



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

June 20, 2008



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 005-07

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: July 7, 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.

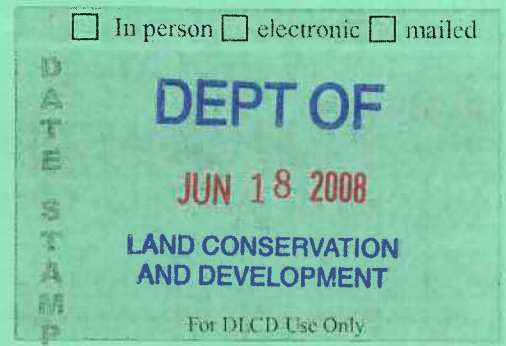
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

<paa> ya/

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



Jurisdiction: **Jackson County**

Local file number: **LRP2007-00005**

Date of Adoption: **6/11/2008**

Date Mailed: **6/16/2008**

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

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".

Comprehensive Plan exception to Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, one dwelling per lot) to Rural Residential (RR-5, one dwelling per 5 acres) on 13.14 acres.

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

Plan Map Changed from:

to:

Zone Map Changed from: **RR-0**

to: **RR-5**

Location: **14130 Hwy 238**

Acres Involved: **13**

Specify Density: Previous: **1 per tax lot**

New: **1 per 5 acres**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" 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 # 005-07 (16542)

DLCD file No. _____

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

ODOT, Jackson County Roads, ODFW, DSL, Jackson County Fire District #9

Local Contact: **Mike Mattson**

Phone: (541) 774-6937 Extension:

Address: **10 S. Oakdale Ave. Room 100**

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

City: **Medford**

Zip: **97501-**

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.

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

ORDINANCE NO. 2008-6

AN ORDINANCE APPROVING A COMPREHENSIVE PLAN, EXCEPTION TO STATEWIDE PLANNING GOAL 14, URBANIZATION, AND ZONING MAP AMENDMENT TO CHANGE THE ZONING DISTRICT FROM RURAL RESIDENTIAL (RR-00, 1 DWELLING PER LOT) TO RURAL RESIDENTIAL (RR-5, 1 DWELLING PER 5 ACRES) ON 13.14 ACRES ON PROPERTY DESCRIBED AS TOWNSHIP 38 SOUTH, RANGE 4 WEST, SECTION 23, TAX LOT 1200; SCOTT SINNER CONSULTING, INC., AGENT. VAUGHN AND RONA JONES, OWNERS.

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 Plan 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 April 9, 2007 an application for a Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on a portion of 13.14 acres currently zoned RR-00, was submitted by the agent, Scott Sinner Consulting, Inc., for the owners, Vaughn and Rona Jones. The application was deemed complete on May 11, 2007.

PROCEDURAL FINDINGS:

1. A notice of the proposed amendment was provided to the Department of Land, Conservation and Development (DLCD) on November 20, 2007, 51 days prior to the first evidentiary hearing. A notice was published on Sunday, December 30, 2007 in the Medford Mail Tribune that a first evidentiary hearing was scheduled before the Jackson County Planning Commission on Thursday, January 10, 2008 at 9:00 a.m in the Jackson County Auditorium.

**1-ORDINANCE; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn and Rona Jones, Owners**

2. On January 10, 2008, 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 Board of Commissioners approve a Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, Zoning Map Amendment to change the Zoning District from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on a portion of 13.14 acres currently zoned RR-00. The recommendation was to rezone the entire parcel to the RR-5 zoning district. The JCPC signed the Recommendation for Approval on February 7, 2008.

3. On April 23, 2008, the Jackson County Board of Commissioners held a properly advertised public hearing to consider the evidence and testimony for this application. After considering the evidence and testimony submitted, the Board of Commissioners, by motion and vote, approved the Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the Zoning District from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on a portion of 13.14 acres currently zoned RR-00. The approval was to rezone the entire tax lot to RR-5.

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 legal notice was sent to the applicant and property owners within 250 feet of the subject property and affected agencies on April 3, 2008. Legal notice was published in the Sunday, April 13, 2008 edition of the Medford Mail Tribune.

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 February 7, 2008, attached hereto and incorporated herein as Exhibit "A". The Recommendation includes the Staff Report and the Board of Commissioners hereby adopts, as its own, the Staff Report.

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 of Approval dated February 7, 2008, attached hereto and incorporated herein as Exhibit "A". The Recommendation includes the Staff Report and the Board of Commissioners hereby adopts, as its own, the Staff Report.

SECTION 3. CONCLUSIONS

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

2-ORDINANCE; File LRP2007-00005

Scott Sinner Consulting, Inc., Agent; Vaughn and Rona Jones, Owners

3.2 The Board of Commissioners adopts the conclusions in the Planning Commission's Recommendation of Approval incorporated herein and attached as Exhibit "A". These conclusions demonstrate that the application is in compliance with the Statewide Planning Goals, Oregon Administrative Rules, the Jackson County Comprehensive Plan, and the Jackson County Land Development Ordinance. Where factual conflicts arose, the Jackson County Planning Commission has resolved them consistent with the following findings:

3.2.1 The Planning Commission included three (3) conditions of approval for this application. One of the conditions states "*Prior to development of the subject property, the applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238) prior to the issuance of development permits.*" At the Board hearing, the applicant submitted an ODOT Road Approach permit and the Board concludes this condition has been met.

3.2.2 The Board concludes the two (2) other conditions remain applicable and are feasible. These conditions are described below.

3.2.2.1 The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200).

3.2.2.2 Prior to division of the subject parcel, a TIS waiver, signed by Jackson County's Planning Director and County Engineer, must be completed.

3.3 The Board of Commissioners concludes that reasons justify an exception to Statewide Planning Goal 14, Urbanization, to allow urban levels of development at a density of 1 dwelling per 5 acres, as allowed in the Rural Residential (RR-5) zoning district. The Board concludes the Rural Residential (RR-5) zoning district is appropriate for the entire subject parcel.

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, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on a portion of 13.14 acres currently zoned RR-00, described as Township 38 South, Range 4 West, Section 23, tax lot 1200, as illustrated on the zoning map attached hereto as 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.

3-ORDINANCE; File LRP2007-00005

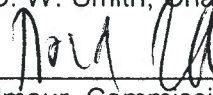
Scott Sinner Consulting, Inc., Agent; Vaughn and Rona Jones, Owners

APPROVED this 11th day of June, 2008, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS



Dennis C. W. Smith, Chair



Dave Gilmour, Commissioner

absent at signing

Jack Walker, Commissioner

APPROVED AS TO LEGAL
SUFFICIENCY:



Interim County Counsel

ATTEST:

Donna Bladek

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 June 16, 2008, and the LUBA appeal period will expire on July 7, 2008. 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.

EXHIBIT A

BEFORE THE JACKSON COUNTY PLANNING COMMISSION
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF PLANNING COMMISSION)
FILE LRP2007-00005, AN APPLICATION FOR A)
COMPREHENSIVE PLAN, EXCEPTION TO)
STATEWIDE PLANNING GOAL 14,)
URBANIZATION, AND ZONING MAP)
AMENDMENT TO CHANGE THE ZONING)
DISTRICT FROM RURAL RESIDENTIAL (RR-00,)
1 DWELLING PER LOT) TO RURAL)
RESIDENTIAL (RR-5, 1 DWELLING PER 5)
ACRES) ON 13.14 ACRES ON PROPERTY)
DESCRIBED AS TOWNSHIP 38 SOUTH, RANGE)
4 WEST, SECTION 23, TAX LOT 1200; SCOTT)
SINNER CONSULTING, INC., AGENT. VAUGHN)
AND RONA JONES, OWNERS.)
)
)
)

RECOMMENDATION
FOR APPROVAL

Jackson County Planning Commission: Recommends approval of a Comprehensive Plan Amendment for an exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on 13.14 acres on property described as Township 38 South, Range 4 West, Section 23, tax lot 1200.

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. On April 9, 2007 an application for a Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres) on 13.14 acres, was submitted by the agent, Scott Sinner Consulting, Inc., for the owners, Vaughn and Rona Jones. The application was deemed complete on May 11, 2007.

PROCEDURAL FINDINGS:

1. A notice of the proposed amendment was provided to the Department of Land, Conservation and Development (DLCD) on November 20, 2007, 51 days prior to the first evidentiary hearing. A notice was published on Sunday, December 30, 2007 in the Medford Mail Tribune that a first

**1-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners**

evidentiary hearing was scheduled before the Jackson County Planning Commission on Thursday, January 10, 2008 at 9:00 a.m in the Jackson County Auditorium.

3. On January 10, 2008, the Jackson County Planning Commission held a properly advertised public hearing to consider the evidence and testimony on this application.

Now, therefore,

The Jackson County Planning Commission finds, concludes, and RECOMMENDS as follows:

SECTION 1. FINDINGS OF FACT:

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

1.1 The Planning Commission finds that proper legal notice was sent to the applicant and property owners within 250 feet of the subject property and affected agencies on December 14, 2007. Legal notice was published in the Sunday, December 30, 2007 edition of the Medford Mail Tribune.

1.2 The Planning Commission finds that the subject property is described as Township 38 South, Range 4 West, Section 23, tax lot 1200. The subject property is located at 14130 Hwy 238.

1.3 The Planning Commission finds the subject property was determined to be a lawfully established parcel created by Board Order No. 456-82, signed November 3, 1982. A lot line adjustment approved in 1983, 83-77-LLA, adjusted the property lines to the current configuration. Assessment records indicate the current owner acquired the property in 1990.

1.4 The current Comprehensive Plan Map Designation is Rural Residential Land and the zoning district is Rural Residential (RR-00, 1 dwelling per lot).

1.5 The Planning Commission finds the subject property has access from Hwy 238, a state owned and maintained highway, and Humbug Creek Road, a County owned and maintained road.

1.6 The Planning Commission finds that the subject property is within the Jackson County Fire District No. 9 boundary.

1.7 The Planning Commission finds that police protection is provided by the Oregon State Police and Jackson County Sheriff's Office.

1.8 The Planning Commission finds that the subject property has a single family dwelling and accessory structures. 10.14 acres are specially assessed as farmland.

**2-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners**

1.9 The Planning Commission finds that the subject property is adjacent to an identified scenic roadway, Hwy 238, Area of Special Concern 90-9.

1.10 The Planning Commission finds that no designated wetlands are located on the subject property, but a wetland may exist for Humbug Creek.

1.11 The Planning Commission finds that the following agencies responded with comments to this application and their comments were considered by the Planning Commission: Jackson County Roads Department, Oregon Department of Fish and Wildlife, Jackson County Environmental Quality, and Oregon Department of Transportation. Agency comments were considered by the Planning Commission

1.12 The Planning Commission finds that property owners were notified and comments were received from a single property owner. The property owner's comments were considered by the Planning Commission.

SECTION 2. LEGAL FINDINGS: To recommend approval of an amendment to the Official Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment, the Planning Commission must find that the amendment is consistent with the Jackson County Land Development Ordinance (JCLDO) Chapter 3.7, which requires compliance with the Statewide Planning Goals, Oregon Administrative Rules, Jackson County Land Development Ordinance and the Jackson County Comprehensive Plan (JCCP).

The Planning Commission adopts the Findings in the Staff Report, incorporated herein and attached as Exhibit 1. These findings demonstrate that the application is in compliance with the Statewide Planning Goals, Oregon Administrative Rules, the Jackson County Comprehensive Plan, and the Jackson County Land Development Ordinance. Where factual conflicts arose, the Jackson County Planning Commission has resolved them consistent with the following findings.

2.1 The applicant proposed a study area containing 1,656 acres. The Planning Commission finds part of the applicant's study area contains an area considered in Periodic Review Work Task #5, Exceptions Area II, Applegate, Subarea 10-I. The area included the subject parcel. The area was determined to be irrevocably committed to rural residential development and the zoning district was changed to RR-00. Because this subarea was used by Jackson County as an exception area for Periodic Review Work Task #5, the Planning Commission finds that Subarea 10-I shall also be used as the study area for this application to determine whether an irrevocably committed exception to Goal 14 is justified. The Planning Commission makes the following findings:

2.1.1 Subarea 10-I consists of 12 parcels described as Township 38 South, Range 4 West, Section 14, tax lot 604; Township 38 South, Range 4 West, Section 22, tax lot 200; Township 38 South, Range 4 West, Section 23, tax lots 201, 203, 204, 206, 400, 414, 415, and 1200; Township 38 South, Range 4 West, Section 23C, tax lots 400 and 500.

**3-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners**

2.1.2 Subarea 10-I has a total of 56.45 acres. The parcel sizes are between 0.95 and 13.14 acres. The average parcel size is 4.70 acres. The average density is 6.27 acres per dwelling.

2.1.3 The zoning districts for these parcels are RR-00 and RR-5. The subject parcel is split-zoned with over three acres in the RR-5 zoning district. The subject parcel is the only parcel within the subarea that could be divided if all of the parcels were rezoned to RR-5. A division of the subject parcel would result in a single lot where residential development could occur.

2.1.4 The closest public facilities for sewer and water are located within the City of Jacksonville, approximately 13 miles from the subject property, and public sewer and water are not available to this area. This area is served by the Jackson County Sheriff, Oregon State Police and Jackson County Fire District No. 9.

2.1.5 There are no commercial or industrial uses within this subarea.

2.2 Based upon the evidence above and in the record, the Planning Commission finds the criteria for OAR 660-014-0030, Rural Lands Irrevocably Committed to Urban Levels of Development, is met and Subarea 10-I is irrevocably committed to urban levels of development because the average parcel size is below five acres, a single lot would be created for residential development, and the area is currently built upon at urban densities, i.e., less than 10 acres per dwelling. An irrevocably committed exception to Goal 14, Urbanization, is justified to rezone the subject property to Rural Residential (RR-5, 1 dwelling per 5 acres) by substantial evidence in the record and as determined by the Planning Commission.

SECTION 3. CONCLUSIONS: Based on the evidence and arguments included in the record, the Planning Commission concludes that the proposed amendment and exception to Statewide Planning Goal 14, Urbanization, is justified and in compliance with the Jackson County Land Development Ordinance, Statewide Planning Goals, Oregon Administrative Rules, and the Jackson County Comprehensive Plan. Where factual conflicts arose, the Jackson County Planning Commission has resolved them consistent with these conclusions.

3.1 Statewide Planning Goals: The Planning Commission concludes that this application complies with Statewide Planning Goals. Discussion of the ability to comply with Statewide Planning Goals is contained in Section III of the staff report, attached hereto as Exhibit 1.

3.2 Jackson County Comprehensive Plan: The Planning Commission concludes that this application complies with the Jackson County Comprehensive Plan as identified in Section VI of the Staff Report, attached hereto as Exhibit 1, subject to the condition as follows:

3.2.1 Jackson County Development Services has indicated that a waiver of the Transportation Impact Study requirement of the Transportation System Plan, Section 4.3.1(B)(c). Should the application be approved by the Board of Commissioners, a TIS waiver, signed by Jackson County's Planning Director and County Engineer, must be completed prior to division of the subject property.

**4-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners**

3.3 Jackson County Land Development Ordinance: The Planning Commission concludes that this application complies with the Jackson County Land Development Ordinance as identified in Section VII of the Staff Report, attached hereto as Exhibit 1.

3.4 Oregon Administrative Rule (OAR) 660-014-0030, Rural Lands Irrevocably Committed to Urban Levels of Development: The Planning Commission concludes that reasons justify an exception to Statewide Planning Goal 14, Urbanization, to allow urban levels of development at a density of 1 dwelling per 5 acres, as allowed in the Rural Residential (RR-5) zoning district. The Planning Commission concludes the Rural Residential (RR-5) zoning district is appropriate for the subject parcel. Discussion of the exception to Statewide Planning Goal 14, Urbanization, is contained Section IV of the Staff Report, attached hereto as Exhibit 1, and Section 2, Legal Findings, of this recommendation.

3.5 Oregon Administrative Rule (OAR) 660, Division 12, Transportation Planning Rule: The Planning Commission concludes the rezoning of the subject parcel meets OAR 660, Division 12, subject to conditions identified by ODOT in comments received by that agency. Discussion of compliance with OAR 660, Division 12, is identified in Section V of the Staff Report, attached hereto as Exhibit 1. The following recommended ODOT conditions are:

3.5.1 Prior to development of the subject property, the applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238) prior to the issuance of development permits. Unless there is an existing valid permit for access, ODOT access permitting is a two-phase process involving a preliminary Permit to Construct on a State Highway Approach (issued prior to county issuance of land use permits), and a final Permit to Operate, Maintain, and Use a State Highway Approach (issued prior to issuance of occupancy permits). Proof of a final valid access permit shall include an approved Permit to Operate, Maintain, and Use.

3.5.2 The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200).

3.6 The Planning Commission concludes that proper public notice was given.

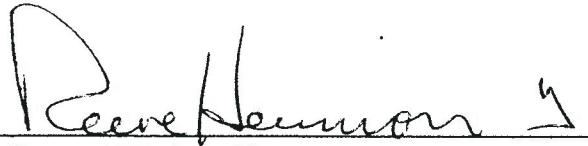
SECTION 4. RECOMMENDATION: The Jackson County Planning Commission: 1) recommends approval of a Comprehensive Plan Amendment for an exception to Statewide Planning Goal 14, Urbanization; and, 2) recommends approval of a Zoning Map amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5). The conditions identified in Section 3, Conclusions, are included for this recommendation and attached hereto as Exhibit 2. The amendment and exception to Statewide Planning Goal 14, Urbanization, applies to 13.14 acres described as Township 38 South, Range 4 West, Section 23, tax lot 1200, as illustrated on the zoning map attached hereto as Exhibit 3.

This recommendation for APPROVAL adopted this 7th day of February, 2008, at Medford, Oregon.

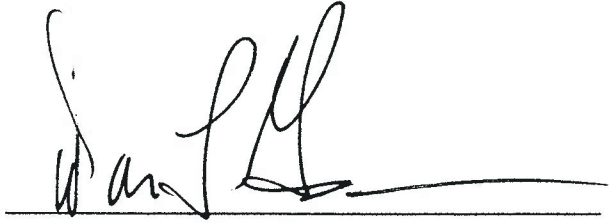
5-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners

JACKSON COUNTY PLANNING COMMISSION

(Vote: Y=Yes; N=No; A=Abstain)



Reeve Hennion, Chair



Don Greene, Vice-Chair

_____ **ABSENT**

Elizabeth Fugas, Commissioner



Richard B. Thierolf, Jr., Commissioner

ATTEST:



Lisa Canon, Recording Clerk

I:\ZONING\WP\Comp Planning\LRP2007-00005 Vaughn RR-00 to RR-5\LRP2007-00005-PC-recommendation.wpd

**6-RECOMMENDATION; File LRP2007-00005
Scott Sinner Consulting, Inc., Agent; Vaughn Jones, Owners**

**JACKSON COUNTY DEVELOPMENT SERVICES
COMPREHENSIVE PLAN AMENDMENT
STAFF REPORT**

APPLICANT: Vaughn E. & Rona E. Jones
14130 Hwy 238
Applegate, OR 97530

FILE: LRP2007-00005

AGENT: Scott Sinner Consulting, Inc.
4401 San Juan Dr.
Medford, OR 97504

OWNER: Vaughn E. & Rona E. Jones
14130 Hwy 238
Applegate, OR 97530

LEGAL DESCRIPTION: TWP 38 South RANGE 4 West SECTION 23 TAX LOT(S) 1200

PROPOSAL: A Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning from Rural Residential (RR-00) to Rural Residential (RR-5) on 13.14 acres described as Township 38 South, Range 4 West, Section 23, Tax Lot 1200. Approximately three acres are currently zoned RR-5.

LOCATION: Located 0.30 miles northwest of the intersection of Hwy 238 and Humbug Creed Rd, on Hwy 238..

BACKGROUND: An application was received by Jackson County from Scott Sinner Consulting, Inc., agent for the applicant and owner, Vaughn E. and Rona E. Jones, on April 9, 2007. The proposal is a Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00) to Rural Residential (RR-5). The application was deemed complete on May 10, 2007. A public hearing before the Jackson County Planning Commission is scheduled for January 10, 2008 at 9:00 a.m. in the Jackson County Auditorium.

KEY ISSUES:

- Determine if the applicant has satisfied the burden of proof to justify a goal exception to Statewide Planning Goal 14, Urbanization, Minor Comprehensive Plan Amendment (exception to Goal 14), and Zoning Map Amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres).
- Determine if all other criteria have been satisfied, including Oregon Administrative Rules, the Jackson County Comprehensive Plan, and the Jackson County Land Development Ordinance.

I. FACTS:

- 1) **Location:** The property is located 0.30 miles northwest of the intersection of Hwy 238 and Humbug Creek Rd. on Hwy 238
- 2) **Access:** Legal access is provided from Hwy 238, a state maintained facility, and Humbug Creek Road.

- 3) **Acreage:** The parcel contains 13.14 acres
- 4) **Assessment:** The parcel is assessed as improved farmland with multiple special assessments, waterfront. 10.14 acres are specially assessed as farmland.
- 5) **Lot Legality:** The parcel was created by the Board of Commissioners Order No. 456-82, signed November 3, 1982. A lot line adjustment was approved in 1983, 83-77-LLA, which adjusted the property lines to the current configuration. This parcel is considered a lawfully created parcel. The current owner obtained the property in 1990.
- 6) **Fire Protection:** The parcel is within Jackson County Fire District No. 9.
- 7) **Irrigation:** Per the applicant, irrigation is available for 11.7 acres of the property from the Kubli Irrigation Ditch.
- 8) **Zoning:**
 - A) Subject Property: Rural Residential (RR-00)
 - B) North: Rural Residential (RR-5)
 - C) East: Farm Residential (RR-00), Exclusive Farm Use (EFU)
 - D) South: Rural Residential (RR-5), Exclusive Farm Use (EFU)
 - E) West: Rural Residential (RR-00)
- 9) **Land Use:** The parcel has a 2,424 sq. ft dwelling, 640 sq. ft. converted garage, 320 sq. ft. shed cover, and 1,200 sq. ft. hay cover per assessment records.
- 10) **Sewerage:** The parcel has an existing septic system.
- 11) **Site Characteristics:** The land rises 120 feet in elevation from the southwest corner of the property to the northeast corner. Approximately 30 percent of the property is vegetated with a mixed woodland including California Black oak, Pacific madrone, Ponderosa pine, Red alder, Bigleaf maple, and Douglas fir. Most of the vegetation is concentrated within the riparian area of Humbug Creek and west of Humbug creek. The eastern portion of the property, east of Humbug Creek, appears to be farmed as a hay field. All structures are west of Humbug Creek.
- 12) **Soils:**
 - A) Name: Ruch gravelly silt loam; Map No: 158D; Slopes: 7 to 20%; Agricultural Class: IVe; Forest Capability: 85.8 cu. ft.; Irrigation Present: Yes; Percent of Parcel: 53%
 - B) Name: Camas-Newberg-Evans; Map No: 23A; Slopes: 0 to 3%; Agricultural Class: IVw; Forest Capability: 0 cu. ft.; Irrigation Present: Yes; Percent of Parcel: 33%

- C) Name: Ruch silt loam; Map No: 157B; Slopes: 2 to 7%; Irrigated Agricultural Class: IIe; Nonirrigated Agricultural Class: IVe; Forest Capability: 85.8 cu. ft.; Irrigation Present: Unknown; Percent of Parcel: 14%

53% of the parcel contains Ruch gravelly silt loam, 158D, located on alluvial fans and slopes. This soil is used mainly for irrigated crops, pasture, timber production, and homesite development. The slopes of this soil unit are between 7 and 20 percent. The main limitations for irrigated crops are the slope, the moderately slow permeability, and the gravelly surface layer. The main limitation to homesite development is the slope. The main limitations affecting timber production are erosion, compaction, seedling mortality, and plant competition.

33% of this parcel contains Camas-Newberg-Evans, 23A, a soil on floodplains. This soil is used mainly for wildlife habitat, hay and pasture, and homesite development. The main limitations to hay and pasture are flooding, droughtiness, and gravel on the surface. This soil is poorly suited to homesite development. The main limitations affecting homesite development are the flooding and the rapid or very rapid permeability in the substratum of the Camas and Newberg soils. This unit is poorly suited to standard systems of waste disposal because of the poor filtering capacity in the substratum of the Camas and Newberg soils and the hazard of flooding.

14% of this parcel contains Ruch silt loam, 157B, a soil on alluvial fans. This soil is well suited to irrigated crops. Some areas are used for timber production, pasture or homesite development. The main limitation to irrigated crops is the moderately slow permeability. This soil has few limitation to homesite development. The main limitations affecting timber production are seedling mortality, compaction, and plant competition.

- 15) **Water:** The subject property is served by a private well.
- 16) **Wetlands:** No designated wetlands are located on the subject property, but a wetland may exist for Humbug Creek.
- 17) **Area of Special Concern:** This property is adjacent to an identified scenic roadway, Hwy 238, Area of Special Concern (ASC) 90-9.
- 18) **Past Planning Actions:** Files 83-20-LLA and 83-77-LLA were property line adjustments completed in 1983.
- 19) **Agency and Property Owner Comments:** Agencies and property owners within 250 feet of the subject property were notified of the proposed zone change. Responses were received from agencies and property owners. These responses are shown below.
 - A) Jackson County Roads stated the capacity of a two land rural road with ten foot lanes and no shoulders is 5,888 ADT. Humbug Creek Road is a two lan rural road with ten

foot lanes and no shoulders. The traffic count fifty yards north of Hwy 238 was 537 in June, 2006. There appears to be more than adequate capacity for Humbug Creek Road to handle any increase of traffic due to development associated with the zone change.

- B) Oregon Department of Transportation (ODOT) responded stating they did not believe a TIS is required based upon the merits of the application. ODOT did recommend the following conditions of approval should the application be approved:
- i) *The applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238), prior to the issuance of development permits. Unless there is an existing valid permit for access, ODOT access permitting is a two-phase process involving a preliminary Permit to Construct on a State Highway Approach (issued prior to county issuance of land use permits), and a final Permit to Operate, Maintain, and Use a State Highway Approach (issued prior to county issuance of occupancy permits). Proof of a final valid access permit shall include an approved Permit to Operate, Maintain, and Use.*
 - ii) *The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200).*
- C) Oregon Department of Fish & Wildlife (ODFW) responded stating *"Please make sure the applicants are aware of and comply with the riparian setback requirements."*
- D) Jackson County Environmental Quality responded stating *"If the parcel is split, a site evaluation will be required to determine if septic approval can be obtained for any new parcels. The existing house and septic must meet all minimum setback requirements or an easement may be required."*
- D) The property owner of 14150 Hwy 238 responded asking Jackson County address the following concerns:
- i) *"Access of any portions of new 5 acre parcels should be stipulated as from Humbug Creek Road only."*
 - ii) *"Currently deeded easements with adjacent property owners stay in place."*

II. APPLICABLE CRITERIA:

In order to approve an amendment to the Official Comprehensive Plan, exception to Statewide Planning Goal 14, Urbanization, and Zoning Map Amendment, the County must find that the amendment is consistent with:

- 1) Compliance with Statewide Planning Goals: Goal 1, Citizen Involvement; Goal 2, Land Use Planning, Goal 3, Agricultural Land, Goal 4, Forest Land, Goal 5, Open Spaces and Natural Resources; Goal 6, Air, Water and Land Resource Quality; Goal 7, Areas Subject to Natural Hazards; Goal 8, Recreational Needs; Goal 9, Economic Development; Goal 10, Housing; Goal 11, Public Facilities and Services; Goal 12, Transportation; Goal 13, Energy Conservation; and, Goal 14, Urbanization.
- 2) Compliance with Oregon Administrative Rules (OAR) 660-14-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development) and OAR 660, Division 12, Transportation Planning Rule.
- 3) Compliance with the following elements of the Jackson County Comprehensive Plan: Map Designations Element (Rural Residential Lands), Agricultural Lands Element, Forest Lands Element, Energy Conservation Element, Economy Element, Environmental Quality Element, Housing Element, Natural and Historic Resources Element, Natural Hazards Element, Public Facilities and Services Element, Transportation Element (Transportation System Plan), Rural and Suburban Lands Element, Urban Lands Element
- 4) Compliance with Sections 3.7.3(C) and 7.1.1(J) of the Jackson County Land Development Ordinance.

The following sets forth the legal references utilized within this report. Other references to state law, court cases, or LUBA decisions not specifically referenced here may, nevertheless, be introduced into the record as appropriate. The applicant has submitted documents (see exhibits) for review regarding findings which have been utilized in this report where possible.

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

The purpose of reviewing plan and zoning map amendments against Statewide Planning Goals and Oregon Administrative Rules is to assure that changes made in the County's acknowledged plan are also acknowledgeable.

- 1) **Goal 1, Citizen Involvement:** The goal is to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

FINDING: The Oregon Revised Statutes, Oregon Administrative Rule, Jackson County Comprehensive Plan, and Jackson County Land Development Ordinance contain rules and regulations insuring the opportunity for citizen involvement in this planning process. Staff finds that proper notice was given to property owners and public agencies regarding this application in adherence with all state and local requirements.

- 2) **Goal 2, Land Use Planning:** The goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Part II, Exceptions, states a local government may adopt an exception to a goal when: (a) The land subject to the exception is physically development to the extent that it is no longer available for uses allowed by the applicable goal; (b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable or; (c) Reasons justify why the state policy embodied in the applicable goals should not apply.

FINDING: An exception to Statewide Planning Goal 14, Urbanization, will be addressed in Section IV of this staff report. Because the zone change reduces the minimum parcel size for the subject property below 10 acres, an exception to Goal 14 is required.

- 3) **Goal 3, Agricultural Lands:** The goal is to preserve and maintain agricultural lands.

FINDING: The subject property is currently split zoned Rural Residential (RR-5, 5 acre minimum lot size) and Rural Residential (RR-00, 1 dwelling per lot, no division allowed). The applicant states the subject property was part of a large scale exceptions process, Periodic Review, which began in the early 1990's. This area was part of Periodic Work Task #5, Subarea 10-I. A portion of this parcel was approved for Rural Residential zoning, RR-00, in 1996. A portion of the parcel was already zoned Rural Residential (RR-5). Over 3 acres of the subject parcel was zoned RR-5. The RR-00 zoning district allowed for 1 dwelling per tax lot/parcel and no division capability. The conclusive findings of the Jackson County Board of Commissioners in Ordinance No. 94-77 stated "*The Board of Commissioners concludes that the proposed exception to Statewide Planning Goal 3, Agricultural Lands, for the parcels currently zoned Exclusive Farm Use, meets the criteria for an exception as set forth in OAR 660-004-025 and OAR 660-004-0028. Based on the evidence in the record and the findings, the Board of Commissioners finds that parcels described as Township 38 South, Range 4 West, Section 14, Tax Lot 604; Township 38 South, Range 2 West, Section 22, Tax Lot 200; Township 38 South, Range 2 West, Section 23, Tax Lots 201, 203, 204, 206, 400, 414, 415, and 1200; and, Township 38 South, Range 4 West, Section 23C, Tax Lots 400 and 500, is irrevocably committed to residential use and that farm use in impractical.* The applicant states the property was evaluated as part of the exceptions process and was found to be irrevocably committed to Rural Residential Use.

Staff finds that there are no parcels within at least 0.5 miles that are 10 acres or larger within the Rural Residential zoning districts. One of the concerns for Subarea 10-I was that division of lands to 5 acre minimums would increase residential density resulting in potential traffic impacts through the downtown historic core of Jacksonville. The Board found that such impacts on the City of Jacksonville would be insignificant due to the distance of this subarea from Jacksonville and that no new parcels would be created (RR-00 does not allow division). The Board also found that the adoption of the RR-00 zoning for Subarea 10-I would comply with the development criteria for deer and elk winter range habitat because the RR-00 zoning

designation would not allow the creation of any new parcels in this area. Some of the parcels in Subarea 10-1 were located within a designated deer and elk winter range habitat. The subject parcel is not within a designated deer and elk winter range habitat.

Staff believes there are few parcels in the immediate area of the subject parcel that could be partitioned if their zoning were changed to RR-5. The creation of a single parcel and development of that parcel would not create significant traffic impacts to the City of Jacksonville nor would there be impacts to deer and elk winter range habitats. Staff finds the previous irrevocably committed exception to Goals 3, Agricultural Land, and 4, Forest Land, is still justifiable for the current application to change the zoning district from RR-00 to RR-5.

- 4) **Goal 4, Forest Lands:** The goal is to conserve forest lands.

FINDING: The soil class rating for forest production on the predominant soil types is 85.8 cubic feet of wood fiber per acre per year. The applicant indicates the subject area is committed to residential uses and is not contiguous to forest lands, and, therefore, changing the zoning district from RR-00 to RR-5 will not have a negative impact to forest management practices. Staff agrees with the applicants findings and finds the previously justified exception to Goal 4, Forest Land, remains valid for the proposed zone change.

- 5) **Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources:** The goal is to conserve open space and protect natural and scenic resources.

FINDING: The subject parcel is located along Hwy 238, an area identified as Area of Special Concern (ASC) 90-9, Scenic Resources. The applicant states the subject parcel will be partitioned and the new undeveloped parcel will be an 8 acre parcel east of Humbug Creek Rd. with access from Humbug Creek Rd. There are 3 developed parcels between Hwy 238 and the proposed new parcel. In addition to these three parcels located between Hwy 238 and the proposed new parcel, the view for motorists along Hwy 238 is already buffered by a natural screen of mature native trees. The applicant believes the view from the scenic resource, Hwy 238 will not be impacted by future development of the subject parcel. Staff accepts the applicants findings regarding the scenic resource and finds the proposed zone change complies with Goal 5.

- 6) **Goal 6, Air, Water and Land Resources Quality:** The goal is to maintain and improve the quality of the air, water and land resources of the state.

FINDING: The applicant states that Humbug Creek is a Class 1 stream. The applicant finds that approval of this application would result in the development of the eastern portion of the property, but there would be no encroachments into the riparian area of Humbug Creek nor would there be any crossings of Humbug Creek.

The subject parcel is not within the Jackson County Air Quality Management Area and the development of a single parcel would not significantly impact the air quality in this area.

The applicant also states the residential development of the proposed new parcel will be subject to development standards in effect at the time of development and that soil conservation and sedimentation policies of the Comprehensive Plan are administered through the Land Development Ordinance and building development standards. Staff agrees with the applicants findings and finds that if the zone change were approved, the development of another dwelling in the area would not detract from the air, water or land resources quality that currently exist.

- 7) **Goal 7, Areas Subject to Natural Hazards:** The goal is to protect people and property from natural hazards.

FINDING: The applicant states that any future development will be reviewed using the LDO in effect at the time for compliance with all standards with respect to flooding, wildfire hazards, high ground water, erosion and seismic hazards. Staff finds the proposed zone change would feasibly comply with the identified natural hazards through mitigation measures established at the time of development and the application complies with Goal 7.

- 8) **Goal 8, Recreational Needs:** The goal is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

FINDING: The applicant states that the approval of the zone change will have no significant impacts to this goal. Staff agrees with the applicant.

- 9) **Goal 9, Economic Development:** The goal is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The applicant states the approval of the zone change will not change the approved uses, residential uses, and will not have a negative impact on the economy.

Staff finds there may be a loss in farm use and income, but that it is insignificant. The portion of the parcel east of Humbug appears to have been used for hay production, but at a hobby farm level. 10.14 acres are specially assessed as farm land. Any loss in farm income for the subject property would be small in value. Staff finds that the application is in compliance with Goal 9.

- 10) **Goal 10, Housing:** The goal is to provide for the housing needs of citizens of the state.

FINDING: The map amendment would increase the allowable density by one dwelling. Policy 8 of the Housing Element of the Jackson County Comprehensive Plan states "The County has no obligation under the Statewide Planning Goals to provide Urban Level housing outside of urban growth boundaries. However, the County shall coordinate the needs and provisions for equitable distribution of all types of housing in existing rural communities,

urban containment boundaries, and incorporated cities and their urban growth boundaries.” Jackson County has no responsibility to provide housing outside of urban growth boundaries, rural communities, or urban containment boundaries. This area, however, is a pre-existing area of rural residential development and the additional dwelling unit constitutes in-fill development. Staff finds this goal would be met by a zone change to RR-5.

- 11) **Goal 11, Public Facilities and Services:** The goal 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: This parcel is served by Oregon State Police and the Jackson County Sheriff. Fire protection is provided by Fire District #9. The water and septic facilities will be provided by private well and septic system. There is currently a septic system and well servicing the existing dwelling.

Policy 1 of the Public Facilities and Services Element of the Comprehensive Plan states *“Recognizing the need for various types and levels of sanitation service, Jackson County shall strive to provide sanitation service at levels appropriate for the needs of urban, urbanizable, suburban, rural, and open space lands.”* The characteristics of this parcel and area would allow for a sewage disposal system identified in Category D or this policy. Category D states *“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.”* Public sewer and water are not available for this area. The nearest area where public sewer facilities is the City of Jacksonville. The proposed zone change would not require the property to attach to public sewer or water facilities nor would state law and the local Comprehensive Plan allow the property to connect to sewer and water. The only choice for this property is a private well and septic system as allowed by Policy 1, Category D of the Comprehensive Plan. Staff believes the purpose and intent of Goal 11 can be met by the proposed zone change.

- 12) **Goal 12, Transportation:** The goal is to provide and encourage a safe, convenient and economic transportation system.

FINDING: The applicant has stated legal access for the property will be from Humbug Creek Road. The applicant also states Jackson County Roads and ODOT have responded indicating there would be minimal impact to Hwy 238 and Humbug Creek Road as a result of approving this application. The applicant has requested a TIS waiver from Jackson County. Jackson County will grant the waiver for a Traffic Impact Study for Humbug Creek Road.

Jackson County Roads responded stating the Average Daily Traffic (ADT) count on Humbug Creek Rd. was 537 in June, 2006, fifty yards north of Hwy 238. As a comparison of capacity for Humbug Creek Road, the capacity of a two lane rural road with ten foot lanes and no

shoulders is 5,888 ADT. Humbug Creek Road clearly has the capacity to handle any development of the subject parcel accessing from Humbug Creek Road.

ODOT states "We have no capacity or significant concerns with the proposed project as related to the Transportation Rule." ODOT did recommend 2 conditions of approval: 1) "The applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238), prior to the issuance of development permits. Unless there is an existing valid permit for access, ODOT access permitting is a two-phase process involving a preliminary Permit to Construct on a State Highway Approach (issued prior to county issuance of land use permits), and a final Permit to Operate, Maintain, and Use a State Highway Approach (issued prior to county issuance of occupancy permits). Proof of a final valid access permit shall include an approved Permit to Operate, Maintain, and Use."; and, 2) "The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200)." Staff recommends the Planning Commission add these as conditions of approval.

- 13) **Goal 13, Energy Conservation:** The goal is to conserve energy.

FINDING: The applicant indicates the proposed development will have a minimal effect on the energy use for the development. Staff finds the addition of a single dwelling adding approximately 10 ADT will not have a significant effect on energy use resulting from transportation. Staff also finds that other energy conservation measures are concerned with how energy is used at the dwelling site. These conservation measures are regulated through the building code and are part of the permitting process for building. Staff believes the purpose of the goal can be met.

- 14) **Goal 14, Urbanization:** The goal is to provide for an orderly and efficient transition from rural to urban land use.

FINDING: OAR 660-004-0040 is the rule that determines the application of Goal 14 to rural residential areas. In subsection (6) of this rule it specifically states "After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14." Because the lot size will be decreased for the proposed zoning district, an exception to Goal 14 is required. The findings for the exception will follow in the report.

IV. Oregon Administrative Rules (OAR): OAR 660-014-0030 Rural Lands Irrevocably Committed to Urban Levels of Development

- 1) *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on*

rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

- 2) *A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*
- 3) *A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:*
 - A) *Size and extent of commercial and industrial uses;*
 - B) *Location, number and density of residential dwellings;*
 - C) *Location of urban levels of facilities and services; including at least public water and sewer facilities; and*
 - D) *Parcel sizes and ownership patterns.*
- 4) *A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*
- 5) *More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.*

FINDING: A map has been submitted showing the study area. The study area consists of 1,656 acres. The study area is generally described as low lying properties with frontage on Hwy 238 or Humbug Creek Rd. This area extends west from the subject property to the boundary of the Applegate Rural Unincorporated Community, a distance of one mile and east along Hwy 238 approximately one mile. The north side of Hwy 238 is considerably steeper and has the largest individual parcels which are in resource zoning districts. The study area along Humbug Creek Road extends approximately 4.2 miles north from the intersection of Humbug Creek Road and Hwy 238. This area includes Left Fork Humbug Creek Road for approximately 1 mile west of the intersection with Humbug Creek Road.

The applicant has submitted evidence to support a Goal 14 exception. The applicant states there are a total of 167 parcels in the study area with a total of 1,656 acres. The zoning districts included in the study area are RR-00, RR-5, RR-5(A), EFU, WR, and FR. The parcel sizes range from 0.26 to 64.96 acres. The average lot size within the study area is 9.9 acres. The median lot size is 5.97 acres. 137 of the parcels are developed with single family dwellings with 12 of the lots having an additional dwelling unit. The average dwelling density is one dwelling per 11.11 acres. The applicant also states there are 31 undeveloped parcels and 13 are within a resource zoning district. The applicant does not consider these as buildable lots. 18 lots are within a rural residential zoning district. Using these 18 parcels as potential dwelling units, the potential maximum density of the study area would be 1 dwelling per 10 acres.

The applicant further indicates there are 26 lots over 10 acres within a rural residential zoning district. Assuming a zone change could be approved for these lots and land division capability, the maximum amount of new dwellings within the study area would be 39 dwellings. Adding these 39 potential new dwellings to the existing 149 dwelling units, the average density would be 1 dwelling per 8.8 acres.

There is one tax lot in the EFU zoning district that contains a vineyard, which is a permitted use in the EFU zoning district. The Applegate School is immediately adjacent to the subject property. There are no commercial or industrial uses identified in the study area.

The closest public facilities for sewer and water are located within the City of Jacksonville, approximately 13 miles from the subject property. This area does not have public facilities for domestic water or sewer disposal available. On-site wells and septic systems are the norm for this area. This area is served by the Jackson County Sheriff and Oregon State Police. The subject property is within Jackson County Fire District No. 9.

The applicant concludes the study area has an average parcel size and median parcel size of less than 10 acres. OAR 660-004-0040 requires an exception to Goal 14, Urbanization, for any change to a rural residential zoning district which has a minimum acreage size below 10 acres. The applicant states the subject parcel is within an area of predominately urban development and an irrevocably committed exception to Goal 14 is justified.

Further review of the evidence submitted by the applicant shows the parcels within the rural residential zoning districts have an average parcel size of 6.4 acres. Of the 1,656 acres within the study area, approximately 820 acres are within a resource zoning district and the average parcel size within the resource zoning districts is 22.16 acres. In addition, using only the lots within Exceptions Area II, Applegate, 10-I, the average lot size is 4.58 acres. Staff believes these data further establish substantial evidence of the urban nature of this study area and a zone change to the RR-5 zoning district is appropriate for the subject parcel.

V, Oregon Administrative Rules (OAR): OAR 660, Division 12, Transportation Planning Rule

- 1) OAR 660-012-0060(1) states in part *"When an amendment to functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified functional, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - (A) *Allow land uses or levels of development that would result in types of levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan;*
 - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Tsp or comprehensive plan.*

FINDING: ODOT and Jackson County Roads have both responded to this application stating that Hwy 238 and Humbug Creek Road have adequate capacity for the proposed development should the zone change be approved. The plan amendment will not significantly affect either transportation facility.

VI. JACKSON COUNTY COMPREHENSIVE PLAN:

This section addresses those plan policies which are applicable to the requested map amendment or which raise issues which should be considered at the public hearing.

1) Map Designations Element: Rural Residential Land

FINDING: The subject parcel is currently designated as Rural Residential Land. The parcel is split-zoned RR-00 and RR-5. Approximately three plus acres are zoned RR-5, west of Humbug Creek, and nearly 10 acres are within the RR-00 zoning district. The proposal is to change the entire property to RR-5, which allows the division of land to a minimum of five (5) acres with a minimum density of 1 dwelling per five (5) acres. It is stated in Subsection (3)

of OAR 660-004-0040 that "Zoning districts permissible within the Rural Residential category may not permit residential densities exceeding one single family residence per ten acres unless otherwise allowed within an acknowledged urban growth boundary, unincorporated community, or where a Goal 14 exception has been taken." An exception to Goal 14, Urbanization, is part of this application. This exception must be approved to change the zoning district from RR-00 to RR-5. The criteria and characteristics for Rural Residential Land have already been established for this parcel through Periodic Work Task #5, Subarea 10-I, and it is not necessary to address the Map Designations Element for Rural Residential Land again. An exception to Goal 14, Urbanization, would establish and justify residential density at less than 1 dwelling per 10 acres.

- 2) **Agricultural Lands Element:** The goal of the Agricultural Lands Element is to preserve and maintain agricultural land. Policy 4 states the priority use of farm land shall be farm use.

FINDING: An exception to Goal 3, Agricultural Lands, was acknowledged in 1995 by DLCD when the parcel zoning was changed from EFU to RR-00. While the subject property is not considered farm land, a special farm assessment is currently in effect. In the Rural Residential zoning districts, farm use is an outright permitted use.

- 3) **Energy Conservation Element:** The goal of this element is to effect the optimum conservation of energy and use of local renewable resources.

Policy 3 states energy conservation measures shall be utilized in new development projects to achieve energy efficient development through combinations of site planning, landscaping, building design and construction practices.

FINDING: This policy is met by the building code requirements when building permits are obtained.

- 4) **Environmental Quality Element:** The goal of this element is to improve the quality of the county's natural environment and resources in a responsible manner which will maintain and enhance the life sustaining environment.

Policy 2 states that the County shall manage and improve the quality of its air resources. Policy 3 states the County shall conserve the water resource of Jackson County and protect, manage and improve the quality of surface and groundwaters for the propagation of wildlife and for domestic, agricultural, industrial, recreational and other beneficial uses. Policy 5 states soil erosion and sedimentation and wise utilization of soil shall be considered in land use development actions. Policy 6 states modes, routing, and improvement of transportation systems shall be planned and designed to minimize generation and concentration of air and water borne pollutants, and to lessen noise impacts.

FINDING: The applicant states that Humbug Creek is a Class 1 stream. The applicant finds that approval of this application would result the development of the eastern portion of the

property, but there would be no encroachments into the riparian area of Humbug Creek nor would there be any crossings of Humbug Creek.

The subject parcel is not within the Jackson County Air Quality Management Area and the development of a single parcel would not significantly impact the air quality in this area.

The applicant also states the residential development of the proposed new parcel will be subject to development standards in effect at the time of development and that soil conservation and sedimentation policies of the Comprehensive Plan are administered through the Land Development Ordinance and building development standards. Staff agrees with the applicants findings and finds that if the zone change were approved, the development of another dwelling in the area would not detract from the air, water or land resources quality that currently exist.

- 5) **Forest Lands Element:** The goal of this element is to conserve forest lands for forest uses and ensure a continued yield of forest products.

Policy 2 states activities on forest lands should be carried out to the benefit of forest production, domestic livestock grazing, watershed protection and aquifer recharge maintenance, wildlife and fisheries habitat, open space and scenic resources, recreation, and controlled mining.

FINDING: The soil class rating for forest production on the predominant soil types is 85.8 cubic feet of wood fiber per acre per year. The applicant indicates the subject area is committed to residential uses and is not contiguous to forest lands, and, therefore, changing the zoning district from RR-00 to RR-5 will not have a negative impact to forest management practices. Staff agrees with the applicants findings and finds the previously justified exception to Goal 4, Forest Land, remains valid for the proposed zone change.

- 6) **Housing Element:** The goal of this element is to assure the provision for a range of housing opportunities for all households of the county by location, type and size commensurate with the financial capabilities of local households and consistent with the environmental policies of the state and county.

Policy 1 under this element states that the County shall assure the provision of available lands in suitable locations to accommodate the need of an adequate housing supply and choice of housing opportunities.

FINDING: As was stated above in the findings for Statewide Planning Goal 10, Jackson County has no obligation to provide urban level housing outside of urban growth boundaries. This proposal is for in-fill in an area committed to residential development. The addition of one dwelling would not be in conflict with the Housing Element.

- 7) **Public Facilities and Services Element:** The goal of this 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.

Policy 1 states 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. Policy 8 states the absence or presence of public facilities should be weighed and evaluated against other development concerns so it does not receive disproportionate emphasis.

FINDING: Category D of Policy 1 allows for on-site septic systems in areas developed for, or designated for, low-density development. Public water and sewer is not available in this area and a private well and on-site septic system are proposed for any development. OSP and the Jackson County Sheriff provide police protection and fire protection is provided from the Jackson County Fire District #9. Power and telephone utilities are available. The proposed zone change does not conflict with the Public Facilities and Services Element.

- 8) **Natural and Historic Resources Element:** The goal of the Natural and Historic Resources Element is to preserve and conserve valued open space lands, protect and maintain existing, and establish new, historic, scenic and wildlife areas and ensure wise utilization of natural resources. Policy 5 states the County shall ensure proper management of water areas, wetlands, watersheds and groundwater resources in order to facilitate their conservation, productivity and wise utilization.

FINDING: There may be wetlands associate with Humbug Creek. These wetlands are monitored and managed by the Oregon Division of State Lands. Any development on or near these wetlands will be regulated through DSL.

The subject parcel is located along Hwy 238, an area identified as Area of Special Concern (ASC) 90-9, Scenic Resources. The applicant states the subject parcel will be partitioned and the new undeveloped parcel will be an 8 acre parcel east of Humbug Creek Rd. with access from Humbug Creek Rd. There are 3 developed parcels between Hwy 238 and the proposed new parcel. In addition to these three parcels located between Hwy 238 and the proposed new parcel, the view for motorists along Hwy 238 is already buffered by a natural screen of mature native trees. The applicant believes the view from the scenic resource, Hwy 238, will not be impacted by future development of the subject parcel. Staff accepts the applicants findings regarding the scenic resource and finds the proposed zone change does not conflict with the Natural and Historic Resources Element.

- 9) **Rural and Suburban Lands Element:** The goal of this element is to alter the course of rural and suburban land development through a phased and on-going process of specific geographic area wide plans which will create an orderly and efficient rural and suburban land use pattern on lands not designated for urban nor for agricultural or forest use.

Policy 1 states it is the policy of Jackson County to reduce and reallocate the overall allowable density and intensity of rural and suburban lands to the extent necessary to minimize further degradation of air quality, reduce energy consumption and reduce long-range cost of providing public facilities and services. Policy 2 states all land partitioning shall be designed to minimize long-range public costs resulting from property division or development.

FINDING: Implementation strategy of Policy 1, Section (B)(ii) states "*Recognize the location and extent of existing rural and suburban residential development in areas where commitments to such uses and densities have already been made.*" Section (B)(iii) goes on to say "*Development in such committed areas will be limited to the infilling of vacant land at rural and suburban densities.*" This area is already committed to rural residential development and the proposed zone change is in-fill development. The proposed zone change will not conflict with the policies of this element.

- 10) **Transportation:** The goal of this element is to provide and encourage a safe, convenient, energy efficient and economical transportation system.

Policy 5 states the county shall require development proposal applications to assess the direct and cumulative impact that new development will have on the public road system. Land development will not be permitted unless adequate transportation facilities exist or are assured. Policy 6 shall require applicants for new or expanding development proposals to make on-site or frontage improvements to appropriate standards, or to pay for a fair share for such improvements, and to pay for a fair share of off-site transportation improvements in a timely manner. New development shall contribute a proportionate share of the construction of the new or expanded capital facilities required by new development. Existing substandard roads should be upgraded or reconstructed and new roads should be provided at standards appropriate for the level of urban rural development to ultimately be served. Policy 10 states the County shall regulate land use more effectively by requiring private developers to improve or to contribute their fair share to improve existing public roads. The improvements shall be made to the road standards necessary to serve the proposed development. Approval of new public or private roads shall be based upon consideration of options to limit future public agency and private third-party costs by improving existing roads.

FINDING: The applicant has stated legal access for the property will be from Humbug Creek Road. The applicant also states Jackson County Roads and ODOT have responded indicating there would be minimal impact to Hwy 238 and Humbug Creek Road as a result of approving this application. The applicant has requested a TIS waiver from Jackson County. Jackson County will grant the waiver for a Traffic Impact Study for Humbug Creek Road.

Jackson County Roads responded stating the Average Daily Traffic (ADT) count on Humbug Creek Rd. was 537 in June, 2006, fifty yards north of Hwy 238. As a comparison of capacity for Humbug Creek Road, the capacity of a two lane rural road with ten foot lanes and no

shoulders is 5,888 ADT. Humbug Creek Road clearly has the capacity to handle any development of the subject parcel accessing from Humbug Creek Road.

ODOT states "We have no capacity or significant concerns with the proposed project as related to the Transportation Rule." ODOT did recommend 2 conditions of approval: 1) "The applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238), prior to the issuance of development permits. Unless there is an existing valid permit for access, ODOT access permitting is a two-phase process involving a preliminary Permit to Construct on a State Highway Approach (issued prior to county issuance of land use permits), and a final Permit to Operate, Maintain, and Use a State Highway Approach (issued prior to county issuance of occupancy permits). Proof of a final valid access permit shall include an approved Permit to Operate, Maintain, and Use."; and, 2) "The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200)." Staff recommends the Planning Commission add these as conditions of approval.

A) **Jackson County Transportation System Plan**

4.3.1 Transportation and Land Use Coordination Policies

4.3.1-A *The County will prohibit new or expanded development proposals with the potential to prevent placement of, or significantly increase the cost of, designated transportation connections in the TSP.*

Strategies:

- a. *Establish and maintain development review procedures that will prevent conflicts between development and future transportation facilities and connections.*

FINDING: This policy is addressed through the review process for this application.

4.3.1-B *Plan amendments, zone changes and type 3 and 4 land use permits need to demonstrate that adequate transportation planning has been done to support the proposed land use.*

Strategies:

- a. *Inside urban growth boundaries, demonstration of adequate transportation facilities for a land-use action should defer to the city's adopted Transportation System Plan; this deference should occur in accordance with any applicable provisions in the Urban Growth Management Agreement between the particular city and the County. Absent an adopted Transportation System Plan for the applicable city, land use actions related to transportation planning and*

transportation project decisions will be based on the Jackson County Transportation System Plan; application of the County TSP in this situation should account for any applicable provisions in the Urban Growth Management Agreement between the particular city and the County.

FINDING: The subject parcel is not within an urban growth boundary and this policy does not apply.

b. Ensure that legislative land use changes will not result in land uses that are incompatible with the public transportation facilities they will use through compliance with, and direct application of, OAR 660 Division 12.

FINDING: This application is not legislative and this policy does not apply.

c. Ensure that quasi-judicial comprehensive plan changes, zone changes and type 3 and 4 land use permits will not result in land uses that are incompatible with the public transportation facilities they will use. To meet this requirement, criteria "i, ii and iii" below must be demonstrated to be met through a Transportation Impact Study (TIS) completed by a registered professional engineer with expertise in transportation. Compliance with criteria "i, ii and iii" will be considered sufficient to demonstrate compliance with the Transportation Planning Rule. The TIS requirement may be waived if the Planning Director and the County Engineer administratively concur in writing that sufficient specific evidence is provided from affected transportation management agencies that the cumulative effect of approving the proposed plan amendment, zone change or type 3 or 4 land use permit, along with the potential for similar approvals on similarly situated parcels within 2 miles (.75 miles in the MPO) of the subject parcel (or portion of the parcel that is requesting the land use change or permit), will not significantly affect a transportation facility identified in State, regional or local transportation plans (RTP 6-1).

i. Approval of the proposed changes and the cumulative impact of the potential for similar approvals on parcels within 2 miles (.75 miles in the MPO) of the subject parcel would not change the functional classification of an existing or planned transportation facility nor would it change standards implementing the functional classification system (unless the change can be made in conjunction with a TSP amendment pursuant to policy 4.3.3-D).

ii. Approval of the proposed changes and the cumulative impact of the potential for similar approvals on parcels within 2 miles (.75 miles in the MPO) of the subject parcel would not allow types or levels of land uses that would result in levels of travel or access inconsistent with the functional classification of a transportation facility (unless a functional class change is made pursuant to policy 4.3.3-D).

- iii. *Approval of the proposed land use changes and the cumulative impact of the potential for similar approvals on parcels within 2 miles (.75 miles in the MPO) of the subject parcel would not cause a facility to exceed the adopted performance standards for facilities used by the subject parcel. A facility used by the subject parcel is defined as any facility where approval of the proposed land use changes and the cumulative impact of the potential for similar approvals on parcels within 2 miles (.75 miles in the MPO) of the subject parcel would increase traffic on a facility by more than 3% of the total capacity for collectors and/or 2% of the total capacity for arterials and state highways. ODOT may determine that the subject parcel, beyond this definition and in accordance with the Oregon Highway Plan, will use additional state facilities.*

FINDING: As discussed above, access will be obtained for the new development from Humbug Creek Road. A TIS has not been completed and submitted with this application. A TIS does not seem appropriate for the level of development created by this amendment. The ADT for the proposed development would be approximately 10 ADT and Jackson County Roads has determined Humbug Creek Road will handle the increased traffic. A TIS Waiver will be approved and submitted by Jackson County and signed by Planning Director and County Engineer.

d. Projects proposed in the TSP towards the end of the planning horizon cannot be relied on for quasi-judicial plan amendments, zone changes or type 3 and 4 land use permits. TSP projects on state highways cannot be relied on unless in an adopted STIP. TSP planned projects may have to be altered or cancelled at a later time to meet changing budgets or unanticipated conditions such as environmental constraints. However, quasi-judicial plan amendments, zone changes or type 3 and 4 land use permits may demonstrate compliance with strategy "c." based on planned facility improvements under the following circumstances (and provided that an additional comprehensive plan amendment is not required as part of project development - such as an ESEE):

- i. *For ODOT facilities within the MPO, projects that are in the short and/or medium range Regional Transportation Plan (RTP) Tier 1 project list. For ODOT facilities outside the MPO, projects that are programmed into the STIP. (An alternate strategy for an ODOT facility may be to coordinate with ODOT on a change to the applicable Highway Plan requirements)*
- ii. *For County facilities outside the MPO and local county facilities in the MPO, projects that are in the financially constrained TSP projects list and are in either the short and/or medium range Tier 1 lists.*
- iii. *For regionally significant County facilities within the MPO, the facility must be in either the short and/or medium range RTP Tier 1 lists.*

FINDING: This policy does not apply to this application.

e. If a concurrent quasi-judicial TSP amendment is submitted (See Policy 4.3.3-D) with the proposed comprehensive plan amendments and/or zone changes, the actions may be considered together. If the TSP amendment can be made then any changes included in the TSP amendment may be counted under section d for compliance with section c.

FINDING: This policy does not apply to this application.

4.3.1-C Jackson County will establish and maintain land development ordinance regulations to protect and improve the transportation system.

Strategies:

- a. Amend the Land Development Ordinance to address the deficiencies identified in the Transportation Planning Rule audit conducted as part of the transportation system planning process.*
- b. Development ordinance regulations should require on-site improvements that require frontage improvements to appropriate standards, dedicate sufficient right-of-way for public roads, and construct all on-site facilities to the applicable County standard.*

FINDING: The LDO contains standards for road construction to meet potential development on the subject parcel and will be addressed at time of division and development. Compliance with this policy is feasible.

4.3.1-D Regardless of whether adequate capacity exists, changes in land use and new or expanded development proposals will not be approved if they will create, or would worsen, a safety problem on a public transportation system or facility. If a problem would be created or worsened without mitigation, then a mitigation plan that resolves the safety concern must also be approved and included in the proposal in order for the land use change and/or development proposal to be approved. Where a safety concern exists, study by a registered professional engineer with expertise in transportation will be considered to determine if a problem would be created or worsened.

FINDING: Jackson County Roads has not identified a traffic safety problem for Humbug Creek Road. Any access from Humbug Creek Road will be evaluated prior to obtaining building permits for new development. Compliance with this policy is feasible.

4.3.1-E Regional planning projects intended to identify future urban growth boundary expansion areas, such as the on-going Regional Problem Solving (RPS) process, must include an appropriate transportation planning component.

Strategies:

- a. *UGB expansions into Urban Reserve areas should not create transportation problems that cannot be adequately addressed, given reasonable transportation funding expectations.*
- b. *Where UGB expansions are proposed into an Urban Reserve Area developed through a regional planning project, the proposed expansion should include adoption of a refinement plan to be added to the applicable city (or cities) Transportation System Plan at the final proceeding approving the urban growth boundary expansion.*

FINDING: This policy does not apply to the application.

- 11) **Urban Lands Element:** The goal of this element is to provide for an orderly, efficient and environmentally sound plan for urban land uses within urban growth boundaries.

Policy 1 states the county shall maintain a long-range commitment to the implementation of urban centered growth.

FINDING: OAR 660-004-0040 is the rule that determines the application of Goal 14 to rural residential areas. In subsection (6) of this rule it specifically states "After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14." Because the lot size will be decreased for the proposed zoning district, an exception to Goal 14 is required and has been addressed in Section IV of this report. Should the Planning Commission find the exception to Goal 14, Urbanization, is justified, the proposed zone change will be in compliance with the Urban Lands Element.

- 12) **Citizen Involvement Element:** The goal of this element is to provide opportunities for citizens to be involved in all phases of the Jackson County planning Process.

FINDING: The Oregon Revised Statutes, Oregon Administrative Rule, Jackson County Comprehensive Plan, and Jackson County Land Development Ordinance contain rules and regulations insuring the opportunity for citizen involvement in this planning process. Staff finds that proper notice was given to property owners and public agencies regarding this application in adherence with all state and local requirements.

- 13) **Economy Element:** The goal of this element is to improve and diversify the economic base of Jackson County in balance with air, water, land, and human resources.

FINDING: The applicant states the application will not change the approved uses, residential uses, and will not have a negative impact on the economy. Staff agrees with the applicants

finding.

- 14) **Natural Hazards Element:** The goal of this element is to protect life and property from natural disasters and hazards.

FINDING: The applicant states that any future development will be reviewed using the LDO in effect at the time for compliance with all standards with respect to flooding, wildfire hazards, high ground water, erosion and seismic hazards. Staff finds the proposed zone change could feasibly comply with the identified natural hazards through mitigation measures established at the time of development and the application complies with this element.

VII. COMPLIANCE WITH THE LAND DEVELOPMENT ORDINANCE

- 1) Section 3.7.3(C), Minor Comprehensive Plan or Zoning Map Amendments (Quasi-Judicial) establishes procedures, standards, and criteria for minor map amendments.

- A) *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: The applicant has stated that the property is currently served with adequate public facilities. Law enforcement is provided by the Oregon State Police and the Jackson County Sheriff. The property is within Jackson County Fire District No. 9.

Public water and sewer are not available to the subject property. Any new development will be served by a private well and on-site septic system.

Utility services are currently available to the subject property.

Transportation facilities exist that have adequate capacity for any new development proposed by the applicant.

- B) *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: The subject parcel is located along Hwy 238, an area identified as Area of Special Concern (ASC) 90-9, Scenic Resources. The applicant states the subject parcel will be partitioned and the new undeveloped parcel will be an 8 acre parcel east of Humbug Creek Rd. with access from Humbug Creek Rd. There are 3 developed parcels between Hwy 238 and the proposed new parcel. In addition to these three parcels located between Hwy 238 and the proposed new parcel, the view for motorists along Hwy 238 is already buffered by a natural screen of mature native trees. The applicant believes the view from the scenic

resource, Hwy 238, will not be impacted by future development of the subject parcel. Staff accepts the applicants findings regarding the scenic resource and finds the proposed zone change complies with this criterion.

The subject parcel has an area designated as an Approximate A flood zone. Any new development is subject to compliance with the LDO regarding floodplain development. The applicant has stated no encroachments into the floodplain of Humbug Creek will occur and development will be east Humbug Creek.

- C) *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: This property is not a resource zoned parcel.

- D) *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: An exception has been addressed in this application. Staff recommends the Planning Commission approve the exception to Goal 14, Urbanization.

- E) *Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map Designation.*

FINDING: The Periodic Review Work Task #5 provided the determination that this property met the requirements of the Comprehensive Plan Map designation for Rural Residential Land. The subject parcel remains consistent with the Rural Residential Lands Map Designation.

- F) *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 applicant states the Jackson County Comprehensive Plan Housing Element discusses the need for a variety of housing opportunities for the County. The in-fill development will provide for an additional rural residential opportunity while utilizing existing facilities for transportation and public safety. Staff agrees with the applicant that the in-fill development will be a clear community benefit.

- G) *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 applicant has provided substantial evidence that those factors relevant to the application have been addressed and have shown that there would be no adverse impacts resulting from the zone change.

- 2) Section 7.1.1(J), ASC 90-9, Scenic Resources, applies to lands identified by the Jackson County Planning Commission and Board of Commissioners as important scenic resources that significantly contribute to the landscape character of the County.

Exemptions

The following uses within ASC 90-9 will be permitted without review by Jackson County, unless otherwise provided by other regulations:

- A) *Conservation and maintenance of scenic resources;*
- B) *Fish and wildlife habitat management;*
- C) *Historic resource protection measures;*
- D) *Natural areas protection measures;*
- E) *Passive recreation activities;*
- F) *Other land uses or activities permitted in the underlying zone, subject to state and federal regulations; or*
- G) *Forest practices on commercial forest land within the scope of OAR Chapter 729, Division 24, are not subject to the Area of Special Concern, although the regulations continued herein may be used as guidelines for such practices.*

FINDING: The applicant states development of a single family dwelling is an outright permitted use in the rural residential zoning district and is exempt from further review by Jackson County. Staff finds that this application must show compliance with this Area of Special Concern because this is a discretionary review and the LDO and Comprehensive Plan require compliance with all applicable criteria.

Special Findings Required

- A) *Within the scenic resource areas of special concern, any land use action subject to*

review by the Department will include findings demonstrating that the proposal will have no significant impact on identified scenic views, sites, stream and roadway corridors either by nature of its design, mitigation measures proposed, or conditions of approval; and

- B) *Land use activities that have no significant visual impact will not attract undue attention, and must visually harmonize with existing scenic resources. This can be accomplished through project designs that repeat the form, line, colors, or textures typical of the subject landscape, and designing the land use activity to blend into the existing landscape.*

FINDING: The applicant states any proposed development will be east of Humbug Creek and will get access from Humbug Creek Road. Hwy 238 is an identified scenic roadway. There are three existing developed parcels between Hwy 238 and the proposed homesite development. The distance from Hwy 238 to the proposed development is approximately 800 feet. There is also a significant natural screen of mature native trees along Hwy 238 which block the view by motorists from the subject parcel and any new development. For these reasons, staff finds any new development east of Humbug Creek will have no significant impact on the highway corridor.

Scenic Quality Performance Standards

To mitigate adverse impacts of development on scenic resources, discretionary land use actions will meet the applicable scenic quality performance standards set forth in this Section. If a standard is found to conflict with any other provision of this Ordinance or local regulation, or state administrative rule or statute, or federal regulation, the more restrictive will govern.

A) *Land Division Standards*

Division of lands within the scenic resource overlay will be designed to minimize the linear extent of roadways required for access to parcels, and points of access will be limited from a scenic roadway corridor. Parcel configurations will limit roadway and stream crossings to the minimum amount required to provide access.

FINDING: The future division of the subject parcel will create a new parcel east of Humbug Creek with access from Humbug Creek Road. No new access will be created from Hwy 238 nor will there be any stream crossings across Humbug Creek. This criterion can feasibly be met.

B) *Siting Standards*

- i) *Any land use actions that require removal of native vegetation and/or topographic modifications within view of an identified scenic roadway, stream, view, or site will be located where topography or vegetation offers some*

shielding of the use, and will include development scale, form, and color consistent with the surrounding landscape;

FINDING: The proposed development will not require removal of native vegetation that provides screening from Hwy 238. The mature native trees along Hwy 238 provide adequate screening from Hwy 238.

- ii) *Hilltop siting is generally inappropriate for structures in a scenic area, as are excessive cut and fill operations for the placement of roadways or structures. Clustering of housing and structures for use of common access, increased setbacks from roadways and water areas, and landscaping will be considered appropriate methods of minimizing adverse scenic impacts; and*

FINDING: The hilltop siting criteria does not apply to the subject parcel as there are no hilltops on the parcel. Development on the new parcel will not take access from Hwy 238. This criterion can be met.

- iii) *Where naturally occurring vegetation or land forms are not present to provide partial screening for land use activities, landscaping with native plant materials will be required to provide this screening in accordance with landscaping standards in subsection (e) below.*

FINDING: The new parcel and any development will not have access from Hwy 238 and the existing natural vegetation provides adequate screening from Hwy 238. The landscaping standards are not required to provide screening

C) Structure/Facility Development Standards

Structures and other permanent facilities will be unobtrusively designed in terms of scale and form. Colors used will be earth tones found in the surrounding landscape.

FINDING: Due to the existing screening and the distance from Hwy 238, structures and other permanent facilities cannot be seen.

D) Roadway Development Standards

Existing road rights-of-way will be used whenever possible in order to avoid creating new roadways for access. Access points along a scenic roadway corridor will be the minimum number acceptable to the County based on considerations of traffic and public safety. A buffer strip of native vegetation will be retained adjacent to the right-of-way, and such buffer strip will retain all native trees whose removal is not explicitly approved by the County during the development review process.

FINDING: Access to the new parcel will be from Humbug Creek Road and the existing

natural vegetation along Hwy 238 will not be removed.

E) Landscaping Standards

Notwithstanding fuelbreak requirements and public health or safety concerns, clearing of native vegetation for discretionary land uses on scenic resource lands will be minimized. All disturbed land will be reclaimed pursuant to a plan prepared by an individual registered with the American Society of Landscape Architects, or other qualified landscape design professional, or professional forester with experience in reclaiming forest lands as determined by the County.

FINDING: The applicant states that should landscaping requirements be required, the applicant will comply with such standards.

F) Surface Mining

- i) *In accordance with ORS 517.760(2)(a), surface mining in designated scenic areas that is not directly related to forest practices under the scope of OAR Chapter 629, Division 24, will minimize the adverse impacts on visual resources by limiting the amount of land disturbed at any one time, and buffering or screening the operations from scenic roadway and stream corridors, viewpoints and recreation trails. Screening of the operations will use natural barriers such as native vegetation or landscaped berms. A reclamation plan will define the existing characteristics of the vegetation and land forms, and the expected impacts on the viewshed. This will include a map showing the location of proposed mining areas including stockpiles, operations yards, and haul roads, and the expected impacts on the viewshed; and*
- ii) *The reclamation plan will address the character and extent of areas of revegetation, types and numbers of plant materials shown on a landscape plan prepared in accordance with this ASC, soil stabilization procedures, topsoil stockpiling and redistribution, and time schedule for phasing the completion of site reclamation.*

FINDING: Surface mining does not apply to this property.

Standards Applicable to Resource Uses

Resource uses in the Area of Special Concern, other than forest operations on commercial forest land subject to the Oregon Forest Practices Act, will be reviewed pursuant to the provisions of this ASC prior to approval. To facilitate this review, County mapping of scenic areas and this ASC, as may be updated periodically, will be provided to state and federal agencies.

FINDING: The applicant will comply with this criterion.

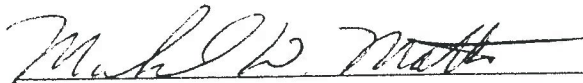
VII. STAFF RECOMMENDATION:

Staff finds that the application contains substantial evidence to support the justification of an exception to Statewide Planning Goal 14, Urbanization, Comprehensive Plan and Zoning Map Amendment to change the zoning of the RR-00 zoning to RR-5. The evidence submitted by the applicant and findings by the applicant and staff comply with the applicable criteria and is consistent with Statewide Planning Goals, Oregon Administrative Rules, the Jackson County Comprehensive Plan and the Jackson County Land Development Ordinance.

CONCLUSION:

In order to approve an amendment of the Comprehensive Plan and zoning designation for the subject property from RR-00 to RR-5, the Planning Commission and Board must find that the applicant has made the requisite findings for a minor map amendment. It must be shown that the request is consistent with Statewide Planning Goals, Oregon Administrative Rules, the County's Comprehensive Plan and the Land Development Ordinance.

JACKSON COUNTY COMPREHENSIVE PLANNING MANAGER



By: Michael W. Mattson, Planner II

Date: 12-21-07

EXHIBIT 2

RECOMMENDED CONDITIONS FOR FILE LRP2007-00005

1. Prior to division of the subject parcel, a TIS waiver, signed by Jackson County's Planning Director and County Engineer, must be completed.
2. Prior to development of the subject property, the applicant shall provide proof of a valid ODOT Road Approach permit (i.e., an access permit) for access to the one (1) existing residential dwelling from Jacksonville-Williams Highway (Hwy 238) prior to the issuance of development permits. Unless there is an existing valid permit for access, ODOT access permitting is a two-phase process involving a preliminary Permit to Construct on a State Highway Approach (issued prior to county issuance of land use permits), and a final Permit to Operate, Maintain, and Use a State Highway Approach (issued prior to issuance of occupancy permits). Proof of a final valid access permit shall include an approved Permit to Operate, Maintain, and Use.
3. The applicant shall provide access to any new parcel(s) or lot(s) from Humbug Creek Road, resulting from any future land partition or subdivision of the parent parcel (tax lot 1200).

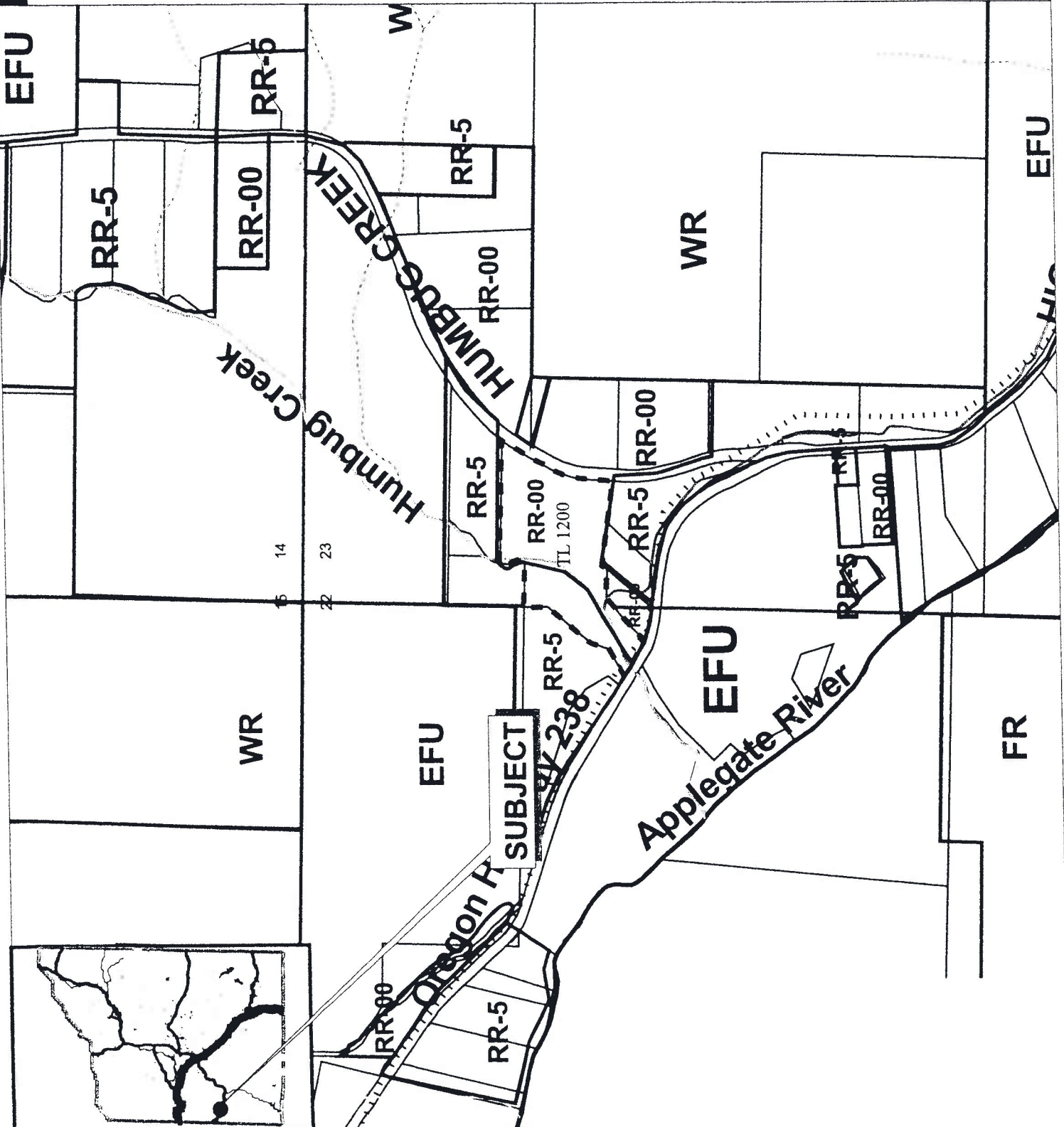
ZONING

APPLICANT:
JONES
38-4W-23 TL 1200
LRP2007-00005

- County Zoning
- Scenic & Historic Roads & Trails
- Historic Roadway
- State Scenic Hwy
- Outstanding Scenic Roadway
- Recreation Trail
- Proposed Trail
- Streams & Ditches
- Applegate, Rogue & Bear Creek
- Major Rivers & Streams
- Named Streams
- Minor Streams
- Intermittent Streams
- Underground Streams
- Ditches
- Ditches - Turnouts / Siphons
- Minor Ditches
- Minor Ditch - Underground
- Sections



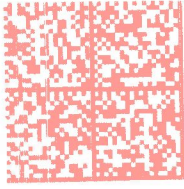
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