending to build an entirely new casino facility within the next five years at this location. There are approximately 94 new homes built in the last two years in the Burns/Hines urban areas, primarily manufactured homes. A significant growth pattern is beginning to occur.

Perhaps the most exciting news is the addition of fiber optics to the community. A Lottery Backup Center (by the State of Oregon) has been established near the Department of Corrections facility. This facility houses ten employees and is scheduled to be further enhanced in the near future. The availability of fiber optics to the community makes a world of telecommunications activities available. The fiber optics terminal in the City of Burns is based on the geology of the area. Hines and Burns are reported to lie on some of the most stable lands, in terms of geologic hazards, in the Pacific Northwest. As such, it can become the Mecca for computer-based data storage for the computer industries. These recent activities, together with the above analysis, would appear to be justification for the Office of Economic Analysis to reconsider the current population projections for Harney County and its cities.

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COMMERCIAL/INDUSTRIAL LANDS ANALYSIS

At the outset of the Technical Assistance project, it was estimated that a certain amount of commercial and industrial lands might be involved in possible trades for additional lands outside the current Urban Growth Boundary, most probably in the City of Hines. What follows is a brief analysis of the commercial and industrial lands available, together with an analysis of the existing and projected non-farm employment in the County.

The Office of Economic Analysis provides non-agricultural employment forecasts for the next twenty years. The current projection for Harney County is as follows.

**EMPLOYMENT PROJECTION
Office of Economic Analysis
Harney County Non-Farm Employment**

<u>Year</u>	<u>Total</u>
2000	2,576
2005	2,624
2010	2,654
2015	2,667
2020	2,681
2040	2,726

Again, these projections appear to be low in the face of current trends. The Oregon Department of Employment in its May, 1999, *Labor Trends for Eastern Oregon* indicates a non-farm employment in Harney County at 2,800 jobs, which is more than being projected by the Office of Economic Analysis through the year 2040.

An interesting aspect turned up in the research regarding industrial employment. A clear majority of the Harney County industrial employment is in the City of Hines. In March of 1998, the Employment Department conducted a zip code analysis of the industrial jobs and found that

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of the industrial jobs available in Harney County, 461 were in Hines and 23 were in Burns. Based on the job information and comparing that with the Harney County Buildable Lands Analysis would indicate Hines has a total of 135 acres of Commercial/Industrial land built with 461 jobs available on this acreage. This would equate to 3.41 jobs per acre. The Buildable Lands analysis indicates approximately 500 of commercial/industrial acres left to be built in the Hines Urban Growth Boundary. Theoretically, the vacant Commercial/Industrial acreage could support over 1,700 new jobs. The current Office of Economic Analysis Projection indicates less jobs than currently exist, therefore, there will be no new additional industrial jobs in the County, and no additional lands will be needed for industrial development. This is not realistic with what is actually occurring. The removal of the 87 acres tract from the commercial/industrial land base will have little effect on economic base of the City.

ESTIMATED LAND NEEDS FOR BURNS AND HINES

Based upon the existing population projections of the Office of Economic Analysis with only 231 additional persons anticipated in the County over the next 20 years, there is little need for additional lands within the Urban Growth Boundary of either City at the present time. As noted in the foregoing sections, it appears that those population projections are severely underestimated and it is hoped that the Office of Economic Analysis will take another serious look at Harney County. The City of Burns, according to the County Buildable Lands Inventory, has nearly 500 acres of vacant residential land much of which is not developable. The City of Hines has approximately 200 acres of residential land and approximately 500 acres of commercial/industrial land available in the City and Urban Growth Boundary. Therefore,

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2. **Need for housing employment opportunities and livability.**

Finding: The purposes of the boundary amendment is to provide identifiable boundary that can be readily located in the field and provide a reasonable area for the long range future development of the City.

3. **Orderly and economic provision of public facilities and services.**

Finding: Serving the property within the revised Urban Growth Boundary reconfiguration will be much more efficient and economic than attempting to provide services to the saw toothed shaped that currently exists.

4. **Maximum efficiency of land uses within and on the fringe of the existing Urban Area.**

Finding: This proposed boundary provides a much more compact and concise boundary than the prior boundary and yet contains almost the same amount of acreage.

5. **Environmental, energy, economic and social consequences.**

➤ **Environmental Consequences**

Finding: The concise configuration of the boundary will allow the provision of urban services and lessen environmental issues such as storm drainage to the greatest extend possible.

➤ **Energy Consequences**

Finding: There are no energy consequences foreseen because of the concise and compact boundary designations.

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➤ Economic Consequences

Finding: The establishment of a quarter section line for the boundary provides for the more economic provisions of services and eliminates crossing properties which are outside of the boundary in order to provide services to properties within the boundary.

➤ Social Consequences

Finding: There are no social consequences foreseen. The boundary adjustment will provide the same amount of residential lands development in the City.

6. **Retention of agricultural land as defined.**

Finding: The soils for both the lands in the Urban Growth Boundary and those outside the Urban Growth Boundary are essentially Teguro very cobbly loam, 2-20 percent slopes, soil capability Class is VIE. This land is not being used for active agriculture production. The revised boundary will simply allow an easier method of determining where the boundary is and enhance the ability to provide services.

7. **Compatibility of the proposed urban uses with nearby agricultural activities.**

Finding: There are no nearby agricultural activities other than some alfalfa fields to the east inside the City Limits. No conflicts between future urbanization of this property and on going agricultural operations are foreseen.

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Additional Required Findings of Fact

Oregon Revised Statute Chapter 197.298 establishes a priority for lands to be included within an Urban Growth Boundary.

1. **The first priority of land to be included within the Urban Growth Boundary is lands which may be designated as urban reserve under ORS 195.145.**

Finding: The City of Hines original plan indicated urban reserve areas, however, prioritization maps are no longer available. For all intent and purposes there are no urban reserve lands designated in Hines.

2. **Use of committed exceptions.**

Finding: This map adjustment will trade lands currently within the boundary and outside the boundary by establishing a straight line boundary through the existing boundary line. There are no other exceptions available.

3. **Marginal lands as designated under ORS 197.247 are the third priority.**

Finding: Harney County is not involved in the marginal lands program.

4. **The fourth priority for lands to be included in the Urban Growth Boundary which may be used for urban use are those which are designated for agricultural or forestry use.**

Finding: The lands involved in Area "B" are the same soil types and characteristics as the existing boundary. The purpose of this amendment is to provide a more compact, concise, and definable boundary for the City and County to utilize.

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Transportation Planning Rule

The Transportation Planning Rule (TPR) requires that proposed amendments at least be evaluated with regards to the transportation rule. The properties involved in Area "B" are located generally away from the state highway system and involve the same amount of land as the existing boundary. Development of these properties in either boundary configuration would be consistent with the local transportation network and proposed street extensions.

Exception Statement

A general exception statement for Area "B" is required under the Oregon Statewide Planning Goals, Goal 2, Part 2. This rule sets up four criteria by which the exception is measured. These criteria are as follows:

1. Reasons justify why the state policy embodied in the applicable goal do not apply.

Finding: Area "B" is an attempt to correct an extremely difficult Urban Growth Boundary line to administer by providing a more compact and concise boundary based upon quarter section lines. There is a similar amount of acreage involved in either the existing or proposed boundary. No net gain in urbanizable lands is going to occur.

2. Areas which do not require a new exception cannot reasonably accommodate the use.

Finding: Area "B" is an attempt to redefine an existing boundary into a more concise, compact and reasonable boundary for the future growth of the City.

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3. **Long term environmental, economic, social, and energy consequences.**

➤ **Environmental Consequences**

Finding: There are no known environmental issues associated with these properties.

The properties can be readily provided with public infrastructure and, while there are some topography breaks, the land can be developed to urban standards and densities.

➤ **Energy Consequences**

Finding: There are no known energy consequences. The properties are immediately adjacent to the exiting City Limits and public infrastructure can be readily provided.

➤ **Economic Consequences**

Finding: The revised boundary for Area "B" will provide a more compact and efficient land use pattern.

➤ **Social Consequences**

Finding: The inclusion of Area "B" will provide a more compact and concise boundary.

4. **Proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.**

Finding: Area "B" will result in a more compact, concise, and definable Urban Growth Boundary on the western edge of the City. There are no conflicting uses at the present time.

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- Area "C"

1. **Demonstrated need to accommodate long range population growth requirements consistent with LCDC goals.**

Finding: The proposed amendments will not result in an increase in the size of the Urban Growth Boundary, therefore establishment of need is not a relevant criterion in this issue. The purpose of this amendment is to preserve higher quality resource lands within the existing boundary for agricultural and Open Spaces uses and allow future residential development on areas adjacent to the City on lands which are less suited for resource use.

2. **Need for housing employment opportunities and livability.**

Finding: This proposed revision to the Urban Growth Boundary is not based on need, but simply maintain the same amount of lands available within the boundary and preserve higher quality resource lands in trade for lesser quality resource lands on the fringe of the Urban Growth Boundary. This is an acre for acre trade and will not result in a larger Urban Growth Boundary than currently exist in the City of Hines. The land is needed for future housing opportunities in the City.

3. **Orderly and economic provision of public facilities and services.**

Finding: Area "C", containing approximately 45 acres, lies immediately adjacent to the City's Urban Growth Boundary. The property has full frontage along Hines Logging Road, a fully improved county road. The City's new water reservoir is already in place on the property. Public facilities can be

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readily extended to the lands to be included within the boundary. The property is all under single ownership and will be available for residential development as the need occurs.

4. **Maximum efficiency of land uses within and on the fringe of the existing Urban Area.**

Finding: Area "C" provides the opportunity to continue an existing development pattern existing within the current Urban Growth Boundary.

5. **Environmental, energy, economic, and social consequences.**

➤ **Environmental Consequences**

Finding: The purpose of this site inclusion on the Urban Growth Boundary is to preserve higher quality resource lands in trade for this site which is of a lower quality resource use. The use of this land as residential will have little or no environmental consequences. The land can be served quite readily with City services.

➤ **Energy Consequences**

Finding: This site is immediately adjacent to an existing development and the extension of services will not result in increased energy consequences.

➤ **Economic Consequences**

Finding: When completed, with the proposed trade will preserve an 87 acre block of resource land for agricultural land use on the lowlands by the City. This land availability will create positive economic consequences in the long

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term. The economic consequences of developing this property are minimal because of the proximity of existing facility services.

➤ **Social Consequences**

Finding: The proximity of this site to existing development is a logical extension of the residential community of Hines. There are no significant social consequences foreseen.

6. Retention of agricultural land as defined.

Finding: This site, containing approximately 45 acres, consists primarily of sagebrush and Juniper trees. It is undeveloped and unused for agricultural purposes. The soil Capability Classification is VI-E. There are no intensive agricultural operations nearby. However, the hillside adjacent to this site is used as pastureland each spring. The site Area "D" proposed to be withdrawn from the Urban Growth boundary is currently under agricultural use. It is used for grazing land and the soils on this site are predominately soil Capability Classification V-S, a higher quality resource land.

7. Compatibility with the proposed urban uses with nearby agricultural activities.

Finding: There are no active intensive agricultural uses nearby or adjacent to this property. The predominate land use immediately adjacent to the property is residential to the northeast within vacant open land on the other sides of the property.

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Additional Required Findings of Fact

Oregon Revised Statute Chapter 197.298 establishes a priority for lands to be included within an Urban Growth Boundary.

- 1. The first priority of land to be included within the Urban Growth Boundary is lands which may be designated as urban reserve under ORS 195.145.**

Finding: The City of Hines original plan indicated urban reserve areas, however, prioritization maps are no longer available. For all intent and purposes there are no urban reserve lands designated in Hines.

- 2. Use of committed exceptions.**

Finding: There are no other committed exception areas immediately adjacent to the City's Urban Growth Boundary.

- 3. Marginal lands as designated under ORS 197.247 are the third priority.**

Finding: Harney County is not involved in the marginal lands program.

- 4. The fourth priority for lands to be included in the Urban Growth Boundary which may be used for urban use are those which are designated for agricultural or forestry use.**

Finding: Area "C" is designated as Exclusive Farm and Range Use (EFRU) by Harney County, however, the soil capability classes on this site are generally lower than the lands being removed from the existing Urban Growth Boundary. Area "C" is not in agricultural use. It consists primarily of sagebrush and Juniper trees. Lands being taken out of the

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Urban Growth Boundary are currently used for agricultural production, that of grazing lands.

Transportation Planning Rule

The Transportation Planning Rule (TPR) requires that proposed amendments at least be evaluated with regards to the transportation rule. The property involved in Area "C" is located generally away from the state highway system and involve the same amount of land as the existing boundary. Development of this property in most be consistent with the local transportation network and proposed street extensions.

Exception Statement

A general exception statement for Area "C" is required under the Oregon Statewide Planning Goals, Goal 2, Part 2. This rule sets up four criteria by which the exception is measured. These criteria are as follows:

1. **Reasons justify why the state policy embodied in the applicable goal do not apply.**

Finding: Inclusion of the proposed exception area within the City's Urban Growth Boundary is done in cooperation with private property owners who have agreed to trade existing agricultural lands out of the Urban Growth Boundary and to include adjacent lands within the Urban Growth Boundary which are not currently used for agricultural purposes on an acre for acre basis. There will be not net gain in the City's Urban Growth Boundary. The resulting trade of lands on an acre for an acre basis

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complies with requirements of ORS 197.298 which establishes a priority for lands to be included within the Urban Growth Boundary.

2. **Areas which do not require a new exception cannot reasonably accommodate the use.**

Finding: There are no other existing exception areas immediately adjacent to the City's Urban Growth Boundary.

3. **Long term environmental, economic, social, and energy consequences.**

➤ **Environmental Consequences**

Finding: The purpose of this site inclusion on the Urban Growth Boundary is to preserve higher quality resource lands in trade for the site which is of a lower quality resource use. The use of this land as residential will have little or no environmental consequences. The land can be served quite readily with City services.

➤ **Energy Consequences**

Finding: This site is immediately adjacent to an existing development and the logical extension of services will not result in increased energy consequences.

➤ **Economic Consequences**

Finding: When completed, with the proposed trade will preserve an 87 acre block of resource land for agricultural land use on the lowlands by the City. This land availability will create positive economic consequences in the

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long term. The economic consequences of developing this property are minimal because of the proximity of existing facility services.

➤ **Social Consequences**

Finding: The proximity of this site to existing development is a logical extension of the residential community of Hines. There are no significant social consequences foreseen.

4. **Proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.**

Finding: The only year around land use, other than pasturelands adjacent to Area "C", is existing residential use on the southeast. Proposed future development of this land for residential use will be compatible with existing uses.

• **Area "D"**

This 87.7-acre tract will be removed from the Urban Growth Boundary in an acre by acre trade. This land is currently zoned Commercial/Industrial (C-1) and is currently being used for cattle grazing. Based upon the population projections and economic data available provided by the Office of Economic Analysis, this land will not be needed for future commercial or industrial development. The buildable lands inventory finds that there are approximately 500 acres of vacant commercial/industrial land currently within the Hines Urban Growth Boundary. Removal of this land, while a 20 percent reduction, is not significant under current projections.

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The property will be planned and zoned Exclusive Farm Use. The City of Hines Zoning Ordinance will be amended to include an Exclusive Farm Use zoning text, which will reference ORS 215.283, the statute governing land uses on lands designated Exclusive Farm Use.