



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

February 2, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jackson County Plan Amendment
DLCD File Number 010-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: February 16, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Mike Mattson, Jackson County

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FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

<input type="checkbox"/> In person	<input type="checkbox"/> electronic	<input type="checkbox"/> mailed
DATE STAMP		
DEPT OF JAN 29 2007 LAND CONSERVATION AND DEVELOPMENT		
For DLCD Use Only		

Jurisdiction: **Jackson County**

Local file number: **LRP2005-00006**

Date of Adoption: **1/24/2007**

Date Mailed: **1/26/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **9/27/2006**

☒ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

Goal 11 exception to allow a property outside of an urban growth boundary to hook up to a sewer system

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

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **900' N of the intersection of Vally View & I5**

Acres Involved: **0**

Specify Density: Previous: **1 per 2.5 acres**

New: **same**

Applicable statewide planning goals:

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

Was an Exception Adopted? ☒ YES ☐ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD #010-06(15597)

DLCD file No. _____

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

Local Contact: **Mike Mattson**

Phone: (541) 774-6937 Extension:

Address: **10 S Oakdale Ave #100**

Fax Number: **541-774-6791**

City: **Medford**

Zip: **97501-2902**

E-mail Address: **mattsomw@jacksoncounty.org**

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and **TWO Complete Copies** (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

Approved: 01-24-2007

Effective: 03-25-2007

Volume: _____ Page: _____

**BEFORE THE BOARD OF COMMISSIONERS
STATE OF OREGON, COUNTY OF JACKSON**

ORDINANCE NO. 2007-1

AN ORDINANCE APPROVING AN AMENDMENT FOR A COMPREHENSIVE PLAN MAP AND TEXT AMENDMENT AND EXCEPTION TO STATEWIDE PLANNING GOAL 11, TO ALLOW THE EXTENSION OF AN RVS SEWER LINE TO CONNECT TO THE PROPERTY DESCRIBED BELOW AND ADD THE SUBJECT PROPERTY TO AREA OF SPECIAL CONCERN (ASC) 2003-1, GOAL 11 EXCEPTION AREAS, ON 0.44 ACRES DESCRIBED AS TOWNSHIP 38 SOUTH, RANGE 1 EAST, SECTION 29, TAX LOT 5500, AND LOCATED APPROXIMATELY 750 FEET NORTH OF THE INTERSECTION OF INTERSTATE 5 AND SOUTH VALLEY VIEW ROAD, ON SOUTH VALLEY VIEW ROAD. RICHARD STEVENS & ASSOCIATES, INC., AGENT; RAYMOND SMITH, APPLICANT. FILE LRP2005-00006.

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The standards justifying minor or quasi-judicial amendments to the Jackson County Comprehensive Plan Text and exceptions to Statewide Planning Goals, and Zoning Map Amendments are contained in the Jackson County Comprehensive and in the Jackson County Land Development Ordinance (JCLDO) Chapter 3.
3. JCLDO Section 3.7.3 states that a minor map amendment must conform to the Statewide Planning Goals, Oregon Administrative Rules, and the Comprehensive Plan as a whole.
4. On October 6, 2005, an application for a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas was submitted by Richard Stevens & Associates, Inc., agent for the owner Raymond Smith. The application was deemed complete as of November 6, 2005, without review, pursuant to Section 2.6.3(E) of the Jackson County Land Development Ordinance.
5. On November 16, 2006, the Jackson County Planning Commission held a properly advertised public hearing to consider the evidence and testimony on this application. After considering the evidence and testimony submitted, the Planning Commission, by motion and vote, recommended the

1-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

Board of Commissioners approve a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas.

Now, Therefore, the Board of County Commissioners of Jackson County hereby make the following findings and conclusions:

SECTION 1. FINDINGS OF FACT

Based upon the evidence and argument presented, the Board makes the following findings of fact with respect to this application. Where factual conflicts arose, the Board has resolved them consistent with these findings.

1.1 The Board of Commissioners finds that proper public notice was given for the public hearings, and that no objections were raised concerning the hearing notice.

1.2 The Board of Commissioners hereby adopts, as its own, the Findings of Fact contained in the Jackson County Planning Commission's Recommendation dated December 14, 2006, attached hereto and incorporated herein as Exhibit "A".

SECTION 2. LEGAL FINDINGS

2.1 The Board of Commissioners adopts, as its own, the Legal Findings and Conclusions as contained in the Jackson County Planning Commission's Recommendation dated December 14, 2006, attached hereto and incorporated herein as Exhibit "A".

SECTION 3. CONCLUSIONS

3.1 The Board of Commissioners concludes that proper public notice was given.

3.2 The Board concludes that reasons justify an exception to Statewide Planning Goal 11, Public Facilities and Services, to allow the extension of an RVS sewer line to connect to the property and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas. The property owner has a lawful pre-existing use for a dwelling and has pursued all remedies to locate a private septic system on the property, without success. Extension of the RVS sewer line and connection of the property to the RVS line is the appropriate solution to the septic problem.

3.3 The Board concludes the application is consistent with the Statewide Planning Goals, Oregon Administrative Rules, Jackson County Land Development Ordinance, and the Jackson County Comprehensive Plan.

2-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

SECTION 4. DECISION

The Board of County Commissioners of Jackson County ordains as follows:

4.1. Based on the record of the public hearing and the recommendation of the Jackson County Planning Commission, attached hereto and incorporated herein as Exhibit "A", the Board of Commissioners approves a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas, on 0.44 acres described as Township 38 South, Range 1 East, Section 29, Tax Lot 5500, as illustrated on the zoning map of the Jackson County Planning Commission Recommendation in Exhibit "B".

4.2 Invalidity of a section or part of this ordinance shall not affect the validity of the remaining sections or parts of sections.

APPROVED this 24th day of January, 2007, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS


Dennis C. W. Smith, Chair


Jack Walker, Commissioner


Dave Gilmour, Commissioner

APPROVED AS TO FORM:


County Counsel

ATTEST:


By: Recording Secretary

The Board of County Commissioner's Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on January 26, 2007, and the LUBA appeal period will expire on February 16, 2007. Please contact LUBA for specific appeal information. They are

3-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

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located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

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**4-ORDINANCE; File LRP2005-00006
Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner**

EXHIBIT A

**JACKSON COUNTY DEVELOPMENT SERVICES
STAFF REPORT**

APPLICANT: Raymond Smith
930 Amanda Way
Central Point, OR 97502

FILE: LRP2005-00006

AGENT: Richard Stevens & Associates
P.O. Box 4368
Medford, OR 97501

OWNER: Raymond R. Smith & Julie
Danielson
930 Amanda Way
Central Point, OR 97502

MAP DESCRIPTION: TWP 38 South RANGE 1 East SECTION 29 TAX LOT
5500

PROPOSAL: A Comprehensive Plan Map and Text Amendment to extend sanitary sewer service to a single residential properties located at 730 South Valley View Road. The application includes a request for an exception to the Statewide Planning Goal 11 (Public Facilities and Services) provision restricting local governments from allowing the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries. The application also requests the property be added to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas.

KEY ISSUE: 1) Determine if the subject parcel qualifies for an Exception to Statewide Planning Goal 11, Public Facilities and Services. 2) Determine if the application meets all of the applicable Statewide Planning Goals, Oregon Administrative Rules, Jackson County Comprehensive Plan, and Jackson County Land Development Ordinance provisions.

I. FACTS:

- 1) **Location:** The subject parcel is located along on South Valley View Drive, approximately 750 feet north of the intersection of Interstate 5 and South Valley View Road, on South Valley View Road and approximately 1 mile northwest of the incorporated area of the City of Ashland.
- 2) **Lot Legality:** The subject parcel was determined to be a lawfully established parcel per file 2001-54-PLA. The current owners acquired the property in 2004.
- 3) **Access:** Access is from South Valley View Road, a County owned and maintained road.
- 4) **Acreage:** The subject parcel contains 0.44 acres
- 5) **Assessment:** The subject parcel is assessed as Vacant H & B Use Tract Land, Zoning Not Significant.

- 6) **Land Use:** The subject parcel had a dwelling with attached garage. The applicant obtained a demolition permit in 2004 and the house was demolished.
- 7) **Natural Hazard:** The subject parcel is located within an identified Wildfire Hazard Area.
- 8) **Irrigation:** The subject parcel is within the Talent Irrigation District.
- 9) **Zoning:** The subject parcel is zoned Rural Residential (RR-2.5). All of the surrounding parcels to the north, south, east and west are also Rural Residential, varying in minimum parcel sizes from 2.5 acres to 10 acres (RR-2.5, RR-5, RR-10).
- 10) **Sewerage:** Sewer service was provided to two parcels northwest of the subject parcel by BCVSA (now RVS) in 1993 (Project No. 92-7), Board Order 8-93. This project was reviewed and approved for land use compatibility by the County under the rules in effect at the time. This project provided sewer service to the Valley View Mobile Haven, a mobile home park, and a parcel zoned Light Industrial that, at that time, a construction company operated on the parcel.
- 11) **Site Characteristics:** The subject parcel is in an area of existing suburban and rural development situated north of Interstate 5. This parcel is located at the bottom of a hill to the southeast and there are farming activities occurring to the north, above East Butler Lane. Understory and overstory is very limited in this area. The elevation changes 20 feet from north to south on this parcel.
- 12) **Soils:**
 - A) Name: Brader-Debenger loams; Map No: 17C; Slopes: 1% to 15%; Agricultural Class: VIe; Forest Capability: 0.0; Percent of Parcel: 69%
 - B) Name: Carney clay; Map No: 27B; Slopes: 1% to 5%; Agricultural Class: I've (Nonirrigated), IIIs (Irrigated); Forest Capability: 0.0; Percent of Parcel: 31%

Brader-Debenger loams are located on knolls and ridges. This unit is about 60 percent Brader soil and 20 percent Debenger soil. Other included soils make up about 20 percent of the soil. The Brader soil is shallow and well drained. The depth to bedrock ranges from 12 to 20 inches. Permeability is moderate and runoff is slow or medium. The hazard of water erosion is slight to moderate. The Debenger soil is moderately deep and well drained. The depth to bedrock is from 20 to 40 inches. Permeability is moderate and runoff is slow or medium. The hazard of water erosion is slight to moderate. This unit is used for livestock grazing, hay and pasture, and homesite development. The main limitation to homesite development is depth to bedrock. This unit is poorly suited to septic tank absorption fields because of the depth to bedrock.

Carney clay soil is moderately deep, moderated well drained located on alluvial fans. The depth to bedrock ranges from 20 to 40 inches. Permeability is slow and runoff is also slow in this soil. The hazard of water erosion is slight. This unit is used mainly for hay and pasture, tree fruit, livestock grazing, and homesite development. The main limitations affecting homesite development are the very slow permeability, a high shrink-swell potential, the depth to bedrock, and low strength. This unit is poorly suited to standard systems of waste disposal because of the very slow permeability and the depth to bedrock.

- 13) **Water:** No public water system is available to this parcel or this area. The residential properties in this area are dependent upon individual wells for domestic water supply.
- 14) **Wetlands:** There are no wetlands on this parcel. The nearest wetland is approximately 900 feet east of the subject parcel.
- 15) **Past Planning Actions:** A property line adjustment was completed through file 96-293-PA. Another property line adjustment was completed through file 2001-54-PLA, which adjusted the property line to the current configuration. In August of 2004, the applicant requested information regarding an addition to the existing dwelling, file ZON2004-01235. On December 2, 2004, a demolition permit was issued for the existing dwelling, BLD2004-01812. On December 8, 2004 a Septic Authorization permit was obtained for the replacement dwelling, SEP2004-00733. This permit was denied on December 20, 2004. The denial stated "...The entry to the drainfield revealed an infiltrator unit. Based on the age, the drainfield was not installed with a permit and thus is illegal. A major repair permit is required to replace the system." The denial also stated "...I am concerned about the severe site conditions on this lot and the limited area for a new septic system meeting the required setbacks to all wells. Soils are vertisol clays and are very poorly drained. Excavation and traffic have modified the lot leaving little to no room to work with for a reasonable repair system."

A Major Repair Permit application was submitted to Jackson County on December 29, 2004, SEP2004-00755. This permit was not approved on February 1, 2006. The denial stated "...Based on the small size of the lot (.44 acres) very limited space is available for the replacement system and future repair area. It was determined that based on severe soil and ground water conditions and lack of useable space meeting setbacks, a reasonable repair site does not exist on this property."

On December 8, 2004, an application for a Building Permit was submitted to Jackson County. All Planning Services conditions were completed as of December 29, 2004. The permit has not been issued because of the inability to construct a replacement septic system on the property. LRP2005-00006 was submitted to Jackson County on October 6, 2005. A public hearing before the Jackson County Planning Commission has been scheduled for November 16, 2006.

- 16) **Other:** The subject parcel is within the City of Ashland urban fringe (within one mile of the UGB), subject to the restrictions outlined in OAR 660-004-0040 (no land divisions permitted which would result in new parcels of less than ten acres in size). The subject parcel is also within Ashland's Area of Mutual Concern.
- 17) **Affected Agency and Property Owner Notification:** On October 18, 2006, affected agencies and property owners within 250 feet of the subject property¹ were notified of the proposed application. Responding agencies commented as follows:
 - A) Penny Rogers, representing the Jackson County Quality Department indicated that a major repair permit was applied for in 2004. The permit was not approved based on the small size of the parcel.
 - B) Jim Pendleton, representing the Talent Irrigation District responded with no comment.

II. STAFF DISCUSSION:

File LRP2005-00006 encompasses two land use applications. The first is a request for the County to take an exception to Statewide Planning Goal 11 (Public Facilities and Services) for the subject parcel. The second component is a request for the County to add the subject parcel to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas. The overall purpose of this application is to allow RVS to extend the current septic line approximately 1,100 feet to connect the line to the subject parcel.

As determined by Jackson County Environmental Services, there is not enough room on the parcel for a replacement septic system nor can the soils meet requirements for a replacement system. A health hazard does not currently exist for the subject parcel. Per the applicant, attempts were made to obtain an easement from an adjacent property owner to place the septic system on another parcel. The applicant was unable to obtain permission for that easement. Development Services has approved the location of the replacement dwelling. The replacement dwelling cannot be built until a replacement septic system is constructed or the subject parcel is allowed to connect to the RVS sewer line. As was stated previously, a replacement septic system is not feasible.

Public sewer extensions to serve rural areas outside urban growth and unincorporated community boundaries are specifically restricted by Statewide Planning Goal 11. Oregon Administrative Rule 660-011-0060 outlines the situations in which the extension of a sewer system to a property outside of an urban growth or unincorporated community boundary may occur. These include the mitigation of a public health hazard and taking an exception to Statewide Planning Goal 11, Public Facilities and

¹As indicated in the current Jackson County Assessment records

Services. A public health hazard does not currently exist for the subject parcel and the applicant requests an exception² to Goal 11.

The application is for an exception based on a reasons justification, pursuant to Goal 2 (Land Use Planning), Part II (Exceptions), subsection (c), as applied through OAR 660-004-0020 and OAR 660-004-0022.

III. **APPLICABLE CRITERIA:**

- 1) Statewide Planning Goals: Goal 11, Public Facilities and Services
- 2) Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060
- 3) Jackson County Comprehensive Plan: Public Facilities and Services Element
- 4) Jackson County Land Development Ordinance: Section 3.6 and 3.7.3(C)

IV. **COMPLIANCE WITH THE JACKSON COUNTY COMPREHENSIVE PLAN:**

- 1) **Public Facilities and Services Element:** The stated goal of the element is *"To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

Finding No. 1 states:

"SEWAGE DISPOSAL SYSTEMS: *Many of the rural subdivisions and clusters of small rural parcels in the County were created before zoning laws were implemented. Parcelization and subsequent settlement patterns in many parts of the County have developed independent of the land use planning process. In addition, many early land divisions were made without verification of available potable water supplies or septic waste disposal systems."*

"The Bear Creek Valley Sanitary Authority was also created before the inception of statewide land use planning and local zoning. Based upon its original plan and existing sewer capacity, BCVSA is prepared to provide sewer services to a large part of the County, but laws passed since the formation of the Sewer Authority restrict the extension of sewer service outside of cities and urban growth boundaries."

²Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that (a) is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability; (b) does not comply with some or all goal requirements applicable to the subject properties or situations, and (c) complies with standards for an exception.

"The County recognizes four development categories for the provision of sewage disposal services, which establish the different circumstances that affect the availability of sewage disposal systems in various parts of the County."

"CATEGORY A: *Development within city limits or within an incorporated city's urban growth boundary is subject to "Category A" development standards. The standard level of service for such areas includes conventional sewage collection and treatment that is part of regional or subregional sewerage system designed to accommodate urban level development."*

"CATEGORY B: *Development within an unincorporated urban containment boundary or an approved destination resort, or outside of an incorporated city's urban growth boundary in an area that constitutes a pocket of existing urban or suburban level development. Where a probable health hazard is deemed to exist and the area is geographically located so that connection to a regional or subregional sewerage system is determined to be a reasonable solution after alternatives have been evaluated, then conventional sewage collection and treatment systems designed to accommodate existing development may be provided."*

"CATEGORY C: *Development in an area outside of an incorporated city's urban growth boundary or urban containment boundary that constitutes a pocket of existing urban or suburban level development, but that is geographically located so that connection to a regional or subregional sewerage system is not feasible, is subject to "Category C" development standards. Where a probable health hazard is found to exist, sewer service may be provided by an on-site management district or small community waste disposal system designed to accommodate an appropriate level of development consistent with the Jackson County Comprehensive Plan."*

"CATEGORY D: *Development in an area that is developed to, or designated for, low density development, where all standards can be met for on-site waste disposal, is subject to "Category D" development standards. This standard allows on-site septic waste disposal systems."*

"POLICY: RECOGNIZING THE NEED FOR VARIOUS TYPES AND LEVELS OF SANITATION SERVICE, JACKSON COUNTY SHALL STRIVE TO PROVIDE FOR SANITATION SERVICE AT LEVELS APPROPRIATE FOR THE NEEDS OF URBAN, URBANIZABLE, SUBURBAN, RURAL, AND OPEN SPACE LANDS."

"IMPLEMENTATION STRATEGIES:

- A) *Public sewer district should develop service plans identifying location and levels of service which are consistent with the Comprehensive Plan and the criteria identified in the above policy. These service plans, when deemed consistent with the Jackson County Comprehensive Plan, should be adopted by the County as part of said plan.*

- B) *Proposals for sewer collection facility projects shall be reviewed in accordance with, and for consistency with, the Jackson County Land Development Ordinance.*
- C) *The County should create an exception process for circumstances where strict application of the Jackson County Land Development Ordinance may cause an unnecessary public hardship."*

Finding 2 begins:

"EXTENSION OF SEWER SYSTEMS BEYOND URBAN GROWTH BOUNDARIES: *The policies of the urban lands element support the concept of urban centered growth as a means to mitigate problems which occur with extensive urban and rural growth outside of urban growth boundaries. The extension of an urban facility beyond an urban growth or containment boundary creates the perception that the area near the facility is committed to urban growth. Therefore, it is desirable to avoid potential conflicts by limiting the location of urban levels of services, such as sewers, to urban growth boundaries and identified health hazard areas."*

"POLICY: RECOGNIZING THE URBAN GROWTH/CONTAINMENT BOUNDARY AS THE DIVIDING LINE BETWEEN URBAN AND RURAL DEVELOPMENT, THE COUNTY SHALL NOT ALLOW NEW EXTENSIONS OF SEWER PROJECTS BEYOND THESE BOUNDARIES EXCEPT AS ALLOWED IN POLICY 1 AFTER REVIEW BY THE PLANNING COMMISSION AND APPROVAL BY THE BOARD OF COMMISSIONERS OR AS PROVIDED FOR BY STATE LAW, AS DISCUSSED IN POLICY 5 BELOW."

Finding 5 begins:

"RURAL SEWER SERVICE: *The existence of a sewer line through a rural area, between an urban area and the health hazard area it serves, creates a potential land use conflict. Land use densities in rural areas are generally low, allowing five-acre rural residential lots or larger farm units. The presence of sewers can create the perception that development of more intensive uses is anticipated or planned, consequently encouraging speculative land sales and pressure for land use or zoning changes. Consequently, construction of new sewer systems or extension of existing sewer systems to serve rural areas located outside acknowledged urban growth boundaries or unincorporated community boundaries is restricted pursuant to Statewide Planning Goal 11 and OAR 660, Division 11 to existing public health hazard areas. The 2003 Oregon State Legislature, through House Bill 2674 (effective January 1, 2004), relaxed the restriction to allow on-site sewer facilities to serve industrial development on old or diminished mill sites as described in the bill. Any other situation would require that an exception to Statewide Planning Goal 11 be justified pursuant to the Goal 2 exceptions process."*

"POLICY: CONNECTIONS TO SEWER OR WATER LINES IN AREAS LOCATED OUTSIDE ACKNOWLEDGED URBAN GROWTH BOUNDARIES OR

**UNINCORPORATED COMMUNITY BOUNDARIES MAY BE PERMITTED ONLY
PURSUANT TO STATE LAW AND THE JACKSON COUNTY LAND DEVELOPMENT
ORDINANCE.**

FINDING: The Jackson County Comprehensive Plan includes substantial findings and policies recognizing the need to provide for sewer connections outside urban growth boundaries and unincorporated community boundaries³ due to pre-existing patterns of development, pre-existence of a rural sewer service provider, and the severe site limitations imposed by local topography, soil conditions, natural hazard areas, and limited lot size. The flexibility was considered essential to pursue the Goal 11 mandate to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Policies 1, 2, and 5 of the Public Facilities and Services Element, specifically Policy 5, allow the establishment or extension of a sewer system outside of an urban growth boundary and unincorporated community boundary pursuant to state law and the JCLDO. The state amended OAR 660-011-0060 in 1998 and 2005 to allow an extension of a sewer system "...provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulation that prohibit the sewer system from serving any uses or areas other than those justified in the exception." The exception criteria will be addressed below, as well as the requirements of the JCLDO. It can be found that the Public Facilities and Services Element allows for the extension of a sewer system to connect to the subject parcel.

V. COMPLIANCE WITH STATEWIDE PLANNING GOALS AND OREGON ADMINISTRATIVE RULES:

1) STATEWIDE PLANNING GOAL 11, PUBLIC FACILITIES AND SERVICES

OAR 660-015-0000(11)

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater

³note: unincorporated containment boundary is a local designation recognizing pre-existing urban land located outside municipal urban growth boundaries. The policies in the JCCP Public Facilities and Services Element pre-date the adoption of the "unincorporated community rule" by the state.

than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan.

Counties shall develop and adopt community public facility plans regulating facilities and services for certain unincorporated communities outside urban growth boundaries as specified by Commission rules.

Local Governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land.

Local governments may allow residential uses located on certain rural residential lots or parcels inside existing sewer district or sanitary authority boundaries to connect to an existing sewer line under the terms and conditions specified by Commission rules.

Local governments shall not rely upon the presence, establishment, or extension of a water or sewer system to allow residential development of land outside urban growth boundaries or unincorporated community boundaries at a density higher than authorized without service from such a system.

In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

A Timely, Orderly, and Efficient Arrangement – refers to a system or plan that coordinates the type, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses.

Rural Facilities and Services – refers to facilities and services suitable and appropriate solely for the needs of rural lands.

Urban Facilities and Services – Refers to key facilities and to appropriate types and levels of at least the following: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services.

Public Facilities Plan – A public facility plan is a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plan or plans within an urban growth boundary containing a population greater than 2,500.

Community Public Facilities Plan – A support document or documents to a comprehensive plan applicable to specific unincorporated communities outside UGBs. The community public facility plan describes the water and sewer services and facilities which are to support the land uses designated in the plan for the unincorporated community.

Water system – means a system for the provision of piped water for human consumption subject to regulation under ORS 448.119 to 448.285.

Extension of a sewer or water system – means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer or water system, as defined by Commission rules.

GUIDELINES

A. PLANNING

1. Plans providing for public facilities and services should be coordinated with plans for designation of urban boundaries, urbanizable land, rural uses and for the transition of rural land to urban uses.
2. Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses.
3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.
4. Public facilities and services in urbanizable areas should be provided at levels necessary and suitable for existing uses. The provision for future public facilities and services in these areas should be based upon: (1) the time required to provide the service; (2) reliability of service; (3) financial cost; and (4) levels of service needed and desired.
5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.
6. All utility lines and facilities should be located on or adjacent to existing public or private rights-of-way to avoid dividing existing farm units.
7. Plans providing for public facilities and services should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development action provided for by such plans should not exceed the carrying capacity of such resources.

B. IMPLEMENTATION

1. Capital improvement programming and budgeting should be utilized to achieve desired types and levels of public facilities and services in urban, urbanizable and rural areas.

2. Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.

3. The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.

4. Plans should designate sites of power generation facilities and the location of electric transmission lines in areas intended to support desired levels of urban and rural development.

5. Additional methods and devices for achieving desired types and levels of public facilities and services should include but not be limited to the following: (1) tax incentives and disincentives; (2) land use controls and ordinances; (3) multiple use and joint development practices; (4) fee and less-than-fee acquisition techniques; and (5) enforcement of local health and safety codes.

6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.

FINDING: Statewide Planning Goal 11 provides the ability to extend sewer services outside of an urban growth boundary and unincorporated community boundary. Sewer services may connect to rural residential lots of parcels inside a sewer district boundary based upon terms and conditions specified by Commission rules. OAR 660-011-0060 was amended both in 1998 and 2005 to allow sewer service connections. These rules identified public health hazards, rural residential lots or parcels within 300 feet of an existing sewer line, and a justification of a Goal 11 exception to a parcel for connection to a sewer line outside of an urban growth boundary and unincorporated community boundary. The subject parcel is a rural residentially zoned parcel located within the RVS sewer district boundary. It can be concluded that, should a Goal 11 exception be justified for the subject parcel, Goal 11 allows the extension of and connection to a sewer system defined under Goal 11.

2) OAR 660-004-0020 & 0022: "REASONS" EXCEPTION CRITERIA

660-004-0020

Goal 2, Part II(c), Exception Requirements

A) 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, the justification shall be set forth in the comprehensive plan as an exception.

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

i) "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;

ii) "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;

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

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

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

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

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

iii) 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;

iv) "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.

C) 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.

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

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

A) 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:

i) 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

ii) 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

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

B) 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 subject parcel is located within an area of rural and suburban development. There are many parcel in this area which are less than the minimum parcel size of the zoning district, RR-2.5, of 2.5 acres per lot or parcel. The applicant states the previous dwelling was built in 1957 and the parcel size, prior to 1996, was one (1) acre. Following a property line adjustment in 1996, the parcel area was reduced to 0.44 acres, which was to include the dwelling and on-site septic system. It appears the septic system was located in error wholly on tax lot 5500. Another property line adjustment was completed in 2001 to locate the entire septic system onto the adjusted tax lot 5500. The dwelling and accessory uses are pre-existing and permitted uses in the RR-2.5 zoning district.

Evidence in the record states that a replacement septic system cannot be constructed on the subject parcel because of the lack of area for a septic system and the severity of the soils on the property. The failure of septic systems in this area is not an uncommon occurrence. The applicant has sought to locate a septic system on an adjacent property, but was unable to gain approval from the property owners. Per Building Services requirements, the replacement dwelling cannot be built without an approved septic system installed on the subject parcel. This prevents the applicant/owner and future owners from re-establishing a legal pre-existing and permitted use. The only option available to the applicant is the extension of the RVS sewer line approximately 1,100 feet to the subject property.

The subject parcel is within the RVS sewer district boundary. The RVS sewer line is located approximately 1,100 feet northwest of the subject property. The sewer line was extended across Interstate 5 in the early 1990's to service two properties approved through file 1992-5-SWR, approved by Board Order 8-93. This extension serviced a pre-existing mobile home park, zoned RR-5, and another parcel zoned Light Industrial. The extension to these two parcels terminated at the Board of Commissioners approved area and, per Comprehensive Plan and Land Development Ordinance requirements, extending the sewer line into other areas beyond the approved area could not be accomplished until proper application was made to the County and approved.

In review of parcels in rural residential zoning districts within one (1) mile of the subject parcel, a single parcel was found to be without a dwelling. This 2.72 acre parcel had a farm assessment until 2004. It is unclear what constraints there may be to this parcel which would preclude the construction of a dwelling, although an irrigation canal splits the parcel and there are some structures associated with farm use located on the parcel. The soil on this parcel have the same poor suitability for on-site septic systems as the subject parcel. All of the rural residentially zoned properties in this area would require a

Goal 11 exception to connect to the RVS sewer line and most are greater than 1,100 feet from the existing sewer line, requiring substantially greater cost than would be required for the subject parcel. There are not properties on the north side of Interstate 5 which do not require a Goal 11 exception to connect to a sewer line, except those properties approved by Board Order 8-93.

Regarding the question of why the specific goal should not apply to the subject property, the applicant states *"The application before Jackson County, for a Goal 11 exception to allow the subject property to connect to the existing system, is consistent with the long-term experience of the local agencies in dealing with health hazards relating to septic systems in an area where rural levels of development have occurred over the years. Since the existence of the regional sewer system is a known factor, allowing existing legal rural parcels to connect to the system to eliminate on-site septic systems and deal with a public health hazard is a reasonable solution to the issue."* Staff finds that for the subject parcel, a potential health hazard currently exists. While a regional sewer system exists for Jackson County and has been in existence for approximately 40 years, the applicant's argument for allowing existing legal rural parcels to connect to the system to eliminate on-site septic systems is much too broad for the current proposal. Rather, staff believes because of the unsuitability of soils to sustain an on-site septic system, the lack of area for an on-site septic system, the pre-existing development of the parcel, and the outright permitted use for a dwelling in this zoning district, the Goal 11 restriction for an extension of a sewer system outside of an urban growth boundary and unincorporated community boundary should not apply to the subject property.

With respect to long term ESEE consequences, the applicant states these consequences are limited by the size of the tract, ownership patterns, and current levels of development. Staff agrees with the applicant and would add that it is difficult to determine what kind of environmental, social, economic, and energy consequences would occur should the subject property be allowed to connect to the RVS sewer line. Any construction of the extension to the subject parcel would occur within the right-of-way of E. Butler Lane and S. Valley View Road. This expense would be born by the applicant and consequences would be minimal, if any. No farming or forest activities would be impacted, except for the temporary construction of the sewer line. The subject parcel is surrounded by rural residential zoning districts and no impacts to surrounding properties would be anticipated. Because the sewer line is below ground, mitigation to reduce any perceived adverse impacts is not needed.

The applicant states the proposed extension and connection to the RVS sewer line is compatible with adjacent uses because the use on the subject property will not change nor will adjacent properties be allowed further division or increased density. The RVS sewer line has existed in this area since the early 90's and appears to be compatibly with adjacent land uses. Staff agrees that the extension and connection of the RVS sewer line is compatible with adjacent uses.

Sewer Service to Rural Lands

Staff does not include the entire subsection 0060, but addresses the applicable criteria outlined in 660-011-0060(9) for an exception to Goal 11 to allow an extension of a sewer system outside of an urban growth boundary and unincorporated community boundary.

(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:

(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and

(b) There is no practicable alternative to the sewer system in order to avoid the imminent public health hazard.

FINDING: The applicant states "...the applicant has made an attempt to obtain an on-site system through the auspices of the Jackson County Environmental Health department, and DEQ. However, the soils testing done on the property during the evaluation process by Jackson County Environmental Health indicates that the size of the tract and soils are such that a subsurface system could not be approved under the provisions of OAR340-071-0182(1)(b) [see File SEP2004-00755]. Further, the costs and ability to obtain additional land from other properties, as well as the environmental impact of trying to establish an on-site system far exceed the costs for extending sewer service to the site. With the information above in mind, a connection to the RVSS sewer line is the most practicable alternative to mitigate a potential public health hazard, i.e., use of the existing property via the current failing septic tank." Staff agrees with the applicant that a potential public health hazard exists and there is not practicable alternative other than connection to the RVS sewer line.

VI. COMPLIANCE WITH THE LAND DEVELOPMENT ORDINANCE

1) 3.6 SEWER SYSTEMS AND EXTENSIONS ON RURAL LANDS

3.6.1 Authorization

Public sewer systems may be constructed or extended within urban growth boundaries and acknowledged unincorporated communities without County review except where a floodplain development permit is required.

Pursuant to Statewide Planning Goal 11, the following sewer projects are restricted to public health hazard situations established in OAR 660-011-0060(2), unless otherwise justified within an acknowledged Goal 11 Exception Area, or as otherwise provided by State law (ORS 197.712):

- A) New sewer systems outside urban growth boundaries or unincorporated community boundaries;*
- B) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries; or*
- C) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve new or existing uses that are outside such boundaries, except when necessary to mitigate a public health hazard.*

3.6.2 Procedure

Where a sewer project has been constructed in accordance with a County approved sewer extension permit that was issued in accordance with rules in effect prior to the 1998 Goal 11 rule change, connections approved as part of the project may be made in accordance with the approved sewer extension permit conditions as a Type 1 procedure.

Permit applications for new sewer systems or sewer extensions to be constructed outside urban growth or unincorporated community boundaries in order to mitigate a public health hazard situation will be processed under the Type 4 procedures of this Ordinance, and in accordance with the provisions of OAR 660-011-0060. To be accepted as complete, a sewer permit application must be filed with a health hazard determination and recommendation from the Oregon Department of Environmental Quality (DEQ) or the Oregon Health Division.

Applications for sewer projects to be justified by goal exception will be processed as comprehensive plan amendments under the Type 4 procedures of this Ordinance, and in accordance with the provisions of the Comprehensive Plan and state law for goal exceptions.

3.6.3 Approval Criteria

The basis for approval of a development permit for a sewer service to rural lands will be OAR 660-011-0060 to mitigate existing public health hazard situations, unless a goal exception is justified for another purpose. Approval of an application for a Statewide Planning Goal 11 Exception Area must ensure that only rural land

uses will be served, unless an exception to Statewide Planning Goal 14 is also justified for urban uses. If a Goal 11 exception is justified, the exception area will be depicted as within ASC 2003-1 on the Jackson County Comprehensive Plan and Zoning Maps, and uses within the area will be restricted to those justified in the exceptions document.

FINDING: The applicant offers an extended discussion regarding a determination that the subject parcel is rural land. While staff agrees with the applicant that the subject parcel is rural land, staff finds that a more direct determination of rural land is found within OAR 660-004-0040, *Application of Goal 14 (Urbanization) to Rural Residential Areas*. Subsection 2(a) of that rule states *"This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (Agricultural Lands), Goal 4 (Forest Lands) or both has been taken. Such lands are referred to in this rule as rural residential areas."* Further in this rule, subsection 4 states *"The rural residential areas described in Subsection (2)(a) of this rule are rural lands."* Based upon this rule, the subject parcel is considered rural land.

The Planning Commission may recommend to the Board of Commissioners that an ASC be created to identify areas restricted to uses justified through a "reasons" exception to Goal 11 process. A restrictive covenant or declaratory statement to be recorded against the deed to the affected property could be appropriately required as a condition prior to sewer system connection wherein the property owner acknowledges that public sewer availability may not be used to justify uses not allowed in the underlying zoning district, re-designation of the area to a more intensive zone, or future land division.

2) **3.7 AMENDMENTS TO THE COMPREHENSIVE PLAN OR ZONING MAPS**

3.7.3 Approval Criteria

Any amendment must comply with all applicable Statewide Planning Goals, Oregon Administrative Rules and the Comprehensive Plan as a whole. In addition, the following specific approval criteria apply:

C) **Minor Comprehensive Plan Map or Zoning Map Amendments (Quasi-Judicial)**

All proposed minor map amendments will be reviewed for compliance with the criteria set forth below and with all other applicable provisions of this Ordinance and the Comprehensive Plan.

- 1) *Adequate public safety, transportation, and utility facilities and services can be provided to the subject property. In the case of a minor zoning map amendment, adequate transportation facilities must exist or be assured.*

FINDING: Adequate public safety and transportation already are provided to the subject property. The extension of the RVS sewer line to the property will provide adequate sewer service. Staff finds this criteria is met.

- 2) *The minor map amendment will not prevent implementation of any area of special concern or restrictions specified for that area in Chapter 7 or the adopting ordinance creating it, or both.*

FINDING: There are no areas of special concern associated with this parcel. This criterion does not apply.

- 3) *On resource zoned lands outside urban growth boundaries, the entire parcel is included in the minor Comprehensive Plan Map unless the purpose of the amendment conforms with the criteria of Policy 1 of the Comprehensive Map Designations Element.*

FINDING: The subject property is not a resource zoned land and this criterion does not apply.

- 4) *Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres meet the requirements for an exception to Statewide Planning Goal 14.*

FINDING: This application will not result in a division of land and this criterion does not apply.

- 5) *Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map designation.*

FINDING: The proposed amendment does not change the Comprehensive Plan Map designation of Rural Residential Lands. This criterion does not apply.

- 6) *In the case of a minor Comprehensive Plan Map amendment, community benefit as a result of the minor map amendment is clearly demonstrated.*

FINDING: The proposal will alleviate a potential public health hazard and can result in a community benefit to Jackson County.

- 7) *In determining the appropriateness of the proposed redesignation, the White City or Jackson County Planning*

Commission and Board of Commissioners will consider any factors relevant to the proposal, which may include: topography, geology, hydrology, soil characteristics, climate, vegetation, wildlife, water quality, historical or archaeological resources, scenic resources, noise, open space, existing site grading, drainage, adverse impacts on other property in the vicinity, and any other factors deemed to be relevant to the application.

FINDING: The Comprehensive Plan Map and Zoning Map designation will not be changed as a result of this application. This criterion does not apply.

- VII. SUMMARY CONCLUSION:** Staff recommends the proposed Goal 11 exception for the subject parcel is found to be justified by reasons pursuant to ORS 197.732(1)(c), OAR 660-004-0020, OAR 660-004-0022, and OAR 660-011-0060. Staff further concludes that the subject parcel be added to Area of Special Concern 2003-1, Goal 11 Exception Areas, in accordance with JCLDO Section 3.6. Staff supports a Planning Commission recommendation to the Board of Commissioners approving the Comprehensive Plan Map and Text Amendment.

JACKSON COUNTY COMPREHENSIVE PLANNING MANAGER



By: Michael W. Mattson, Planner II

Date: 11-1-06

Approved: 01-24-2007
Effective: 01-24-2007
Expires: 05-24-2007

Volume: _____ Page: _____

**BEFORE THE BOARD OF COMMISSIONERS
STATE OF OREGON, COUNTY OF JACKSON**

ORDINANCE NO. 2007-5

AN EMERGENCY ORDINANCE APPROVING AN AMENDMENT FOR A COMPREHENSIVE PLAN MAP AND TEXT AMENDMENT AND EXCEPTION TO STATEWIDE PLANNING GOAL 11, TO ALLOW THE EXTENSION OF AN RVS SEWER LINE TO CONNECT TO THE PROPERTY DESCRIBED BELOW AND ADD THE SUBJECT PROPERTY TO AREA OF SPECIAL CONCERN (ASC) 2003-1, GOAL 11 EXCEPTION AREAS, ON 0.44 ACRES DESCRIBED AS TOWNSHIP 38 SOUTH, RANGE 1 EAST, SECTION 29, TAX LOT 5500, AND LOCATED APPROXIMATELY 750 FEET NORTH OF THE INTERSECTION OF INTERSTATE 5 AND SOUTH VALLEY VIEW ROAD, ON SOUTH VALLEY VIEW ROAD. RICHARD STEVENS & ASSOCIATES, INC., AGENT; RAYMOND SMITH, APPLICANT. FILE LRP2005-00006.

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The standards justifying minor or quasi-judicial amendments to the Jackson County Comprehensive Plan Text and exceptions to Statewide Planning Goals, and Zoning Map Amendments are contained in the Jackson County Comprehensive and in the Jackson County Land Development Ordinance (JCLDO) Chapter 3.
3. JCLDO Section 3.7.3 states that a minor map amendment must conform to the Statewide Planning Goals, Oregon Administrative Rules, and the Comprehensive Plan as a whole.
4. On October 6, 2005, an application for a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas was submitted by Richard Stevens & Associates, Inc., agent for the owner Raymond Smith. The application was deemed complete as of November 6, 2005, without review, pursuant to Section 2.6.3(E) of the Jackson County Land Development Ordinance.
5. On November 16, 2006, the Jackson County Planning Commission held a properly advertised public hearing to consider the evidence and testimony on this application. After considering the evidence and testimony submitted, the Planning Commission, by motion and vote, recommended the

1-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

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Board of Commissioners approve a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas.

Now, Therefore, the Board of County Commissioners of Jackson County hereby make the following findings and conclusions:

SECTION 1. FINDINGS OF FACT

Based upon the evidence and argument presented, the Board makes the following findings of fact with respect to this application. Where factual conflicts arose, the Board has resolved them consistent with these findings.

1.1 The Board of Commissioners finds that proper public notice was given for the public hearings, and that no objections were raised concerning the hearing notice.

1.2 The Board of Commissioners hereby adopts, as its own, the Findings of Fact contained in the Jackson County Planning Commission's Recommendation dated December 14, 2006, attached hereto and incorporated herein as Exhibit "A".

SECTION 2. LEGAL FINDINGS

2.1 The Board of Commissioners adopts, as its own, the Legal Findings and Conclusions as contained in the Jackson County Planning Commission's Recommendation dated December 14, 2006, attached hereto and incorporated herein as Exhibit "A".

SECTION 3. CONCLUSIONS

3.1 The Board of Commissioners concludes that proper public notice was given.

3.2 The Board concludes that reasons justify an exception to Statewide Planning Goal 11, Public Facilities and Services, to allow the extension of an RVS sewer line to connect to the property and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas. The property owner has a lawful pre-existing use for a dwelling and has pursued all remedies to locate a private septic system on the property, without success. Extension of the RVS sewer line and connection of the property to the RVS line is the appropriate solution to the septic problem.

3.3 The Board concludes the application is consistent with the Statewide Planning Goals, Oregon Administrative Rules, Jackson County Land Development Ordinance, and the Jackson County Comprehensive Plan.

SECTION 4. EMERGENCY DECLARED

4.1 Due to a failed septic system, this ordinance is necessary for the health, safety and

2-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

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welfare to the people of Jackson County in this area. An emergency is hereby declared to exist with respect to the proposed application and this ordinance shall become effective on the date it is adopted, and shall expire 120 days after the effective date.

SECTION 5. DECISION

The Board of County Commissioners of Jackson County ordains as follows:

5.1. Based on the record of the public hearing and the recommendation of the Jackson County Planning Commission, attached hereto and incorporated herein as Exhibit "A", the Board of Commissioners approves a Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas, on 0.44 acres described as Township 38 South, Range 1 East, Section 29, Tax Lot 5500, as illustrated on the zoning map of the Jackson County Planning Commission Recommendation in Exhibit "B".

5.2. Invalidity of a section or part of this ordinance shall not affect the validity of the remaining sections or parts of sections.

APPROVED this 24th day of January, 2007, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS


Dennis C. W. Smith, Chair

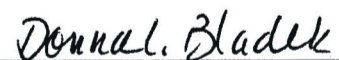

Jack Walker, Commissioner


Dave Gilmour, Commissioner

APPROVED AS TO FORM:

ATTEST:


County Counsel


By: Recording Secretary

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3-ORDINANCE; File LRP2005-00006

Richard Stevens & Associates, Inc., Agent; Raymond Smith, Applicant/Owner

EXHIBIT A

**JACKSON COUNTY DEVELOPMENT SERVICES
STAFF REPORT**

APPLICANT: Raymond Smith
930 Amanda Way
Central Point, OR 97502

FILE: LRP2005-00006

AGENT: Richard Stevens & Associates
P.O. Box 4368
Medford, OR 97501

OWNER: Raymond R. Smith & Julie
Danielson
930 Amanda Way
Central Point, OR 97502

MAP DESCRIPTION: TWP 38 South RANGE 1 East SECTION 29 TAX LOT
5500

PROPOSAL: A Comprehensive Plan Map and Text Amendment to extend sanitary sewer service to a single residential properties located at 730 South Valley View Road. The application includes a request for an exception to the Statewide Planning Goal 11 (Public Facilities and Services) provision restricting local governments from allowing the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries. The application also requests the property be added to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas.

KEY ISSUE: 1) Determine if the subject parcel qualifies for an Exception to Statewide Planning Goal 11, Public Facilities and Services. 2) Determine if the application meets all of the applicable Statewide Planning Goals, Oregon Administrative Rules, Jackson County Comprehensive Plan, and Jackson County Land Development Ordinance provisions.

I. FACTS:

- 1) **Location:** The subject parcel is located along on South Valley View Drive, approximately 750 feet north of the intersection of Interstate 5 and South Valley View Road, on South Valley View Road and approximately 1 mile northwest of the incorporated area of the City of Ashland.
- 2) **Lot Legality:** The subject parcel was determined to be a lawfully established parcel per file 2001-54-PLA. The current owners acquired the property in 2004.
- 3) **Access:** Access is from South Valley View Road, a County owned and maintained road.
- 4) **Acreage:** The subject parcel contains 0.44 acres
- 5) **Assessment:** The subject parcel is assessed as Vacant H & B Use Tract Land, Zoning Not Significant.

- 6) **Land Use:** The subject parcel had a dwelling with attached garage. The applicant obtained a demolition permit in 2004 and the house was demolished.
- 7) **Natural Hazard:** The subject parcel is located within an identified Wildfire Hazard Area.
- 8) **Irrigation:** The subject parcel is within the Talent Irrigation District.
- 9) **Zoning:** The subject parcel is zoned Rural Residential (RR-2.5). All of the surrounding parcels to the north, south, east and west are also Rural Residential, varying in minimum parcel sizes from 2.5 acres to 10 acres (RR-2.5, RR-5, RR-10).
- 10) **Sewerage:** Sewer service was provided to two parcels northwest of the subject parcel by BCVSA (now RVS) in 1993 (Project No. 92-7), Board Order 8-93. This project were reviewed and approved for land use compatibility by the County under the rules in effect at the time. This project provided sewer service to the Valley View Mobile Haven, a mobile home park, and a parcel zoned Light Industrial that, at that time, a construction company operated on the parcel.
- 11) **Site Characteristics:** The subject parcel is in an area of existing suburban and rural development situated north of Interstate 5. This parcel is located at the bottom of a hill to the southeast and there are farming activities occurring to the north, above East Butler Lane. Understory and overstory is very limited in this area. The elevation changes 20 feet from north to south on this parcel.
- 12) **Soils:**
 - A) Name: Brader-Debenger loams; Map No: 17C; Slopes: 1% to 15%; Agricultural Class: VIe; Forest Capability: 0.0; Percent of Parcel: 69%
 - B) Name: Carney clay; Map No: 27B; Slopes: 1% to 5%; Agricultural Class: I've (Nonirrigated), IIIs (Irrigated); Forest Capability: 0.0; Percent of Parcel: 31%

Brader-Debenger loams are located on knolls and ridges. This unit is about 60 percent Brader soil and 20 percent Debenger soil. Other included soils make up about 20 percent of the soil. The Brader soil is shallow and well drained. The depth to bedrock ranges from 12 to 20 inches. Permeability is moderate and runoff is slow or medium. The hazard of water erosion is slight to moderate. The Debenger soil is moderately deep and well drained. The depth to bedrock is from 20 to 40 inches. Permeability is moderate and runoff is slow or medium. The hazard of water erosion is slight to moderate. This unit is used for livestock grazing, hay and pasture, and homesite development. The main limitation to homesite development is depth to bedrock. This unit is poorly suited to septic tank absorption fields because of the depth to bedrock.

Carney clay soil is moderately deep, moderated well drained located on alluvial fans. The depth to bedrock ranges from 20 to 40 inches. Permeability is slow and runoff is also slow in this soil. The hazard of water erosion is slight. This unit is used mainly for hay and pasture, tree fruit, livestock grazing, and homesite development. The main limitations affecting homesite development are the very slow permeability, a high shrink-swell potential, the depth to bedrock, and low strength. This unit is poorly suited to standard systems of waste disposal because of the very slow permeability and the depth to bedrock.

- 13) **Water:** No public water system is available to this parcel or this area. The residential properties in this area are dependent upon individual wells for domestic water supply.
- 14) **Wetlands:** There are no wetlands on this parcel. The nearest wetland is approximately 900 feet east of the subject parcel.
- 15) **Past Planning Actions:** A property line adjustment was completed through file 96-293-PA. Another property line adjustment was completed through file 2001-54-PLA, which adjusted the property line to the current configuration. In August of 2004, the applicant requested information regarding an addition to the existing dwelling, file ZON2004-01235. On December 2, 2004, a demolition permit was issued for the existing dwelling, BLD2004-01812. On December 8, 2004 a Septic Authorization permit was obtained for the replacement dwelling, SEP2004-00733. This permit was denied on December 20, 2004. The denial stated "...The entry to the drainfield revealed an infiltrator unit. Based on the age, the drainfield was not installed with a permit and thus is illegal. A major repair permit is required to replace the system." The denial also stated "...I am concerned about the severe site conditions on this lot and the limited area for a new septic system meeting the required setbacks to all wells. Soils are vertisol clays and are very poorly drained. Excavation and traffic have modified the lot leaving little to no room to work with for a reasonable repair system."

A Major Repair Permit application was submitted to Jackson County on December 29, 2004, SEP2004-00755. This permit was not approved on February 1, 2006. The denial stated "...Based on the small size of the lot (.44 acres) very limited space is available for the replacement system and future repair area. It was determined that based on severe soil and ground water conditions and lack of useable space meeting setbacks, a reasonable repair site does not exist on this property."

On December 8, 2004, an application for a Building Permit was submitted to Jackson County. All Planning Services conditions were completed as of December 29, 2004. The permit has not been issued because of the inability to construct a replacement septic system on the property. LRP2005-00006 was submitted to Jackson County on October 6, 2005. A public hearing before the Jackson County Planning Commission has been scheduled for November 16, 2006.

- 16) **Other:** The subject parcel is within the City of Ashland urban fringe (within one mile of the UGB), subject to the restrictions outlined in OAR 660-004-0040 (no land divisions permitted which would result in new parcels of less than ten acres in size). The subject parcel is also within Ashland's Area of Mutual Concern.
- 17) **Affected Agency and Property Owner Notification:** On October 18, 2006, affected agencies and property owners within 250 feet of the subject property¹ were notified of the proposed application. Responding agencies commented as follows:
 - A) Penny Rogers, representing the Jackson County Quality Department indicated that a major repair permit was applied for in 2004. The permit was not approved based on the small size of the parcel.
 - B) Jim Pendleton, representing the Talent Irrigation District responded with no comment.

II. STAFF DISCUSSION:

File LRP2005-00006 encompasses two land use applications. The first is a request for the County to take an exception to Statewide Planning Goal 11 (Public Facilities and Services) for the subject parcel. The second component is a request for the County to add the subject parcel to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas. The overall purpose of this application is to allow RVS to extend the current septic line approximately 1,100 feet to connect the line to the subject parcel.

As determined by Jackson County Environmental Services, there is not enough room on the parcel for a replacement septic system nor can the soils meet requirements for a replacement system. A health hazard does not currently exist for the subject parcel. Per the applicant, attempts were made to obtain an easement from an adjacent property owner to place the septic system on another parcel. The applicant was unable to obtain permission for that easement. Development Services has approved the location of the replacement dwelling. The replacement dwelling cannot be built until a replacement septic system is constructed or the subject parcel is allowed to connect to the RVS sewer line. As was stated previously, a replacement septic system is not feasible.

Public sewer extensions to serve rural areas outside urban growth and unincorporated community boundaries are specifically restricted by Statewide Planning Goal 11. Oregon Administrative Rule 660-011-0060 outlines the situations in which the extension of a sewer system to a property outside of an urban growth or unincorporated community boundary may occur. These include the mitigation of a public health hazard and taking an exception to Statewide Planning Goal 11, Public Facilities and

¹As indicated in the current Jackson County Assessment records

Services. A public health hazard does not currently exist for the subject parcel and the applicant requests an exception² to Goal 11.

The application is for an exception based on a reasons justification, pursuant to Goal 2 (Land Use Planning), Part II (Exceptions), subsection (c), as applied through OAR 660-004-0020 and OAR 660-004-0022.

III. APPLICABLE CRITERIA:

- 1) Statewide Planning Goals: Goal 11, Public Facilities and Services
- 2) Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060
- 3) Jackson County Comprehensive Plan: Public Facilities and Services Element
- 4) Jackson County Land Development Ordinance: Section 3.6 and 3.7.3(C)

IV. COMPLIANCE WITH THE JACKSON COUNTY COMPREHENSIVE PLAN:

- 1) **Public Facilities and Services Element:** The stated goal of the element is *"To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

Finding No. 1 states:

"SEWAGE DISPOSAL SYSTEMS: *Many of the rural subdivisions and clusters of small rural parcels in the County were created before zoning laws were implemented. Parcelization and subsequent settlement patterns in many parts of the County have developed independent of the land use planning process. In addition, many early land divisions were made without verification of available potable water supplies or septic waste disposal systems."*

"The Bear Creek Valley Sanitary Authority was also created before the inception of statewide land use planning and local zoning. Based upon its original plan and existing sewer capacity, BCVSA is prepared to provide sewer services to a large part of the County, but laws passed since the formation of the Sewer Authority restrict the extension of sewer service outside of cities and urban growth boundaries."

²Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that (a) is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability; (b) does not comply with some or all goal requirements applicable to the subject properties or situations, and (c) complies with standards for an exception.

"The County recognizes four development categories for the provision of sewage disposal services, which establish the different circumstances that affect the availability of sewage disposal systems in various parts of the County."

"CATEGORY A: *Development within city limits or within an incorporated city's urban growth boundary is subject to "Category A" development standards. The standard level of service for such areas includes conventional sewage collection and treatment that is part of regional or subregional sewerage system designed to accommodate urban level development."*

"CATEGORY B: *Development within an unincorporated urban containment boundary or an approved destination resort, or outside of an incorporated city's urban growth boundary in an area that constitutes a pocket of existing urban or suburban level development. Where a probable health hazard is deemed to exist and the area is geographically located so that connection to a regional or subregional sewerage system is determined to be a reasonable solution after alternatives have been evaluated, then conventional sewage collection and treatment systems designed to accommodate existing development may be provided."*

"CATEGORY C: *Development in an area outside of an incorporated city's urban growth boundary or urban containment boundary that constitutes a pocket of existing urban or suburban level development, but that is geographically located so that connection to a regional or subregional sewerage system is not feasible, is subject to "Category C" development standards. Where a probable health hazard is found to exist, sewer service may be provided by an on-site management district or small community waste disposal system designed to accommodate an appropriate level of development consistent with the Jackson County Comprehensive Plan."*

"CATEGORY D: *Development in an area that is developed to, or designated for, low density development, where all standards can be met for on-site waste disposal, is subject to "Category D" development standards. This standard allows on-site septic waste disposal systems."*

"POLICY: RECOGNIZING THE NEED FOR VARIOUS TYPES AND LEVELS OF SANITATION SERVICE, JACKSON COUNTY SHALL STRIVE TO PROVIDE FOR SANITATION SERVICE AT LEVELS APPROPRIATE FOR THE NEEDS OF URBAN, URBANIZABLE, SUBURBAN, RURAL, AND OPEN SPACE LANDS."

"IMPLEMENTATION STRATEGIES:

- A) *Public sewer district should develop service plans identifying location and levels of service which are consistent with the Comprehensive Plan and the criteria identified in the above policy. These service plans, when deemed consistent with the Jackson County Comprehensive Plan, should be adopted by the County as part of said plan.*

- B) *Proposals for sewer collection facility projects shall be reviewed in accordance with, and for consistency with, the Jackson County Land Development Ordinance.*
- C) *The County should create an exception process for circumstances where strict application of the Jackson County Land Development Ordinance may cause an unnecessary public hardship."*

Finding 2 begins:

"EXTENSION OF SEWER SYSTEMS BEYOND URBAN GROWTH BOUNDARIES: The policies of the urban lands element support the concept of urban centered growth as a means to mitigate problems which occur with extensive urban and rural growth outside of urban growth boundaries. The extension of an urban facility beyond an urban growth or containment boundary creates the perception that the area near the facility is committed to urban growth. Therefore, it is desirable to avoid potential conflicts by limiting the location of urban levels of services, such as sewers, to urban growth boundaries and identified health hazard areas."

"POLICY: RECOGNIZING THE URBAN GROWTH/CONTAINMENT BOUNDARY AS THE DIVIDING LINE BETWEEN URBAN AND RURAL DEVELOPMENT, THE COUNTY SHALL NOT ALLOW NEW EXTENSIONS OF SEWER PROJECTS BEYOND THESE BOUNDARIES EXCEPT AS ALLOWED IN POLICY 1 AFTER REVIEW BY THE PLANNING COMMISSION AND APPROVAL BY THE BOARD OF COMMISSIONERS OR AS PROVIDED FOR BY STATE LAW, AS DISCUSSED IN POLICY 5 BELOW."

Finding 5 begins:

"RURAL SEWER SERVICE: The existence of a sewer line through a rural area, between an urban area and the health hazard area it serves, creates a potential land use conflict. Land use densities in rural areas are generally low, allowing five-acre rural residential lots or larger farm units. The presence of sewers can create the perception that development of more intensive uses is anticipated or planned, consequently encouraging speculative land sales and pressure for land use or zoning changes. Consequently, construction of new sewer systems or extension of existing sewer systems to serve rural areas located outside acknowledged urban growth boundaries or unincorporated community boundaries is restricted pursuant to Statewide Planning Goal 11 and OAR 660, Division 11 to existing public health hazard areas. The 2003 Oregon State Legislature, through House Bill 2674 (effective January 1, 2004), relaxed the restriction to allow on-site sewer facilities to serve industrial development on old or diminished mill sites as described in the bill. Any other situation would require that an exception to Statewide Planning Goal 11 be justified pursuant to the Goal 2 exceptions process."

"POLICY: CONNECTIONS TO SEWER OR WATER LINES IN AREAS LOCATED OUTSIDE ACKNOWLEDGED URBAN GROWTH BOUNDARIES OR

**UNINCORPORATED COMMUNITY BOUNDARIES MAY BE PERMITTED ONLY
PURSUANT TO STATE LAW AND THE JACKSON COUNTY LAND DEVELOPMENT
ORDINANCE.**

FINDING: The Jackson County Comprehensive Plan includes substantial findings and policies recognizing the need to provide for sewer connections outside urban growth boundaries and unincorporated community boundaries³ due to pre-existing patterns of development, pre-existence of a rural sewer service provider, and the severe site limitations imposed by local topography, soil conditions, natural hazard areas, and limited lot size. The flexibility was considered essential to pursue the Goal 11 mandate to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Policies 1, 2, and 5 of the Public Facilities and Services Element, specifically Policy 5, allow the establishment or extension of a sewer system outside of an urban growth boundary and unincorporated community boundary pursuant to state law and the JCLDO. The state amended OAR 660-011-0060 in 1998 and 2005 to allow an extension of a sewer system "...provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulation that prohibit the sewer system from serving any uses or areas other than those justified in the exception." The exception criteria will be addressed below, as well as the requirements of the JCLDO. It can be found that the Public Facilities and Services Element allows for the extension of a sewer system to connect to the subject parcel.

V. COMPLIANCE WITH STATEWIDE PLANNING GOALS AND OREGON ADMINISTRATIVE RULES:

1) STATEWIDE PLANNING GOAL 11, PUBLIC FACILITIES AND SERVICES

OAR 660-015-0000(11)

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater

³note: unincorporated containment boundary is a local designation recognizing pre-existing urban land located outside municipal urban growth boundaries. The policies in the JCCP Public Facilities and Services Element pre-date the adoption of the "unincorporated community rule" by the state.

than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan.

Counties shall develop and adopt community public facility plans regulating facilities and services for certain unincorporated communities outside urban growth boundaries as specified by Commission rules.

Local Governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land.

Local governments may allow residential uses located on certain rural residential lots or parcels inside existing sewer district or sanitary authority boundaries to connect to an existing sewer line under the terms and conditions specified by Commission rules.

Local governments shall not rely upon the presence, establishment, or extension of a water or sewer system to allow residential development of land outside urban growth boundaries or unincorporated community boundaries at a density higher than authorized without service from such a system.

In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

A Timely, Orderly, and Efficient Arrangement – *refers to a system or plan that coordinates the type, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses.*

Rural Facilities and Services – *refers to facilities and services suitable and appropriate solely for the needs of rural lands.*

Urban Facilities and Services – *Refers to key facilities and to appropriate types and levels of at least the following: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services.*

Public Facilities Plan – *A public facility plan is a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plan or plans within an urban growth boundary containing a population greater than 2,500.*

Community Public Facilities Plan – A support document or documents to a comprehensive plan applicable to specific unincorporated communities outside UGBs. The community public facility plan describes the water and sewer services and facilities which are to support the land uses designated in the plan for the unincorporated community.

Water system – means a system for the provision of piped water for human consumption subject to regulation under ORS 448.119 to 448.285.

Extension of a sewer or water system – means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer or water system, as defined by Commission rules.

GUIDELINES

A. PLANNING

1. Plans providing for public facilities and services should be coordinated with plans for designation of urban boundaries, urbanizable land, rural uses and for the transition of rural land to urban uses.
2. Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses.
3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.
4. Public facilities and services in urbanizable areas should be provided at levels necessary and suitable for existing uses. The provision for future public facilities and services in these areas should be based upon: (1) the time required to provide the service; (2) reliability of service; (3) financial cost; and (4) levels of service needed and desired.
5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.
6. All utility lines and facilities should be located on or adjacent to existing public or private rights-of-way to avoid dividing existing farm units.
7. Plans providing for public facilities and services should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development action provided for by such plans should not exceed the carrying capacity of such resources.

B. IMPLEMENTATION

- 1. Capital improvement programming and budgeting should be utilized to achieve desired types and levels of public facilities and services in urban, urbanizable and rural areas.*
- 2. Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.*
- 3. The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.*
- 4. Plans should designate sites of power generation facilities and the location of electric transmission lines in areas intended to support desired levels of urban and rural development.*
- 5. Additional methods and devices for achieving desired types and levels of public facilities and services should include but not be limited to the following: (1) tax incentives and disincentives; (2) land use controls and ordinances; (3) multiple use and joint development practices; (4) fee and less-than-fee acquisition techniques; and (5) enforcement of local health and safety codes.*
- 6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.*

FINDING: Statewide Planning Goal 11 provides the ability to extend sewer services outside of an urban growth boundary and unincorporated community boundary. Sewer services may connect to rural residential lots or parcels inside a sewer district boundary based upon terms and conditions specified by Commission rules. OAR 660-011-0060 was amended both in 1998 and 2005 to allow sewer service connections. These rules identified public health hazards, rural residential lots or parcels within 300 feet of an existing sewer line, and a justification of a Goal 11 exception to a parcel for connection to a sewer line outside of an urban growth boundary and unincorporated community boundary. The subject parcel is a rural residentially zoned parcel located within the RVS sewer district boundary. It can be concluded that, should a Goal 11 exception be justified for the subject parcel, Goal 11 allows the extension of and connection to a sewer system defined under Goal 11.

2) **OAR 660-004-0020 & 0022: "REASONS" EXCEPTION CRITERIA**

660-004-0020

Goal 2, Part II(c), Exception Requirements

A) 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, the justification shall be set forth in the comprehensive plan as an exception.

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

i) "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;

ii) "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;

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

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

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

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

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

iii) 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;

iv) "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.

C) 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.

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

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

A) 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:

i) 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

ii) 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

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

B) 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 subject parcel is located within an area of rural and suburban development. There are many parcel in this area which are less than the minimum parcel size of the zoning district, RR-2.5, of 2.5 acres per lot or parcel. The applicant states the previous dwelling was built in 1957 and the parcel size, prior to 1996, was one (1) acre. Following a property line adjustment in 1996, the parcel area was reduced to 0.44 acres, which was to include the dwelling and on-site septic system. It appears the septic system was located in error wholly on tax lot 5500. Another property line adjustment was completed in 2001 to locate the entire septic system onto the adjusted tax lot 5500. The dwelling and accessory uses are pre-existing and permitted uses in the RR-2.5 zoning district.

Evidence in the record states that a replacement septic system cannot be constructed on the subject parcel because of the lack of area for a septic system and the severity of the soils on the property. The failure of septic systems in this area is not an uncommon occurrence. The applicant has sought to locate a septic system on an adjacent property, but was unable to gain approval from the property owners. Per Building Services requirements, the replacement dwelling cannot be built without an approved septic system installed on the subject parcel. This prevents the applicant/owner and future owners from re-establishing a legal pre-existing and permitted use. The only option available to the applicant is the extension of the RVS sewer line approximately 1,100 feet to the subject property.

The subject parcel is within the RVS sewer district boundary. The RVS sewer line is located approximately 1,100 feet northwest of the subject property. The sewer line was extended across Interstate 5 in the early 1990's to service two properties approved through file 1992-5-SWR, approved by Board Order 8-93. This extension serviced a pre-existing mobile home park, zoned RR-5, and another parcel zoned Light Industrial. The extension to these two parcels terminated at the Board of Commissioners approved area and, per Comprehensive Plan and Land Development Ordinance requirements, extending the sewer line into other areas beyond the approved area could not be accomplished until proper application was made to the County and approved.

In review of parcels in rural residential zoning districts within one (1) mile of the subject parcel, a single parcel was found to be without a dwelling. This 2.72 acre parcel had a farm assessment until 2004. It is unclear what constraints there may be to this parcel which would preclude the construction of a dwelling, although an irrigation canal splits the parcel and there are some structures associated with farm use located on the parcel.. The soil on this parcel have the same poor suitability for on-site septic systems as the subject parcel. All of the rural residentially zoned properties in this area would require a

Goal 11 exception to connect to the RVS sewer line and most are greater than 1,100 feet from the existing sewer line, requiring substantially greater cost than would be required for the subject parcel. There are not properties on the north side of Interstate 5 which do not require a Goal 11 exception to connect to a sewer line, except those properties approved by Board Order 8-93.

Regarding the question of why the specific goal should not apply to the subject property, the applicant states *"The application before Jackson County, for a Goal 11 exception to allow the subject property to connect to the existing system, is consistent with the long-term experience of the local agencies in dealing with health hazards relating to septic systems in an area where rural levels of development have occurred over the years. Since the existence of the regional sewer system is a known factor, allowing existing legal rural parcels to connect to the system to eliminate on-site septic systems and deal with a public health hazard is a reasonable solution to the issue."* Staff finds that for the subject parcel, a potential health hazard currently exists. While a regional sewer system exists for Jackson County and has been in existence for approximately 40 years, the applicant's argument for allowing existing legal rural parcels to connect to the system to eliminate on-site septic systems is much too broad for the current proposal. Rather, staff believes because of the unsuitability of soils to sustain an on-site septic system, the lack of area for an on-site septic system, the pre-existing development of the parcel, and the outright permitted use for a dwelling in this zoning district, the Goal 11 restriction for an extension of a sewer system outside of an urban growth boundary and unincorporated community boundary should not apply to the subject property.

With respect to long term ESEE consequences, the applicant states these consequences are limited by the size of the tract, ownership patterns, and current levels of development. Staff agrees with the applicant and would add that it is difficult to determine what kind of environmental, social, economic, and energy consequences would occur should the subject property be allowed to connect to the RVS sewer line. Any construction of the extension to the subject parcel would occur within the right-of-way of E. Butler Lane and S. Valley View Road. This expense would be born by the applicant and consequences would be minimal, if any. No farming or forest activities would be impacted, except for the temporary construction of the sewer line. The subject parcel is surrounded by rural residential zoning districts and no impacts to surrounding properties would be anticipated. Because the sewer line is below ground, mitigation to reduce any perceived adverse impacts is not needed.

The applicant states the proposed extension and connection to the RVS sewer line is compatible with adjacent uses because the use on the subject property will not change nor will adjacent properties be allowed further division or increased density. The RVS sewer line has existed in this area since the early 90's and appears to be compatibly with adjacent land uses. Staff agrees that the extension and connection of the RVS sewer line is compatible with adjacent uses.

Sewer Service to Rural Lands

Staff does not include the entire subsection 0060, but addresses the applicable criteria outlined in 660-011-0060(9) for an exception to Goal 11 to allow an extension of a sewer system outside of an urban growth boundary and unincorporated community boundary.

(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:

(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and

(b) There is no practicable alternative to the sewer system in order to avoid the imminent public health hazard.

FINDING: The applicant states "...the applicant has made an attempt to obtain an on-site system through the auspices of the Jackson County Environmental Health department, and DEQ. However, the soils testing done on the property during the evaluation process by Jackson County Environmental Health indicates that the size of the tract and soils are such that a subsurface system could not be approved under the provisions of OAR340-071-0182(1)(b) [see File SEP2004-00755]. Further, the costs and ability to obtain additional land from other properties, as well as the environmental impact of trying to establish an on-site system far exceed the costs for extending sewer service to the site. With the information above in mind, a connection to the RVSS sewer line is the most practicable alternative to mitigate a potential public health hazard, i.e., use of the existing property via the current failing septic tank." Staff agrees with the applicant that a potential public health hazard exists and there is not practicable alternative other than connection to the RVS sewer line.

VI. COMPLIANCE WITH THE LAND DEVELOPMENT ORDINANCE

1) 3.6 SEWER SYSTEMS AND EXTENSIONS ON RURAL LANDS

3.6.1 Authorization

Public sewer systems may be constructed or extended within urban growth boundaries and acknowledged unincorporated communities without County review except where a floodplain development permit is required.

Pursuant to Statewide Planning Goal 11, the following sewer projects are restricted to public health hazard situations established in OAR 660-011-0060(2), unless otherwise justified within an acknowledged Goal 11 Exception Area, or as otherwise provided by State law (ORS 197.712):

- A) New sewer systems outside urban growth boundaries or unincorporated community boundaries;*
- B) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries; or*
- C) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve new or existing uses that are outside such boundaries, except when necessary to mitigate a public health hazard.*

3.6.2 Procedure

Where a sewer project has been constructed in accordance with a County approved sewer extension permit that was issued in accordance with rules in effect prior to the 1998 Goal 11 rule change, connections approved as part of the project may be made in accordance with the approved sewer extension permit conditions as a Type 1 procedure.

Permit applications for new sewer systems or sewer extensions to be constructed outside urban growth or unincorporated community boundaries in order to mitigate a public health hazard situation will be processed under the Type 4 procedures of this Ordinance, and in accordance with the provisions of OAR 660-011-0060. To be accepted as complete, a sewer permit application must be filed with a health hazard determination and recommendation from the Oregon Department of Environmental Quality (DEQ) or the Oregon Health Division.

Applications for sewer projects to be justified by goal exception will be processed as comprehensive plan amendments under the Type 4 procedures of this Ordinance, and in accordance with the provisions of the Comprehensive Plan and state law for goal exceptions.

3.6.3 Approval Criteria

The basis for approval of a development permit for a sewer service to rural lands will be OAR 660-011-0060 to mitigate existing public health hazard situations, unless a goal exception is justified for another purpose. Approval of an application for a Statewide Planning Goal 11 Exception Area must ensure that only rural land

uses will be served, unless an exception to Statewide Planning Goal 14 is also justified for urban uses. If a Goal 11 exception is justified, the exception area will be depicted as within ASC 2003-1 on the Jackson County Comprehensive Plan and Zoning Maps, and uses within the area will be restricted to those justified in the exceptions document.

FINDING: The applicant offers an extended discussion regarding a determination that the subject parcel is rural land. While staff agrees with the applicant that the subject parcel is rural land, staff finds that a more direct determination of rural land is found within OAR 660-004-0040, *Application of Goal 14 (Urbanization) to Rural Residential Areas*. Subsection 2(a) of that rule states *"This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (Agricultural Lands), Goal 4 (Forest Lands) or both has been taken. Such lands are referred to in this rule as rural residential areas."* Further in this rule, subsection 4 states *"The rural residential areas described in Subsection (2)(a) of this rule are rural lands."* Based upon this rule, the subject parcel is considered rural land.

The Planning Commission may recommend to the Board of Commissioners that an ASC be created to identify areas restricted to uses justified through a "reasons" exception to Goal 11 process. A restrictive covenant or declaratory statement to be recorded against the deed to the affected property could be appropriately required as a condition prior to sewer system connection wherein the property owner acknowledges that public sewer availability may not be used to justify uses not allowed in the underlying zoning district, re-designation of the area to a more intensive zone, or future land division.

2) **3.7 AMENDMENTS TO THE COMPREHENSIVE PLAN OR ZONING MAPS**

3.7.3 Approval Criteria

Any amendment must comply with all applicable Statewide Planning Goals, Oregon Administrative Rules and the Comprehensive Plan as a whole. In addition, the following specific approval criteria apply:

C) **Minor Comprehensive Plan Map or Zoning Map Amendments (Quasi-Judicial)**

All proposed minor map amendments will be reviewed for compliance with the criteria set forth below and with all other applicable provisions of this Ordinance and the Comprehensive Plan:

- 1) *Adequate public safety, transportation, and utility facilities and services can be provided to the subject property. In the case of a minor zoning map amendment, adequate transportation facilities must exist or be assured.*

FINDING: Adequate public safety and transportation already are provided to the subject property. The extension of the RVS sewer line to the property will provide adequate sewer service. Staff finds this criteria is met.

- 2) *The minor map amendment will not prevent implementation of any area of special concern or restrictions specified for that area in Chapter 7 or the adopting ordinance creating it, or both.*

FINDING: There are no areas of special concern associated with this parcel. This criterion does not apply.

- 3) *On resource zoned lands outside urban growth boundaries, the entire parcel is included in the minor Comprehensive Plan Map unless the purpose of the amendment conforms with the criteria of Policy 1 of the Comprehensive Map Designations Element.*

FINDING: The subject property is not a resource zoned land and this criterion does not apply.

- 4) *Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres meet the requirements for an exception to Statewide Planning Goal 14.*

FINDING: This application will not result in a division of land and this criterion does not apply.

- 5) *Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map designation.*

FINDING: The proposed amendment does not change the Comprehensive Plan Map designation of Rural Residential Lands. This criterion does not apply.

- 6) *In the case of a minor Comprehensive Plan Map amendment, community benefit as a result of the minor map amendment is clearly demonstrated.*

FINDING: The proposal will alleviate a potential public health hazard and can result in a community benefit to Jackson County.

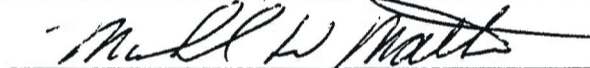
- 7) *In determining the appropriateness of the proposed redesignation, the White City or Jackson County Planning*

Commission and Board of Commissioners will consider any factors relevant to the proposal, which may include: topography, geology, hydrology, soil characteristics, climate, vegetation, wildlife, water quality, historical or archaeological resources, scenic resources, noise, open space, existing site grading, drainage, adverse impacts on other property in the vicinity, and any other factors deemed to be relevant to the application.

FINDING: The Comprehensive Plan Map and Zoning Map designation will not be changed as a result of this application. This criterion does not apply.

- VII. SUMMARY CONCLUSION:** Staff recommends the proposed Goal 11 exception for the subject parcel is found to be justified by reasons pursuant to ORS 197.732(1)(c), OAR 660-004-0020, OAR 660-004-0022, and OAR 660-011-0060. Staff further concludes that the subject parcel be added to Area of Special Concern 2003-1, Goal 11 Exception Areas, in accordance with JCLDO Section 3.6. Staff supports a Planning Commission recommendation to the Board of Commissioners approving the Comprehensive Plan Map and Text Amendment.

JACKSON COUNTY COMPREHENSIVE PLANNING MANAGER



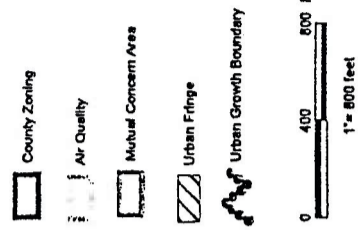
By: Michael W. Mattson, Planner II

Date: 11-1-06

42

ZONING

APPLICANT:
SMITH
38-1E-29-5500
LRP2005-00006



This map is based on a digital database compiled by Jackson County from a variety of sources. Jackson County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied.

Please recycle with colored office grade paper



Jackson County Oregon

Development Services
10 South Oakdale Avenue, Room 100, Medford, OR 97501-2902

NOTICE OF DECISION (FILE NO. ZON2005-01944)

On May 15, 2006, June 12, 2006, August 21, 2006 & November 6, 2006, the Jackson County Hearings Officer held a properly advertised public hearing and, as a result, rendered an Opinion and Final Order dated January 25, 2007 which approved with conditions an application for a land use permit on the following described property: Township 38 South, Range 4 West Section 07, Tax Lot 300 & 301, located at 14850 Hwy 238. The applicable criteria pursuant to that Order are Oregon Revised Statutes of 1981: 215.203, 215.213 and 215.243; Statewide Planning Goals of 1975: Goal 3 and Goal 5; Jackson County Land Development Ordinance of 1980: 218.040 through 218.060, 280.030 through 280.110, Chapters 260, 266, 272, 282, 285 and 290; Jackson County Comprehensive Plan of 1980 (unacknowledged as of the Acquisition Date): The Mineral and Aggregate Resources Element and the Transportation Element pages 10-29; The Jackson County Land Development Ordinance of 2004: Sections 7.1.2, 8.7 and 9.5.4; The Jackson County Comprehensive Plan of 2004: Transportation Element section 4.3.1-D; and Jackson County Board of Commissioners Order 345-05.

The JCHO Opinion and Final Order for File No. ZON2005-01944 Approves the following use on the above-described property:

An application for an aggregate extraction operation pursuant to an approved measure 37 claim, Board of Commissioners Order No. 354-05 on a 101.68 acre parcel zoned Exclusive Farm Use (EFU)

You may review the Opinion and Final Order, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at the Planning Department between the hours of 8:00 a.m. and 11:30 a.m., Monday, Tuesday, Thursday and Friday.

This decision is the County's final decision in the matter. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), under ORS 197.830-197.845, by those who participated at the local level. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. If you have received this notice but did not participate either orally or in writing at the above referenced public hearing, you may not appeal this decision to LUBA.

Appeal of this decision must be made within 21 days of the date it is mailed. This decision is being mailed on January 26, 2007 and the LUBA appeal period will expire on February 16, 2007. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

The application, order, applicable criteria for decision and associated materials are available for inspection at the Department. Copies can be obtained at reasonable cost if requested. Additional information is available by contacting **Francisco Hernandez** by phone (774-6903; Jackson County residents outside the Medford toll free area can call 1-800-452-5021 and enter the following 4-digit extension: 6903) or at this address:

**Development Services
10 South Oakdale Avenue, Room 100
Medford Oregon 97501-2902**

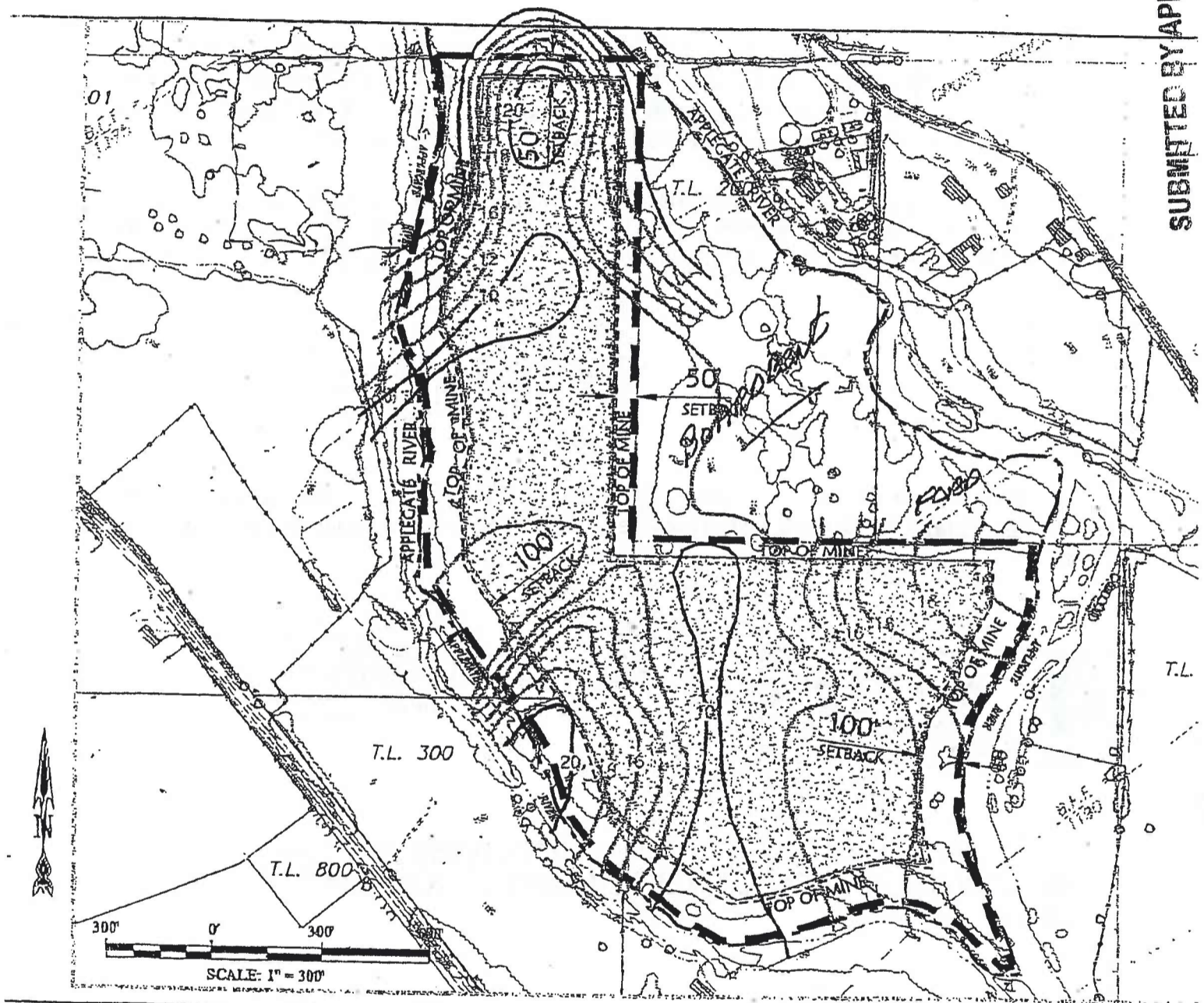
NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: IF YOU RECEIVE THIS NOTICE, PLEASE FORWARD IT TO THE PURCHASER.

Attachments: Zoning Map, Site Plan Map & Mailing List

SITE PLAN
HILL - MEASURE 37 CLA

TOWNSHIP: 38 SOUTH
RANGE: 4 WEST
SECTION: 07
TAX LOTS: 300 & 301
SCALE: 1" = 300'

SUBMITTED BY APPLICANT



-673-

ZON 2005-01944 CUF

-612-

Prepared by:
David Brown & Associates, Inc.
511 SE "M" Street
Grants Pass, Oregon 97526

Jackson County Hearings Officer

File No. ZON205-01944 Exhibit # 6

Offered by: John Wesley Hill

Date: 3/20/2006 Received by: LM

Exhibit "A"
Page 1 of 4

-7-

FILE NO. ZON2005-01944
NOH MAILING LIST
APPLICANT: HILL
DATE CREATED: 1/23/2007

Mailing List

APPLICANT
JOHN & WESLEY HILL
14850 HWY 238
GRANTS PASS OR 97527

ZON2005-01944

AGENT
DANIEL O'CONNOR
HUYCKE O'CONNOR JARVIS LOHMAN LLP
823 ALDER CRK DR
MEDFORD OR 97504-8900

ZON2005-01944

HO
DONALD RUBENSTEIN
3245 ELK LANE
GRANTS PASS OR 97527

ZON2005-01944

STAFF
TOM BIZEAU
CURRENT PLANNING MANAGER
HAND DELIVER

ZON2005-01944

STAFF
FRANK HERNANDEZ
PLANNER
HAND DELIVER

ZON2005-01944

ZON2005-01944
ELIZABETH FUJAS
JC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
REEVE HENNION
JC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
DON GREENE
JC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
RICHARD B. THIEROLF JR
JC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
BYRON WILLIAMS
JC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
CHUCK BECK
WC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
ERIC P JOHNSON
WC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
STAN ALEXANDER
WC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
MICKEY W HIX
WC PLANNING COMMISSION
HAND DELIVER

ZON2005-01944
BOARD OF COMMISSIONERS
HAND DELIVER

AA-C3
BRET FILLIS, FIRE MARSHAL
APPLEGATE FIRE DIST #9
1095 UPPER APPLGATE
JACKSONVILLE OR 97530

ZON2005-01944

AA-F2
STEVEN NIEMELA
OREGON DEPT OF FISH & WILDLIFE
1495 E GREGORY RD
CENTRAL POINT OR 97502

ZON2005-01944

AA-F3
BEN MUNDIE
DOGMI (DEPT OF GEOLOGY)
229 BROADALBIN ST SW
ALBANY OR 97321

ZON2005-01944

AA-F4
BILL MEYERS ROGUE BASIN COORDINATR
DEQ
221 W STEWART AVE #201
MEDFORD OR 97501

ZON2005-01944

AA-F15
EUGENE PAPINEAU
VECTOR CONTROL DISTRICT
555 MOSQUITO LN
CENTRAL POINT OR 97502

ZON2005-01944

AA-F16
JAN PERTTU
APPLEGATE RIVER WATERSHED COUNCIL
PO BOX 1049
JACKSONVILLE OR 97530

ZON2005-01944

AA-F20
KEITH TONG
DEQ
221 W STEWART AVE #201
MEDFORD OR 97501

ZON2005-01944

AA-G1
DAVID PYLES DEV REVIEW PLANNER
ODOT REGION 3
100 ANTELOPE RD
WHITE CITY OR 97503

ZON2005-01944

AA-G6
DENISE ATKINSON REGION 10
FED EMERGENCY MGMT AGENCY
130 - 228TH ST SW
BOTHELL WA 98011

ZON2005-01944

AA-G15
TERRY HILL
STATE DEPT OF AGRICULTURE
1418 LARKSPUR AVE
MEDFORD OR 97504-5552

ZON2005-01944

AA-G27
DICK ANGSTROM, DIRECTOR
OR CONCRETE/AGGREGATE PROD ASSOC
737 13TH ST SE
SALEM OR 97301

ZON2005-01944

AA-G31
CULTURAL RESOURCES SPECIALIST
DEPT OF TRANSPORTATION
1158 CHEMEKETA NE
SALEM OR 97301

ZON2005-01944

AA-G39
CHRISTINE VALENTINE ST FLOODPLAIN
DLCD
635 CAPITOL ST NE STE 200
SALEM OR 97301-2540

ZON2005-01944

AA-G40
JOHN RENZ
DLCD-SO OR REGIONAL REP RURAL DIV
PO BOX 3275
CENTRAL POINT OR 97502

ZON2005-01944

IP ZON2005-01944
WOOLDRIDGE CRK VINEYARD/WINERY
818 SLAGLE CRK RD
GRANTS PASS OR 97527

IP ZON2005-01944
GREG WORTHINGTON
8770 E EVANS CRK RD
ROGUE RIVER OR 97537

IP ZON2005-01944
MR & MRS RONALD ZECHELLO
424 SPRINGBROOK DR
GRANTS PASS OR 97527

384W06 601(2 LOTS) ZON2005-01944
APPLE LEONARD/CONNIE
P O BOX 354
NORWALK CA 90651

384W07 2200 ZON2005-01944
BOTTROFF JAMES R/CAROLYN S
15855 HWY 238
GRANTS PASS OR 97527

384W07 1300 ZON2005-01944
BRANAN STACY L ET AL
15199 HWY 238
GRANTS PASS OR 97527

384W07 1304 (4 LOTS) ZON2005-01944
BRANAN STACY L/GEOFFREY
PO BOX 1301
JACKSONVILLE OR 97530

384W06 1300 ZON2005-01944
BROADHEAD ROBERT M/KIMBERLY
PO BOX 2156
GRANTS PASS OR 97528

384W07 403 ZON2005-01944
COLEMAN EVA M/COLEMAN DANIEL R
14401 HWY 238
GRANTS PASS OR 97527

384W06 1302(3 LOTS) ZON2005-01944
CROWE JUDY JEWELL ET AL
15080 APPLGATE RD
GRANTS PASS OR 97527

384W07 600 ZON2005-01944
FIELDS LEWIS TRUSTEE
14725 WILLIAMS HWY
WILLIAMS OR 97544

384W07 205 (3LOTS) ZON2005-01944
FORD JAMES/HILLENDA SUE
PO BOX 1333
APPLGATE OR 97530

384W07 211 (3 LOTS) ZON2005-01944
HARPER DAN WAY/BARBARA
15075 N APPLGATE RD
GRANTS PASS OR 97527

384W06 1500 ZON2005-01944
HAYNES GERALD D/ARELLANO-HAYNES
YOLANDA
105 TAYLOR ST
JACKSONVILLE OR 97530

384W07 300 (3 LOTS) ZON2005-01944
HILL JOHN C TRUSTEE FBO
14850 HWY 238
GRANTS PASS OR 97527

384W06 1000 ZON2005-01944
HOFMANN JUDITH M
14402 N APPLGATE RD
GRANTS PASS OR 97527

384W07 2206 ZON2005-01944
HOOVER RICHARD T/GLORIA B
15423 HWY 238
GRANTS PASS OR 97527

384W07 400(2 LOTS) ZON2005-01944
JAEGER BJORN TRUSTEE ET AL
17554 HWY 238
GRANTS PASS OR 97527

384W07 2201 ZON2005-01944
JOHNSON CARL D
PO BOX 910
GRANTS PASS OR 97528

384W07 500 (2 LOTS) ZON2005-01944
KEALIHER RUTH
14299 WILLIAMS HWY
WILLIAMS OR 97544

384W07 2006 ZON2005-01944
KENNEDY HAROLD L TRUSTEE
1135 W HUFFAKER LN
RENO NV 89511

384W07 1801 ZON2005-01944
KRENZIN RONALD L/MICHELE L
8802 CONNER DRIVE
HUNTINGTON BEACH CA 92647

384W07 1101 (2 LOTS) ZON2005-01944
KROUSE JAMES D
15877 N APPLGATE RD
GRANTS PASS OR 97527

384W07 1302 ZON2005-01944
LORD CHARLES/LORD SHARON RODGERS
RODGERS-LORD SHARON
15245 HWY 238
GRANTS PASS OR 97527

384W07 401 ZON2005-01944
MERFELD LORENZ N/SHARON J
551 ROOSEVELT RD 117
GLEN ELLYN IL 60137

384W07 1301 ZON2005-01944
OFFENBACHER CAROL L
15200 HWY 238
GRANTS PASS OR 97527

384W07 2001 ZON2005-01944
PROSE DARREL L/VICKIE L
15374 HWY 238
GRANTS PASS OR 97527

384W07 200 ZON2005-01944
RIDING MICHAEL/BROWN-RIDING
MICHELE
12 SHERBROOKE DR
HALIFAX NORASCOTIA CANADA

384W07 2004 ZON2005-01944
SGAMBELLONE JAMES J/LINDA L
15310 HWY 238
GRANTS PASS OR 97527

384W07 2100 ZON2005-01944
SKAGGS MARK/BECKER-SKAGGS
CATHERINE
15510 HWY 238
GRANTS PASS OR 97527

Mailing List

JACKSON COUNTY NOTICE OF ADOPTION

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2007-1 at a properly advertised public hearing on January 10, 2007, at 9:30 a.m., in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon 97501.

The ordinance will go into effect on March 25, 2007 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2007-1 will amend the Comprehensive Plan Map and Text Amendment and exception to Statewide Planning Goal 11, to allow the extension of an RVSS sewer line to connect to the property described below and add the subject property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas, on 0.44 acres described as Township 38 South, Range 1 East, Section 29, Tax Lot 5500, and located approximately 750 feet north of the intersection of Interstate 5 and South Valley View Road, on South Valley View Road. Richard Stevens & Associates, Inc, Agent; Raymond Smith, Owner. File LRP2005-00006.

This notice is being mailed to you on January 26, 2007, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact **Mike Mattson** at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford 774-6937; Jackson County residents outside of Medford's local calling area 1-800-452-5021 and enter the next four digit extension 6937.

You may review this ordinance, or you may purchase a copy, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 1:00 p.m. to 4:00 p.m. on Wednesday.

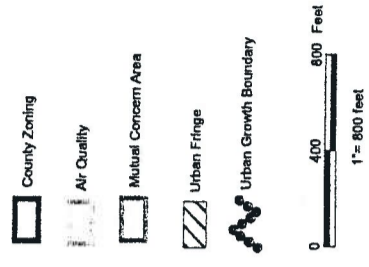
The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on January 26, 2007 and the LUBA appeal period will expire on February 16, 2007. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N. E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

Attachments: Zoning Map
Notary Packet



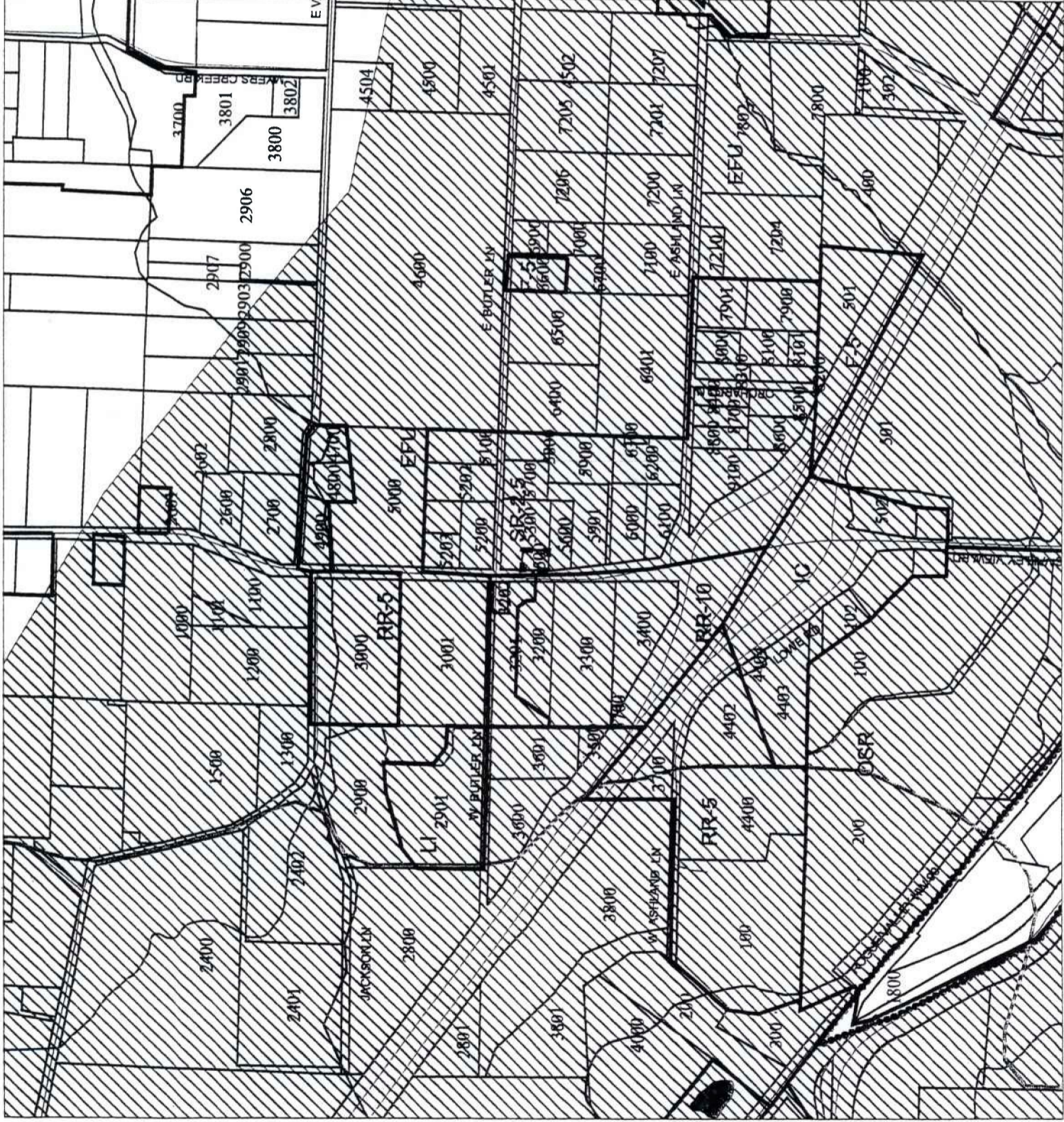
ZONING

APPLICANT:
SMITH
38-1E-29-5500
LRP2005-00006



This map is based on a digital database compiled by Jackson County from a variety of sources. Jackson County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied.

Plot date: Oct 21, 2005; C:\GIS\PLANNING APP




NOTARY PAGE

STATE OF OREGON)
)
COUNTY OF JACKSON)

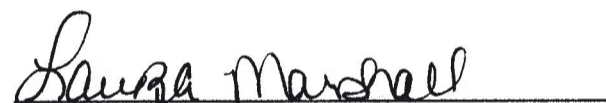
I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2007-1 by mailing a copy of the Notice of Adoptions by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on January 26, 2007.


Signature

Personally appeared before me this 26th day of January, 2006, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.




Notary Public for Oregon
My Commission Expires: 2-16-2008

NOTICE OF ADOPTION SENT TO: AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: RAYMOND SMITH

FILE NO: LRP2005-00006

BoC ORDINANCE # 2007-1
File LRP2005-00006
Parties/Witnesses/Staff
Mailed: 1-26-07

LRP2005-00006
RAYMOND SMITH
930 AMANDA WAY
CENTRAL POINT OR 97502

LRP2005-00006
MIKE LANIER
RICHARD STEVENS & ASSOC.
PO BOX 4368
MEDFORD OR 97501

LRP2005-00006
MIKE MATTSON
PLANNER

LRP2005-00006
THOMAS BIZEAU
CURRENT PLANNING MANAGER

LRP2005-00006
SUSAN LEE
PLANNING DIRECTOR

LRP2005-00006
DAVE GILMOUR, CHAIR
BOARD OF COMMISSIONERS

LRP2005-00006
JACK WALKER
BOARD OF COMMISSIONERS

LRP2005-00006
C. W. SMITH
BOARD OF COMMISSIONERS

LRP2005-00006
DOUG MCGEARY
COUNTY COUNSEL

LRP2005-00006
RECEPTIONIST

LRP2005-00006
CARL TAPPERT
ROGUE VALLEY SEWER SERVICE
PO BOX 3130
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LRP2005-00006
FOR INTERNAL ROUTING ONLY:

LRP2005-00006
ASSESSOR'S OFFICE

LRP2005-00006
DRAFTING

LRP2005-00006
GIS