



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

May 19, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Crook County Plan Amendment
DLCD File Number 007-06



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: June 3, 2008

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

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

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

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Brian Branch, Crook County

<paa> ya

(1) Mailed 5/13/08

In person electronic mailed

FORM 2

DLCD

DEPT OF

MAY 13 2008

Notice of Adoption

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

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

Jurisdiction: Crook County
Date of Adoption: 5/7/08

Local file number: C-MA-015-06
Date Mailed: 5/13/08

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 12/26/06

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

Zoning map amendment to change approximately 10.04 acres from Exclusive Farm Use EFU-3 to Rural Residential R-10.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: _____ to: _____
Zone Map Changed from: EFU-3 to: R-10

Location: 12999 Umbarger Road (16-14-3 TL 100) Acres Involved: 10.04

Specify Density: Previous: 80 Acre Minimum New: 10 Acre Minimum

Applicable statewide planning goals:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

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 file No. 007-06 (15764)

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

Local Contact: Brian Branch Phone: (541)447-6555 Extension:
Address: 300 NE 3rd st. Fax Number: 541-416-3891
City: Prineville Zip: 97754 E-mail Address: brian.branch@co.crook.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO 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.**

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

AN ORDINANCE OF THE CROOK COUNTY
COURT AMENDING THE CROOK COUNTY
ZONING MAP TO REZONE 10.4 ACRES FROM
EXCLUSIVE FARM USE EFU-3 TO RURAL
RESIDENTIAL R-10 (BORGAARD);
AND DECLARING AN EMERGENCY

Ordinance No. 202

WHEREAS, the Crook County Planning Commission has recommended that the Crook County Zoning Map be amended to change to rezone the subject property (T16S R14E WM Sec 3 TL 100) from Exclusive Farm Use EFU-3 to Rural Residential R-10; and

WHEREAS, the zoning map amendment is authorized by Title 18 Chapter 18.168 and the Comprehensive Plan of Crook County;

NOW, THEREFORE, this 7th day of May, 2008, the Court County Court ordains as follows:

SECTION ONE: *Amendment.* Ordinance 18 is amended by changing the zoning for T16S R14E WM Sec 3 TL 100 in Exhibit A from EFU-3 to R-10.

SECTION TWO: *Findings.* The Crook County Court adopts the recommendation attached hereto as its findings in support of its decision.



STATE OF OREGON } SS 2008060
COUNTY OF CROOK }
CERTIFY THAT THE WITHIN INSTRUMENT WAS
RECEIVED FOR RECORD ON THE 8th DAY OF
May, 202008, AT 3:00 P. M.
AND RECORDED IN CJ.PNL
RECORDS OF SAID COUNTY MF NO. 2008-060
DEANNA E. BERMAN, CROOK COUNTY CLERK
BY Elaine Summers DEPUTY

N/C

SECTION THREE: *Emergency*. This Ordinance being necessary for the health, welfare and safety of the people of Crook County, an emergency is hereby declared to exist and this Ordinance shall become effective upon signing.

First Reading: April 16, 2008.

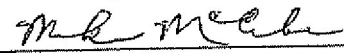
Second Reading: MAY 7, 2008.

DATED this 7th day of May, 2008.

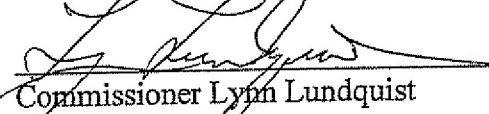
CROOK COUNTY COURT



Judge Scott R. Cooper



Commissioner Mike McCabe



Commissioner Lynn Lundquist

CROOK COUNTY

BEFORE THE PLANNING COMMISSION

NO. C-MA-015-06
RECOMMENDATION

APPLICANT: Norman Borgaard
10873 SW Powell Butte Highway
Powell Butte OR 97753

PROPERTY LOCATION: Within Non-Resource Area 2-4 that was approved by Crook County and DLCD by Ordinance 127, as amended and adopted July 26, 2000 as Powell Butte Study Area 2-4, on and adjacent to the east end of Umbarger Road and the west side of Reif Road (T 16 S R 14 EWM Sec 3 TL 100).

PROPOSAL: Recommendation to the Crook County Court on a Zone Map Amendment to rezone approximately 10.04 acres from Exclusive Farm Use EFU-3 to Rural Residential R-10.

CONCLUSIONS: The Commission finds that the applicant has met the burden of demonstrating compliance with all local codes and state statutes. The County also finds that the applicant has supplied adequate evidence and testimony showing that the subject parcel meets the definitional requirements to be included in the Rural Residential zone R-10.

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

DATED THIS 25th Day of April, 2007

W. R. Gowen
COMMISSION CHAIRMAN

Gordon Moore
COMMISSION SECRETARY

LEGAL CRITERIA

ZONING: The property is presently zoned Exclusive Farm Use EFU-3.

Title 18, Chapter 18.24 of the Crook County Code sets forth requirements for this zone.

The property is proposed to be rezoned to Rural Residential R-10. Title 18, Chapter 18.92 sets forth requirements for the R-10 zone.

Title 18, Chapter 18.168 contains requirements for amendments to Title 18.

The applicant has submitted findings indicating that the requested zone change is consistent with the purpose of the Rural Residential zone R-10, as stated in Section 18.92.005 of the Zoning Ordinance.

POWELL BUTTE STUDY AND ORDINANCE 127: The property is a part of Non-Resource Area 2-4, which was been found to be Non-Resource land by the Powell Butte Study, as implemented by Ordinance 127, amended and adopted by the Crook County Court on July 26, 2000.

COMPREHENSIVE PLAN: Chapter II of the Comprehensive Plan deals with the demographic profile and population predictions for the county.

Pages 195-196 of the Comprehensive Plan set forth policies for Review and Revision.

Crook County has adopted nine policies relating to the Powell Butte Study, which constitute a part of the Comprehensive Plan. These policies supplement and amend the Powell Butte Study to the extent that the Study is inconsistent with the Comprehensive Plan and the Powell Butte Agreement. These policies are summarized as follows:

(1) Rural residential and nonresource development in Powell Butte is to occur south of Highway 126 and generally north of the Powell Buttes, west of Stillman Road, and east of Study Area 2-2.

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(2) The county will not initiate additional exceptions or nonresource designations in the Powell Butte Study Area until the next periodic review.

(3) The lands north of Highway 126 are to be retained in Exclusive Farm Use zoning.

(4) The county is to adopt a new rural residential zoning district for Area 2-3, which is consistent with the (Crook County Code).

(5) A 250 foot setback from EFU land is to be required in Area 2-3.

(6) All new rural residential development in the Powell Butte area is to pay Systems Development Charges (SDC).

(7) The county is to comply with the Transportation Planning Rule in adopting zoning ordinances.

(8) Developers are to be required to submit covenants of nonremonstrance to area farm operations.

(9) Zoning and Land Development ordinances are to be developed using the Gannet Study (Groundwater Availability in the Powell Buttes Area, Central Oregon Groundwater Report No. 32) recommendations on accessibility of groundwater, and access to the regional water table, or use of water from a district or public utility, is to be required.

OREGON STATEWIDE PLANNING GOALS

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

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

Goal 3 - Agricultural Lands is not applicable to the present proposal, because the property is within Non-

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Resource Area 2-4, approved by Crook County and DLCD by Ordinance 127, as amended and adopted July 26, 2000 as Powell Butte Study Area 2-4. The Court and DLCD found at that time that the property is non-resource land.

Goal 4 - Forest Lands defines Forest Lands as lands acknowledged as such as of the date of adoption of the goal. Goal 4 is not applicable because there are no such lands impacted by this proposal.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources is not applicable to the present proposal because the subject property includes none of the above amenities.

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

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

Goal 8 - Recreational Needs is not applicable. The property is not presently zoned or used for recreation.

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

Goal 10 - Housing is not applicable, as the proposal will result in a negligible addition to the Crook County housing stock, and the property is not presently designated for housing. There will be no negative impacts.

Goal 11 - Public Facilities and Services is applicable. However, public services and facilities in the area have been found to be available and adequate in the course of rezoning the adjacent tract. The proposed rezoning will result in no more than one additional residence in the area which will have a negligible impact and will not change the findings applying to the adjacent tract.

Goal 12 - Transportation is applicable. However, a traffic study was conducted in connection with transportation

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facilities in the rezoning the adjacent tract, and found that existing traffic facilities are adequate. The addition of one residence with 4 PADT will not alter the conclusions of the study.

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

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

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

APPLICABLE GOALS: The Goals which apply to this application include:

Goal 1 - Citizen Involvement

Goal 2 - Land Use Planning

Goal 11 - Public Facilities and Services

Goal 12 - Transportation

Goals 1 and 2 are being complied with through the entire planning process.

Findings regarding Goals 11 and 12 which are applicable to the property owing to its proximity and the low level of possible development, were made in conjunction with application C-MA-009-06, for a 44 acre tract in close proximity to the property. Rezoning of the 44 acre tract was found to be in compliance with Goals 11 and 12.

OREGON ADMINISTRATIVE RULES

(a) Non-Resource Designations: OAR 660-004-005(3) defines Non-Resource lands as lands not subject to Goal 3 - Agricultural Lands, Goal 4 - Forest Lands, or Goals 16-19.

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

Goal 4 defines Forest Lands as lands acknowledged as Forest Lands as of the date of adoption of Goal 4. No such lands are impacted by the present proposal.

Goals 16-19 deal with features and resources which are not present in Crook County, and are not impacted by the present proposal.

OAR 660-004-0040(F) states that Goal 14 - Urbanization is not applicable to non-resource lands.

NEIGHBORING REZONING

A 44 acre tract a short distance to west of the property, identified as T 16 S R 14 EWM Sec 3 TL 500, was rezoned by the County Court under Ordinance No. 176 on June 9, 2006, based on the Planning Commission's recommendation under zoning amendment application C-MA-009-05, issued on March 22, 2006. A traffic study was done in connection with that application, and rangeland reports for adjacent lands were submitted. Goal 3 - Agricultural Lands was found to be not applicable to that rezoning. Goals 1, 2, 11, and 12 were found to be applicable, but the rezoning was found to be in compliance with these Goals.

TRAFFIC STUDY

A traffic impact study was submitted for the rezoning of the 44 acre tract in the vicinity of the property (C-MA-009-05). It was conducted by Ferguson and Associates.

The study concludes that the proposed zone change complies with the Oregon Transportation Rule (TPR). It also concludes that the traffic to be generated by the zone

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change has been accounted for in the County TSP update, and that the impacts of the zoning change will not be "significant" as that term is used in the TSP.

As the present zoning change will permit the construction of no more than one additional residence with a traffic impact of 4 PADT, it will not change the conclusions of the traffic study.

BURDEN OF PROOF STATEMENT

The Burden of Proof statement submitted by the applicant and originally prepared for a tract within 0.25 mile of the property, may be summarized as follows:

FINDINGS:

Plan Policy 1: The part of the Powell Butte Study that relates to Area 2-4 was adopted as a part of Ordinance No. 127.

(a) This Plan policy identifies Area 2-4, as amended by the LUBA appeal, as a part of the "Area to be Rezoned". The subject property is located in Area 2-4.

(b) *This finding refers to lands whose rezoning would be in conflict with the Crook County and City of Prineville Comprehensive Plans, and is not relevant to the present proposal.*

(c) *This finding refers to a section of Policy 1 which is not relevant to the present proposal.*

Plan Policy 2:

(a) *This policy does not apply to rezonings.*

Plan Policy 3:

(a) This Plan Policy restricts rezonings to the area to the south of Highway 126. The subject property is located to the south of Highway 126.

Plan Policies 4 and 5:

(a) *These policies do not apply to Area 2-4.*

Plan Policy 6:

(a) This policy applies to Systems Development Charges (SDC's). The writers of the Burden of Proof Statement state that this policy does not require the county to collect SDC's from applicants for zoning changes, or prevent the county from approving rezonings if road system development charges have not been enacted.

Plan Policy 7:

(a) The writers state that the proposed rezoning complies with the Transportation Planning Rule, as confirmed by the traffic study submitted.

Plan Policy 8:

(a) *This policy applies to letters of nonremonstrance, and does not apply until a building permit is applied for. It does not apply to rezonings.*

Plan Policy 9:

(a) *This policy applies to the Powell Butte Groundwater Study, and does not apply until a property is developed. It does not apply to rezonings.*

TESTIMONY

The applicant testified in support of the proposal. He stated that the subject property is within Non-Resource Area 2-4 that was approved by Crook County and DLCDC as a part of Ordinance 127, as amended and adopted July 26, 2000 as Powell Butte Study Area 2-4. He stated that he missed his chance to have it rezoned at the same time as the neighboring property, and wants to have it rezoned now. There was no opposition testimony.

COMMISSION FINDINGS AND CONCLUSIONS

(1) Does the Burden of Proof Statement submitted by the applicant address the required issues relating to the proposed Map Amendment and zoning change?

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The Commission finds that the Burden of Proof Statement addresses all of the Plan Policies adopted in connection with Ordinance 127. The Commission also finds that the proposal is in accordance with all requirements of Chapter 18 of the Crook County Code pertaining to zoning changes.

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

On the basis of the evidence submitted by the applicant, the applicant's findings are in accordance with the characteristics of the property and the surrounding area.

(3) Is the proposal in accordance with the Statewide Planning Goals?

Goal 1 - Citizen Involvement, and Goal 2 - Land Use Planning are applicable to the proposed rezoning.

Goals 1 and 2 are being complied with through the rezoning process.

Goal 3 - Agricultural Lands is **not** applicable to the proposal, since the property was found to be a part of Non-Resource Area 2-4 by the Powell Butte Study as implemented by Ordinance 127.

Goal 11 - Public Services and Facilities, and Goal 12 - Transportation are applicable to the proposal. However, the proposed rezoning is in compliance with these two Goals.

The remaining Statewide Planning Goals are **not** applicable to the proposed rezoning.

(4) Is the proposed rezoning in accordance with the Oregon Administrative Rules?

OAR 660-004-005(3) defines Non-Resource lands as lands not subject to Statewide Land Use Goal 3 - Agricultural Lands, Goal 4 - Forest Lands, or Goals 16-19.

The subject property is **not** subject to the above Statewide Land Use Goals.

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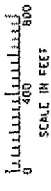
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(5) Is the proposed rezoning in accordance with the Crook County Transportation Systems Plan (TSP)?

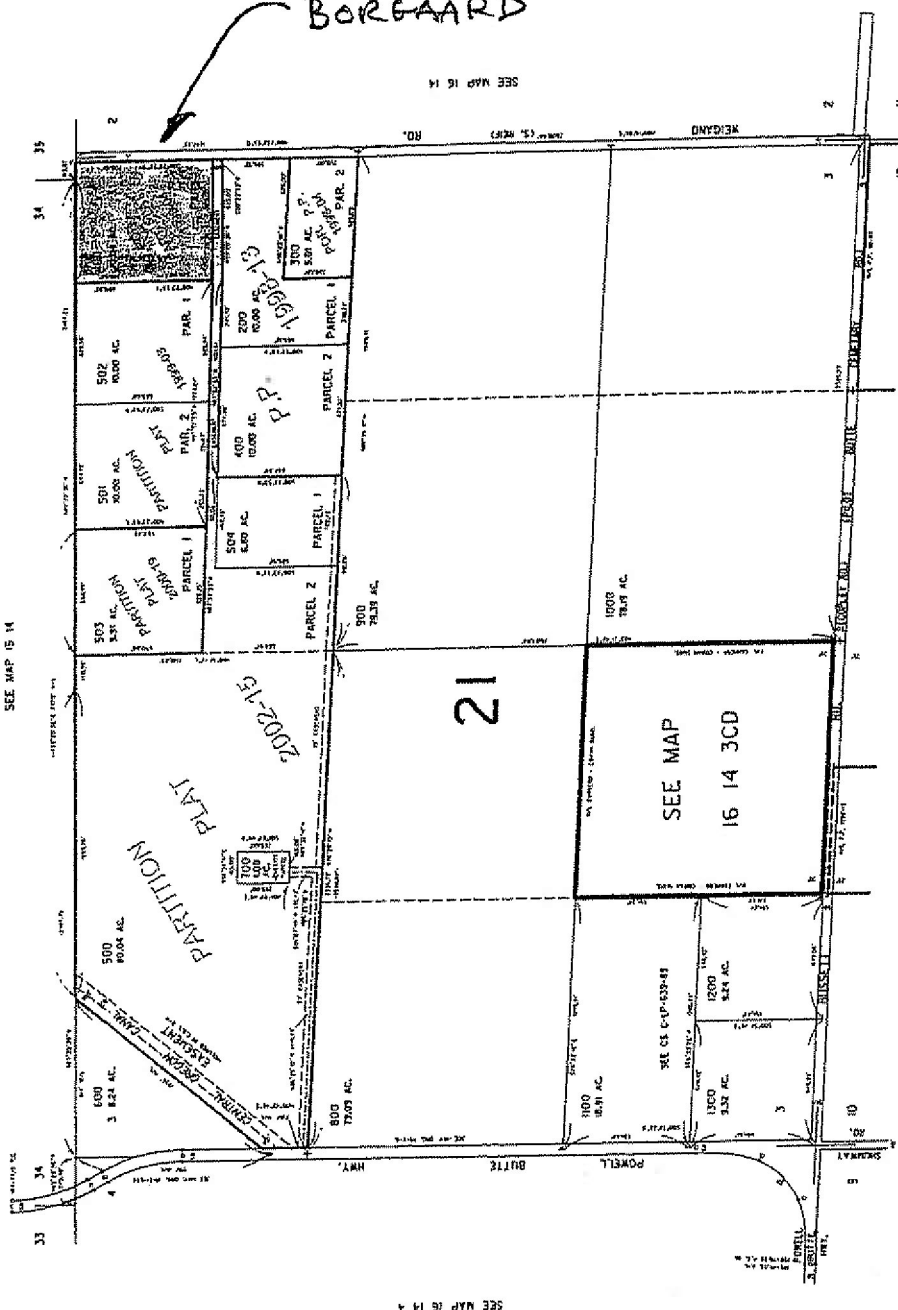
The proposed rezoning will not result in traffic impacts which are "significant" as that term is used in the TSP.

SECTION 3 T.16S. R.14E. W.M.
CROOK COUNTY

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



SCALE IN FEET



SEE MAP 15 14

SEE MAP 14 4

SEE MAP 14 11

SEE MAP 16 14 10