



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/18/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Baker County Plan Amendment
DLCD File Number 001-09

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: Thursday, May 28, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Lauri Hoopes, Baker County
Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Thomas Hogue, DLCD Regional Representative

<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: **BAKER COUNTY**

Local file number: PA-09-001

Date of Adoption: **05/05/09**

Date Mailed: **05/08/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **YES** Date: 2/3/2009

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".

Ellingson Lumber Co. submitted a request for a Post Acknowledgement Plan Amendment to change the zoning of a 27.93+/- acre parcel known as Tax Lot 200 in Section 21A of Township 8 South, Range 46 East, W.M., Baker County, Oregon from Industrial to a zone specifically created for the parcel based on the Limited Use Combining Zone. The new zone will be identified as the OLD MILL LIMITED USE COMBINING ZONE. The uses proposed to be allowed in that zone are included in the materials provided.

Does the Adoption differ from proposal? Yes, please see pages 9 and 10 of the final staff report PA-09-001 for changes to the permitted and conditional uses applied to the Old Mill LUC zone.

Plan Map Changed from: **INDUSTRIAL** to: **OLD MILL LIMITED USE COMBINING ZONE**

Zone Map Changed from: **INDUSTRIAL** to: **OLD MILL LIMITED USE COMBINING ZONE**

Location: **8s4621a** Acres Involved: **27.93+/- acres**

Specify Density: Previous: **27.93+/- acres**

New: **27.93+/- acres**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. See First Page

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

Local Contact: **Lauri Hoopes**

Phone: (541) 523-8219 Extension:

Address: **1995 Third Street**

Fax Number: **541-523-5925**

City: **Baker City**

Zip: **Oregon**

E-mail Address: **lhoopes@bakercounty.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, or by emailing **larry.french@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 **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

BEFORE THE BOARD OF COMMISSIONERS
OF BAKER COUNTY, OREGON

<p>IN THE MATTER OF PA-09-001 TO AMEND THE BAKER COUNTY COMPREHENSIVE PLAN MAP AND THE BAKER COUNTY ZONING MAP TO ALLOW A CHANGE IN THE ZONING DESIGNATION OF A 27.93+/- ACRE PARCEL CURRENTLY ZONED INDUSTRIAL (I) TO THE ZONING DESIGNATION OF <u>THE OLD MILL LIMITED USE COMBINING (OMLUC) ZONE.</u></p>	<p>FINDINGS OF FACT, CONCLUSIONS, AND DECISION</p>
<p>THE PARCEL IS DESCRIBED AS TAX LOT 200 IN SECTION 21A OF TOWNSHIP 8 SOUTH, RANGE 46 EAST, W.M., BAKER COUNTY, OREGON.</p>	<p>ORDER NO.</p>
	<p>2009- <u>139</u></p>

Applicant: Ellingson Lumber Company, PO Box 866, Baker City, Oregon 97814


The above named applicant applied to Baker County requesting the Baker County Planning Commission recommend approval to the Baker County Commissioners of an amendment to the Baker County Comprehensive Plan map and the Baker County Zoning map to allow a change in the zoning designation of a 27.93+/- acre parcel southeast of Halfway, Oregon. The parcel is currently zoned Industrial (I); the applicant requests the zoning designation be amended to the OLD MILL LIMITED USE COMBINING (OMLUC) ZONE. The parcel is identified as tax lot 200 in Section 21A of Township 8 South, Range 46 East, W.M., Baker County, Oregon. (Map 08S4621A, Reference #13532)


A public hearing on the above-entitled matter was held before the Baker County Planning Commission on March 26, 2009. The Baker County Planning Commission closed the public hearing at the March 26, 2009 meeting, and a decision to recommend approval of the applicant's request to amend the Baker County Comprehensive Plan map and the Baker County Zoning map was made at the March 26, 2009 meeting.

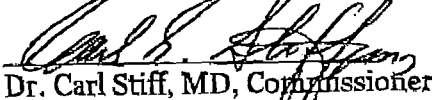
The Baker County Board of Commissioners conducted a public hearing on April 15, 2009 and May 6, 2009 and **APPROVED** the request to amend the Baker County Comprehensive Plan map and the Baker County Zoning map to change the zoning designation of the above described parcels from Industrial (I) to the OLD MILL LIMITED USE COMBINING (OMLUC) ZONE based upon the applicable review criteria, findings of fact and conclusions as contained in the attached 'Exhibit A', and public testimony received.

DATED this 6th day of MAY, 2009.

BAKER COUNTY BOARD OF COMMISSIONERS


Fred Warner, Jr., Chair


Tim L. Kerns, Commissioner


Dr. Carl Stiff, MD, Commissioner

Baker County Department of Planning and Community Development
FINAL DECISION and REPORT
for
PLAN AMENDMENT PA-09-001 for ELLINGSON LUMBER COMPANY

STAFF REPORT DATE: April 1, 2009
REPORT SUBMITTED BY: Lauri Hoopes, Planner

I. GENERAL INFORMATION AND FACTS

Applicant: Ellingson Lumber Company
PO Box 866
Baker City, Oregon 97814

Owner: Ellingson Lumber Company
PO Box 866
Baker City, Oregon 97814

Land Use Review: Plan Amendment and Zone Change from the Industrial (I) zone to a zone based on the Limited Use Combining (LUC) Zone.

Property Description: 27.93+/- acres: Tax Lot 200 in Section 21A of Township 8 South, Range 46 East, W.M., Baker County, Oregon (08S4621A TL200 Ref. 13532)

Location: The subject property is located on Sawmill Cutoff Lane and bordered by Pine Town Lane and the Baker Homestead Highway.

Existing Development: A wigwam burner and office/shop building on the southern portion and the old manager's residence on the northern portion.

Zone: Industrial (I) Zone

The parcel is **not** in the Big Game Habitat Overlay.

Tax Lot 200 is in Zone A (special flood hazard area inundated by 100-year flood, flood elevation not determined) according to FIRM map #41001C0295C.

Wetlands exist on TL 200 according to the National Wetlands Inventory map for Posy Valley, Oregon (Idaho) (July 1981).

Current Land Use: Vacant / Agricultural Grazing

Fire District: Pine Valley Rural Fire District

Parcel Legally Created: Yes, Tax Lot 200 was legally created as evidenced by Deed Book 173, page 465, dated April 3, 1963 and Partition Plat P2000-003, dated August 7, 2000.

Water Rights: According to the Baker County Watermaster's office, there are 25+/- acres of water rights on the property for irrigation.
See water rights certificates 10219 and 10437.

Soils: Class III 37%
Class IV 55%

II. NATURE OF REQUEST

The applicant, Ellingson Lumber Company, requests a Post Acknowledgement Plan Amendment and Zone Change for a 27.93+/- acre parcel currently zoned Industrial. Ellingson Lumber Company requests the zoning designation be changed to a new zone created in conjunction with the Limited Use Combining (LUC) Zone. This action requires an amendment to the current Baker County Zoning and Subdivision Ordinance Map and an amendment to the Baker County Comprehensive Plan map.

III. APPLICABLE STATE; COMPREHENSIVE PLAN; ORDINANCE PROVISIONS

The applicable statutory criteria for a Plan Amendment are from the Baker County Zoning and Subdivision Ordinance 83-3, Article 9. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning and Subdivision Ordinance it is considered to be consistent with the Comprehensive Plan. Portions of the Comprehensive Plan relevant to the parcel that is the subject of this application have been included for informational purposes.

IV. FINDINGS OF FACT:

1. The parcel is known as Tax Lot 200 in Section 21A of Township 8 South, Range 46, W.M., Baker County, Oregon.
2. Tax Lot 200 is 27.93+/- acres in size.
3. The site address for Tax Lot 200 is 38350 Sawmill Cutoff Lane, Halfway, Oregon.
4. The parcel is currently zoned Industrial. The applicant requests a zone change to a zone specifically created for the parcel based on the Limited Use Combining (LUC) zone. *See Exhibit "H"*
5. The parcel is **not** located in the Big Game Habitat Overlay.
6. The parcel is located in the Pine Valley Rural Fire District.
7. Sag Creek runs through the parcel creating a natural line of division between the northern and southern parcels.
8. The parcel was legally created as evidenced by Deed Book 173, page 465, dated April 3, 1965 and Partition Plat 2000-003, dated August 7, 2000.
9. This area may be susceptible to flooding as indicated by the FIRM flood zone map #41001C0295C of the area.
10. Wetlands are located on the parcel as evidenced by National Wetlands Inventory Map for Posy Valley, Oregon.
11. The applicant submitted the appropriate application, accompanied by the required fee, to the Baker County Planning Department on January 30, 2009. The requirements of the application, as outlined in the Baker County Zoning and Subdivision Ordinance 83-3, Section 905, were completed in February 2009. The application was deemed complete on February 27, 2009.

12. The applicant submitted a site plan showing the proposed northern and southern zoning areas. The northern area will consist of approximately 10+/- acres and the southern portion will consist of approximately 18+/- acres. *See Exhibit "B"*
13. According to a letter submitted to the Planning Department by the applicant, Ellingson Lumber Company has owned the property since the 1960's. *See Exhibit "C"*
14. Prior to Ellingsons purchasing the property, the Still-Pen Lumber Company owned the parcel during the 1950's.
15. The parcel was the site of the Ellingson Lumber Mill that mill closed in 1972. Existing development on the parcel include a wigwam burner and an office/shop on the southern portion, and a managers residence and miscellaneous outbuildings on the northern portion.
16. According to the applicant, the parcel has been utilized for Industrial purposes for approximately 35 years.
17. In a letter submitted to the Baker County Planning Department January 20, 2009, the applicant states that *"...even though the parcels are adjacent, there is no way to get from one to the other without going out on to Sawmill Cutoff Lane and driving around via the Old Baker-Halfway Highway, also known as Oregon State Highway Spur 12."* *See Exhibit "C"*
18. According to information provided on page II-15 of the Baker County Comprehensive Land Use Plan, *"Industrial Areas—Refers to those areas either built and committed or needed to foster economic development in the County and for which an exception is proposed."*
19. According to information provided on page IX-5 of the Baker County Comprehensive Land Use Plan, *"...Appropriate zoning and policies encourage development at an abandoned sawmill site near Halfway and four unincorporated communities that support limited commercial activities."*
20. On page II-37 of the Baker County Comprehensive Land Use Plan, the proposed parcel is identified as site #46 *West Pine* on the Index of Exceptions Areas.
21. According to page II-18 of the Baker County Comprehensive Land Use Plan, *West Pine* is described as follows:

"Portions of the SE ¼ of Section 16 and the NE ¼ of Section 21, Township 8 South, Range 46 East, W.M. This area consists of approximately 50 acres of Class II-VI soils. It is located in a triangle of land bounded by State Highway 86 and the Cornucopia Highway. It consists of an abandoned sawmill with a related dwelling and buildings, an airstrip and other industrial properties. The City of Halfway is within one mile. The site is limited for intensive industrial development because it is surrounded by developed roads. It also lies within the Pine Creek floodplain. Nevertheless, the site may be used for some resource related industry. The County chooses to retain some flexibility for industrial siting in this area of the County. From 1974 to 1986, the referenced land was zoned A-2, which allowed agricultural and non-agricultural uses. It was acknowledged as an industrial zone in 1986. In 1993, a portion of the property was partitioned and conveyed to Baker County. The partitioned property is being developed as a Visitor Information Center in a collaborative effort of the County, the US Forest Service, the City of Halfway and various service organizations. Because of its limited value for industrial use, it is possible the site or a portion of it, will be rezoned for tourist/information/open space purposes in the future."
22. Notice of proposed amendment was sent to the Department of Land Conservation and Development on February 3, 2009.

23. The applicant met with Planning Department staff members to discuss the Environmental Review Checklist on February 10, 2009.
24. Environmental Review Checklist was sent to the affected agencies on February 12, 2009. The Site Plan Review Committee reviewed the checklist and comments on March 10, 2009, and concluded to recommend to the Planning Commission that no Environmental Impact Study needs to be required.
25. Environmental Review Checklist Agency Responses:
 - a) The Baker County Watermaster's Office submitted a letter dated February 23, 2009 stating that a portion of Tax Lot 200 has a surface water right for irrigation, domestic and stock. The source of the water is from Pine Creek and has a priority date of 1885. Tax Lot 200 has a ground water right from a well for sprinkling the log decks, maintenance of log pond, and fire protection. If the applicant proposes to continue use of this well if PA-09-001 is approved, they will need to transfer the character of use to commercial or multi-use. If the well or surface water has not been used for 5 consecutive years or more, then it could be subject to forfeiture and could be cancelled. The Watermaster's Office currently has no information regarding this non-use, but states information could arise in the future. *See Exhibit "E" Agency Response Letters*
 - b) The Oregon Department of Transportation submitted a letter dated March 4, 2009 requesting that the applicant coordinate with DLCDD to demonstrate compliance with Goal 12 (requirements addressed in this report). ODOT states that the applicant's use of the property is subject to state laws administered by ODOT, which require the applicant to obtain access permits to carry out the intended use of the property. ODOT states that the subject tax lot is adjacent to Pine Town Lane and Sawmill Cutoff Lane, both county roads that provide reasonable alternate access as defined in OAR 734-051-0080 to the subject parcel, therefore access to Hwy 012 (OR 86) is not likely, however, the applicant does have the right to apply. ODOT may require a Traffic Impact Study to determine any potential transportation impacts and mitigation. *See Exhibit "E" Agency Response Letters*

30. **ZONE REVISIONS**

- **REMOVED--Current (Industrial) uses that were removed as part of the new requested zone:**

- **Permitted:**

Farm, truck and heavy equipment sales and service
 Truck Terminal
 Metallic and non-metallic mineral recovery processing and storage

- **Conditional:**

Wrecking / Junk Yard
 Livestock feedlots and sales yards

- **ADDED--Proposed uses in the new zone currently not included in the Industrial Zone:**

- **Northern Portion**

Single Family Dwellings
 Home Occupations

▪ **Southern Portion**

Commercial Dwellings
Service Stations
RV / Travel Trailer Parks
Public Use Buildings
Convenience Stores
Public or Private Parks or Playgrounds
Manufacturing, Compounding, Fabricating, Processing, Repairing, and Packaging

➤ According to the Baker County Comprehensive Land Use Plan there are approximately 2,804+/- acres of Industrial zoned land in Baker County.

These sites include:

- Sutton Creek Site—Old Highway 30
- Durkee, Oregon Portland Cement
- Lime, Oregon Portland Cement
- Chemical Lime Site Blue Mountain Lime—Wingville, Oregon
- Airport Site
- West Pine—Ellingson Sawmill, US Forest Service and Halfway, Oregon Airport site
- Northeast Baker City, Oregon—Frontage Road Industrial Site
- Medical Springs Highway Industrial Zone—Limited Use Combining Zone in 1989 for use as a wrecking yard and a salvage/recycling yard plus a watchman's quarters (1994 abandoned the business).

V. PLAN AMENDMENT

Baker County Zoning and Subdivision Ordinance (BCZSO)

The Baker County Zoning and Subdivision Ordinance (BCZSO) establishes the procedure for processing quasi-judicial Comprehensive Plan Amendments and sets forth the criteria which all such applications must address, as follows:

SECTION 901 AUTHORIZATION TO INITIATE AMENDMENTS

An Amendment to the text of this Ordinance or the Zoning Map may be initiated by the County Court (Board of Commissioners) (Board of Commissioners), the County Planning Commission, or by application of a property owner. The request by a property owner for an Amendment shall be accomplished by filing an application with the Planning Department in a manner described in Section 905 or 907 of this Article at least by the first working day of the month during which the action is to be heard.

Findings: This zoning map amendment was initiated by an application submitted by the property owner. The request was made by filing an application with the Baker County Planning Department in the manner described in Section 905, Map Amendment Application Procedure.

Conclusion: Criteria are met.

SECTION 902 AUTHORIZATION TO APPROVE OR DENY PROPOSED AMENDMENTS

The Planning Commission may approve, deny, or modify proposed Amendments to the Map or text of this Ordinance when such action is taken in accordance with the appropriate portions of Sections 903 through 907 of this Article.

Findings: The Baker County Planning Commission, in keeping with this authorization, recommends the Baker County Board of Commissioners approve and adopt this map amendment.

Conclusion: Criteria are met.

SECTION 903 STANDARDS FOR GRANTING AN AMENDMENT

To determine whether an Amendment shall be approved, denied or modified, the Commission shall find, in addition to the specific requirements in Sections 905, 906, and 907 of this Ordinance, that the proposal conforms with the County's Comprehensive Plan.

Findings:

Baker County Comprehensive Land Use Plan—Adopted 1983

1. According to information provided on page IX-5 of the Baker County Comprehensive Land Use Plan, "...*Appropriate zoning and policies encourage development at an abandoned sawmill site near Halfway and four unincorporated communities that support limited commercial activities.*"
2. On page II-37 of the Baker County Comprehensive Land Use Plan, the proposed parcel is identified as site #46 *West Pine* on the Index of Exceptions Areas. According to page II-18 of the Baker County Comprehensive Land Use Plan, *West Pine* is described as follows:

"Portions of the SE ¼ of Section 16 and the NE ¼ of Section 21, Township 8 South, Range 46 East, W.M. This area consists of approximately 50 acres of Class II-VI soils. It is located in a triangle of land bounded by State Highway 86 and the Cornucopia Highway. It consists of an abandoned sawmill with a related dwelling and buildings, an airstrip and other industrial properties. The City of Halfway is within one mile. The site is limited for intensive industrial development because it is surrounded by developed roads. It also lies within the Pine Creek floodplain. Nevertheless, the site may be used for some resource related industry. The County chooses to retain some flexibility for industrial siting in this area of the County. From 1974 to 1986, the referenced land was zoned A-2, which allowed agricultural and non-agricultural uses. It was acknowledged as an industrial zone in 1986. In 1993, a portion of the property was partitioned and conveyed to Baker County. The partitioned property is being developed as a Visitor Information Center in a collaborative effort of the County, the US Forest Service, the City of Halfway and various service organizations. Because of its limited value for industrial use, it is possible the site or a portion of it, will be rezoned for tourist/information/open space purposes in the future."

Staff Note: The parcels that are the subject of this map amendment application are currently an exception area in the Baker County Comprehensive Land Use Plan. These areas were approved as an exception from resource lands because of past use as an airport and mill site. Therefore, the proposal does not require an additional exception to be taken. Additionally, the map amendment proposal seeks to change the current zoning (Industrial) to a new zone based on the Limited Use Combining (LUC) Zone, which is an existing zone in the Baker County Comprehensive Land Use Plan.

Findings:

On March 26, 2009, the Baker County Planning Commission agreed that the Post Acknowledgement Plan Amendment (PAPA) request submitted by Ellingson Lumber Company conformed to the Baker County Comprehensive Land Use Plan and may encourage appropriate development on the parcel.

Conclusion: The Baker County Planning Commission made a recommendation of approval to the Baker County Board of Commissioners to change the zone of a 27.93+/- acre parcel from Industrial to the **Old Mill Limited Use Combining (OMLUC) Zone.** The requirements of the OMLUC Zone will be limited to those specified by the Baker County Board of Commissioners. The Planning Commission determined that the applicant's proposal conforms to the Baker County Comprehensive Land Use Plan as listed under BCZSO Sections 905, 906 and 907 of this report. **Criteria are met.**

SECTION 904 PUBLIC HEARING ON AMENDMENT

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court (Board of Commissioners) approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court (Board of Commissioners) shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-630.

Findings: The Post Acknowledgment Plan Amendment application submitted by Ellingson Lumber Company was deemed complete on February 27, 2009. The Baker County Planning Commission made a recommendation of approval to the Baker County Board of Commissioners 55 days after the amendment was proposed, in a public hearing held on March 26, 2009. The Baker County Board of Commissioners reviewed the Planning Commission's recommendation of approval in two public hearings on April 15, 2009 and May 6, 2009.

Conclusion: The Baker County Planning Commission made a recommendation of approval to the Baker County Board of Commissioners on March 26, 2009. The Baker County Board of Commissioners reviewed the Baker County Planning Commission's recommendation of approval in two public hearings conducted on April 15, 2009 and May 6, 2009, which is within 30 days of the Planning Commission's action on the request.

SECTION 905 MAP AMENDMENT APPLICATION PROCEDURE

The following procedure shall be followed when initiating an action for Amendment to the Map of this Ordinance.

A. The applicant shall submit a site plan to the Planning Department and discuss the property involved in the action and the development to be placed on the property if the Amendment is approved. This discussion is to assist the applicant in understanding the Amendment process and to review the

development proposal for conformance with the physical requirements of the Zoning and Subdivision Ordinance as early in the process as possible.

Findings:

The applicant submitted a site map and an application for zone change proposal on January 30, 2009. Baker County Planning Director and Planning Department staff met with the applicant to review the zone change proposal and site plan prior to the application being submitted. The applicant requests a zone change for a 27.93+/- acre parcel currently zoned Industrial to a new zone based on the Limited Use Combining (LUC) Zone. The applicant was approved to partition the 27.93+/- acre parcel (*see MnP-09-001*) into two parcels--a 10+/- acre parcel on the northern portion and a 17.93+/- acre parcel on the southern portion. Sag Creek provides a natural boundary between the northern and southern parcels. *See Exhibit "C"*

No development was proposed as part of this request. The parcels are large enough that setbacks should be met. One potential physical constraint is access, addressed later in this report. Additional physical constraints identified include the floodplain and wetlands.

Conclusion: The Baker County Planning Department met with the applicant on February 10, 2009, and discussed the Plan Amendment process and physical characteristics of the property in relation to potential future development although no development is currently proposed. **Criteria are met.**

B. The applicant and the Planning Department shall jointly complete an environmental review checklist provided by the Planning Department to survey environmental consequences of the proposed action.

Copies of the completed environmental review checklist will be circulated to other departments and affected agencies. Department comments will be attached to the original and will remain in the application file.

Findings: The applicant met with Planning Department staff on February 10, 2009 to jointly complete the environmental review checklist to survey environmental consequences of the proposed action. Copies of the environmental review checklist were circulated to other departments and affected agencies on February 12, 2009. Department comments will be attached to the original and will remain in the application file. A copy of the completed environmental review checklist, mailing list, and agency comments are attached to this report as Exhibits "D & E".

Conclusion: Criteria are met.

C. Impact Report: After response from the other departments and agencies, the Site Plan Review advisory committee will recommend to the Planning Commission whether or not the project has a significant effect on the environment and hence whether an environmental impact report of a negative declaration is appropriate.

Findings: On March 10, 2009, the Site Plan Review advisory committee reviewed the responses received from the Baker County Watermaster's Office and the Oregon Department of Transportation. The Site Plan Review advisory committee recommends to the Baker County Planning Commission that "*...an Environmental Impact Report of negative declaration is not necessary without a development proposal. Additional impacts could be possible that will require specific mitigation at the time of approval; therefore, additional information from the applicant regarding mitigation with the affected agencies may be required.*" The Site Plan Review advisory committee's response is included in this report as *Exhibit "F"*. No development was proposed as part of this zone change request.

Conclusion: The Baker County Planning Commission accepted the recommendations of the Site Plan Review advisory and concluded that an Impact Report and negative declaration are not required. **Criteria are met.**

D. If it is determined by the Planning Commission that an environmental impact report is required, the applicant shall be informed by mail that the report must be completed before the application can be considered. The applicant has 10 working days to appeal this requirement to the County Court (Board of Commissioners). If the environmental impact report is required, the mandatory time limit for action on the application shall be extended for the period of time necessary to prepare and adopt a satisfactory report.

Findings: The Baker County Planning Commission concluded that an Impact Report and negative declaration are not required.

Conclusion: **Criteria are not applicable.**

SECTION 908 RECORD OF AMENDMENTS

After filing the Amendment(s) with the County Clerk, the County Planning Department shall maintain records of Amendments to the text of the Ordinance and the Zoning Map.

Findings: If approved by the Baker County Commissioners, the Planning Department will be responsible for filing the amendment with the County Clerk. The Planning Department will then maintain records of the amendment to the zoning map.

Conclusion: If recommended by the Baker County Planning Commission and approved by the Baker County Commissioners, the Baker County Zoning and Subdivision Ordinance (BCZO) and the Baker County Zoning Map will identify Tax Lot 200 of Section 21A in Township 8 South, Range 46 East, W.M., Baker County, Oregon (08S4621A TL 200 Ref. 13532), a total of 27.93+/- acres as the **OLD MILL LIMITED USE COMBINING (OMLUC) ZONE**. The zone will read as follows:

OLD MILL LIMITED USE COMBINING ZONE

❖ Northern Portion of Tax Lot 200 (10.52+/- acres)

• Permitted Uses:

- A. Single Family Dwellings—no more than two (2) dwellings on northern portion (10.52+/- acres).
- B. Farm uses, except for feedlots and sales yards, subject to livestock concentration limitations found in Article 4, Section 407 of this Ordinance.
- C. Home Occupations

❖ Southern Portion of Tax Lot 200 (18.04+/- acres)

• Permitted Uses (with a Baker County approved site plan):

- A. Service Stations
- B. Welding or Machine Shop

- C. Storage and Processing of Agricultural Products
 - D. Public Use Buildings or use: A structure or use intended or used for public purpose by a city, a school district, the County, the State or by any other public agency or public utility. This does not include landfill sites, garbage dumps or utility facilities.
 - E. Convenience Stores
 - F. Public or Private Parks or Playgrounds
 - G. Manufacturing, compounding, fabricating, processing, repairing, and packaging. Such uses must be conducted within enclosed buildings with the exceptions of parking and loading/unloading. Raw and finished materials may be stored outside.
 - H. Processing, manufacturing, sorting, storing and warehousing of wood products.
- **Conditional Uses (Subject to Planning Commission review):**
 - A. Local distribution utility facilities as defined in Section 108 (B) of the Baker County Zoning and Subdivision Ordinance.
 - B. Watchman's Quarters
 - C. Quarters/Temporary Housing in Conjunction with Industrial Use
 - D. Any processing, storage or manufacturing which emits odors, fumes, gases or treated water, including the storage of hazardous materials.
 - E. Commercial Dwellings: a dwelling designed or intended to serve or accommodate one or more transient or traveling persons such as hotels, motels, vacation lodges and others of a similar nature.
 - F. Travel Trailer Parks and RV Parks: An area used primarily for siting recreational vehicles/trailers for overnight/temporary camping purposes. A recreational vehicles park is more developed than a campground, with electrical hookups, and cleared/paved areas for placement of the recreational vehicles. *See also Campground Section 108(B).*
 - G. Utility Facilities, including power generation.

Oregon Administrative Rules

OAR 660-012-0060

Plan and Land Use Regulation Amendments

(1) Where an amendment to a 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 function, 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 or 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; or
 - (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.

Findings:

1(a) According to the Baker County Transportation System Plan, dated June 30, 2005, Sawmill Cutoff Lane and Pine Town Spur 12 are identified as *collector roads* and Oregon Highway 86 is identified as a *state highway* under the functional classification system.

The volume to capacity ratio is between 0.00 and 1.00. A value of 0.00 indicates no traffic, and a value of 1.00 indicates that the entire capacity of the roadway is utilized (page 4-1 BCTSP). The Highway Capacity Manual documents the level of service on a scale of LOS 'A' to LOS 'F'. LOS 'A' indicates that drivers experience no delay or relatively low amounts of delay, and LOS 'F' indicates that conditions beyond the existing intersection capacity are occurring (page 4-1 BCTSP).

The Baker Transportation System Plan Table 4-2 identifies the existing level of service for OR 86/Halfway Spur/Pine Town Road as 'A' with a high volume to capacity ratio of '0.04'. Table 5-3 of the BCTSP projects the year 2025 high volume capacity ratio of '0.05' with a level of service rating of 'A'. The level of service standard for unsignalized intersections in Baker County has been set at LOS 'D'.

On page 5-10 of the Baker County Transportation System Plan, the Year 2025 growth projection and Level of Service for OR 86/Halfway Spur/Pine Town Road is projected at a high v/c of 0.05 v/c (volume to capacity ratio) with an 'A' Level of Service (LOS) rating and is not identified as a projected future deficiency. According to the Baker County Transportation System Plan, the Halfway Spur/Pine Town Road will remain classified as a *collector road* and is not projected to increase to an *arterial road* classification in the future. The Baker County Planning Commission and the Board of Commissioners concluded that because the parcel will remain in industrial use, and by implementing the Conditional Use review process for most uses as part of the new zone, the proposed zone change would not change the functional classification of the existing or planned transportation facility. The Baker County Planning Commission and the Board of Commissioners concluded that by implementing the Conditional Use process as part of the new zone, additional safeguards could be put into place if needed at the time of any future development.

1(b) The Baker County Planning Commission and the Baker County Board of Commissioners concluded that by taking into consideration the Year 2025 projected volume to capacity ratio rating (0.05 v/c) and the Level of Service rating (A) for the Halfway Spur/Pine Town Road, the possible addition of one single-family dwelling on the northern portion of the parcel and the proposed uses in the Old Mill Limited Use Combining (OMLUC) Zone for the southern portion of the parcel would not change the current functional classification system or the performance standards of the existing or planned transportation facilities. In addition, the Baker County Planning Commission and the Baker County Board of Commissioners

concluded that by implementing the Conditional Use review process as part of the new zone, additional safeguards could be put into place (*See page 5-10 of the BCTSP*). The standards implementing a functional classification system will not change.

1(c)(A) According to the Baker County Transportation System Plan, *Where a state highway intersects with a local road or street, the volume to capacity ratio for the state highway shall apply (TSP 4-3)*. Table 4-2, page 4-5 of the Baker County Transportation System Plan identifies the volume to capacity ratio for OR 86/Halfway Spur/Pine Town Road at 0.04 or below for the A.M. peak hour and 0.04 or below for the P.M. peak hour. Table 5-3, page 5-10 identifies the projected volume to capacity ratio for OR 86/Halfway Spur/Pine Town Road at 0.05 or below for the A.M. peak hour and 0.04 or below for the P.M. peak hour. The Baker County Transportation System Plan (page 4-2) confirms that *for district highways and local interest roadways, the maximum acceptable v/c ratio is... 0.75 along rural lands*. Information provided in the Baker County Transportation System Plan, page 4-3, from the 1999 Oregon Highway Plan reveals that *traffic operations at the study area intersections in unincorporated Baker County are all acceptable*. In addition, *all of the major study intersections along ODOT highways operate within the maximum v/c ratio standard (TSP 4-10)*.

Considering the information found in the Baker County Transportation System Plan, Sections 4.0 and 5.0, and Tables 4-2 and 5-3, the Baker County Planning Commission concluded that proposed zone change will not worsen or increase levels of travel or access that are inconsistent with the functional classification of the existing transportation facilities (*collector road, State Highway*) because the industrial use of the parcel is not being changed and by implementing the Conditional Use review process as part of the new zone, additional safeguards could be put into place. In addition, the year 2025 v/c ratio for OR 86/Halfway Spur/Pine Town Road is projected to remain at 0.05 or below which is well below the maximum acceptable v/c ratio of 0.75 for rural lands.

1(c)(B) The Baker Transportation System Plan Table 4-2 identifies the existing level of service for OR 86/Halfway Spur/Pine Town Road as 'A' with a high volume to capacity ratio of '0.04'. Table 5-3 of the BCTSP projects the year 2025 high volume capacity ratio of '0.05' with a level of service rating of 'A'. The level of service standard for unsignalized intersections in Baker County has been set at LOS 'D'. According to this information, OR 86/Halfway Spur/Pine Town Road is projected to function at a positive performance level ('A') through the year 2025, well above the level of service standard ('D') set for unsignalized intersections in Baker County.

The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the proposed zone change would not reduce the level of service below the minimum acceptable performance standard identified in the TSP because the transportation facilities are rated at an LOS 'A'—and the future level of service for year 2025 is projected as LOS 'A'. The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the industrial use of the parcel would not be changed by the proposed zone change. By implementing the Conditional Use review process as part of the new zone, the Baker County Planning Commission and the Baker County Board of Commissioners concluded that additional safeguards could be put into place.

1(c)(C) The volume to capacity ratio is between 0.00 and 1.00. A value of 0.00 indicates no traffic, and a value of 1.00 indicates that the entire capacity of the roadway is utilized (page 4-1 BCTSP). The Highway Capacity Manual documents the level of service on a scale of LOS 'A' to LOS 'F'. LOS 'A' indicates that drivers experience no delay or relatively low amounts of delay, and LOS 'F' indicates that conditions beyond the existing intersection capacity are occurring (page 4-1 BCTSP).

The Baker Transportation System Plan Table 4-2 identifies the existing level of service for OR 86/Halfway Spur/Pine Town Road as 'A' with a high volume to capacity ratio of '0.04'. Table 5-3 of the BCTSP projects the year 2025 high volume capacity ratio of '0.05' with a level of service rating of 'A'. The level of service standard for unsignalized intersections in Baker County has been set at LOS 'D'. According to the BCTSP, these transportation facilities are not identified as a projected future deficiency.

The Baker County Planning Commission and the Baker County Board of Commissioners concluded the transportation facility is not projected to perform below the minimum acceptable performance standard as the current level of service is rated as LOS 'A' and the future level of service for year 2025 is projected as LOS 'A'. In addition, the year 2025 v/c ratio for OR 86/Halfway Spur/Pine Town Road is projected at 0.05 or below which is well below the maximum acceptable v/c ratio of 0.75 for rural lands.

Conclusions: The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the proposed zone change request and the proposed uses contained therein **would not significantly effect** the existing or planned transportation facilities (OR 86/Halfway Spur/Pine Town Road). In addition, the Baker County Planning Commission and the Baker County Board of Commissioners concluded that by implementing the Conditional Use review process as part of the new zone, additional safeguards could be put into place. The Baker County Board of Commissioners reviewed the Planning Commission's recommendation of approval in two public hearings on April 15, 2009 and May 6, 2009 and approved PA-09-001 for Ellingson Lumber Company on May 6, 2009.

(2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

Findings: The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the proposed zone change and uses would not have a significant effect on the existing or planned transportation facilities (OR 86/Halfway Spur/Pine Town Road) according to the criteria found in the Baker County Transportation System Plan, written information received from the Baker County Roadmaster's office and ODOT, and the findings and conclusions listed in this report.

Conclusions: Criteria do not apply.

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:

(a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;

(b) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;

(c) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;

(d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(e) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.

Findings: According to the Baker County Transportation System Plan, Sawmill Cutoff Lane and Pine Town Lane are collector roads. The Transportation System Plan identifies the Baker Homestead Highway as a State Highway.

The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the proposed zone change request and the proposed uses contained therein **would not significantly effect** the existing or planned transportation facilities (OR 86/Halfway Spur/Pine Town Road) because the facility is currently functioning well above the minimum performance standard and is not projected to decrease by the year 2025 (the end of the planning period identified in the Baker County TSP).

Conclusion: Criteria do not apply.

(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district

has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Not applicable

(d) Not applicable

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

Findings:

4(a) The Baker County Planning Commission and the Baker County Board of Commissioners reviewed Sections 4, 5 and 7 of the Baker County Transportation System Plan and concluded that the proposed zone change request and the proposed uses contained therein **would not significantly effect** the existing or planned transportation facilities (OR 86/Halfway Spur/Pine Town Road) because the facilities are currently functioning well above the minimum performance standard and are not projected to increase to a higher standard by the year 2025 (the end of the planning period identified in the Baker County TSP). Planned improvements—*see section 4(b)(A)*.

4(b)(A) According to the 2008-2011 Statewide Transportation Improvement Program, no development or improvements are scheduled for the transportation facilities located near the parcel.

Rick Holden, Assistant Roadmaster for Baker County submitted a letter dated March 19, 2009 that verified the Road Department currently has no planned improvements to either Sawmill Cutoff Lane or Pine Town Lane. Mr. Holden stated that Pine Telephone currently holds Road Department permits for the installation of new fiber optic lines on both of these roads with work to be done during the April to November 2009 construction season. *See Exhibit "E"*

4(b)(B) According to the 2008-2011 Statewide Transportation Improvement Program, no development or improvements are scheduled for the transportation facilities located near the parcel.

Rick Holden, Assistant Roadmaster for Baker County submitted a letter dated March 19, 2009 that verified the Road Department currently has no planned improvements to either Sawmill Cutoff Lane or Pine Town Lane. Mr. Holden stated that Pine Telephone currently holds Road Department permits for

the installation of new fiber optic lines on both of these roads with work to be done during the April to November 2009 construction season. *See Exhibit "E"*

4(b)(C) Baker County is not a participating organization in a metropolitan planning organization area.

4(b)(D, E) According to the 2008-2011 Statewide Transportation Improvement Program, no development or improvements are scheduled for the transportation facilities located near the parcel.

A letter from Michael Buchanan, District 13 Manager of the Oregon Department of Transportation, was submitted to the Baker County Planning Department on March 4, 2009. The letter stated that ODOT might require a Traffic Impact Study to determine any potential transportation impacts and mitigation. ODOT also requests that the applicant coordinate with DLCD to demonstrate compliance with Goal 12. No planned improvements were mentioned in this letter.

Rick Holden, Assistant Roadmaster for Baker County submitted a letter dated March 19, 2009 that verified the Road Department currently has no planned improvements to either Sawmill Cutoff Lane or Pine Town Lane. Mr. Holden stated that Pine Telephone currently holds Road Department permits for the installation of new fiber optic lines on both of these roads with work to be done during the April to November 2009 construction season. *See Exhibit "E"*

The Baker County Planning Commission and the Baker County Board of Commissioners reviewed the Baker County Transportation System Plan Table 4-2 and concluded that according to the information provided in the TSP, the transportation facilities are functioning well below the threshold and that the uses proposed as part of the Old Mill Limited Use Combining (OMLUC) Zone that have the potential to increase traffic levels are designated as Conditional Uses which requires a review by the Baker County Planning Commission and additional safeguards could be put into place.

4(c) Not applicable

4(d) Not applicable

4(e) Prior to the March 26, 2009 Planning Commission public hearing, information provided to the Baker County Planning Department from ODOT and the Baker County Road Department did not identify the transportation facility as a planned transportation facility, improvement or service.

Conclusions: The Baker County Planning Commission and the Baker County Board of Commissioners concluded that the proposed zone change request and the proposed uses contained therein **would not significantly effect** the transportation facilities (OR 86/Halfway Spur/Pine Town Road) according to the information provided in the Baker County Transportation System Plan and written comments submitted prior to the March 26, 2009 Planning Commission hearing by the Baker County Roadmaster and ODOT. In addition, the Baker County Planning Commission and the Baker County Board of Commissioners concluded that by implementing the Conditional Use review process as part of the new zone, additional safeguards could be put into place.

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028. (*OAR 660-004-0022 & 0028 are for the exception process.*)

Findings: No exception is proposed as part of this zone change request.

Conclusions: The proposed amendment does not require a goal exception. **Criteria do not apply.**

(6) Not applicable

(7) Not applicable

V. SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

Therefore, based on the information contained in Sections I, III, IV and VI of this report, the above review criteria, findings of fact and conclusions, and the Baker County Planning Commission's recommendation, the Baker County Board of Commissioners **ADOPT** this Plan Amendment request, PA-09-001 to amend the Baker County Comprehensive Land Use Plan map and the Baker County Zoning and Subdivision Ordinance map to change the existing zone of Industrial (I) of the above described property to the **OLD MILL LIMITED USE COMBINING (OMLUC) ZONE**.

VI. CONDITIONS OF APPROVAL

- 1) A record of all amendments must be filed with the Baker County Clerk.
 - 2) The Planning Department shall maintain a record of the amendment to the zoning map.
-

VII. EXHIBITS

- | | |
|-------------|---|
| Exhibit "A" | Tax Lot Map |
| Exhibit "B" | Proposed Minor Partition Map |
| Exhibit "C" | Applicant Letter |
| Exhibit "D" | Environmental Review Checklist and Mailing List |
| Exhibit "E" | Agency Response Letters |
| Exhibit "F" | Site Plan Review Comments |
| Exhibit "G" | BCZO Industrial Zone |

EXHIBIT B

Tax Lot 200 in Section 21A of Township 8 South,
Range 46 East, W.M., Baker County, Oregon

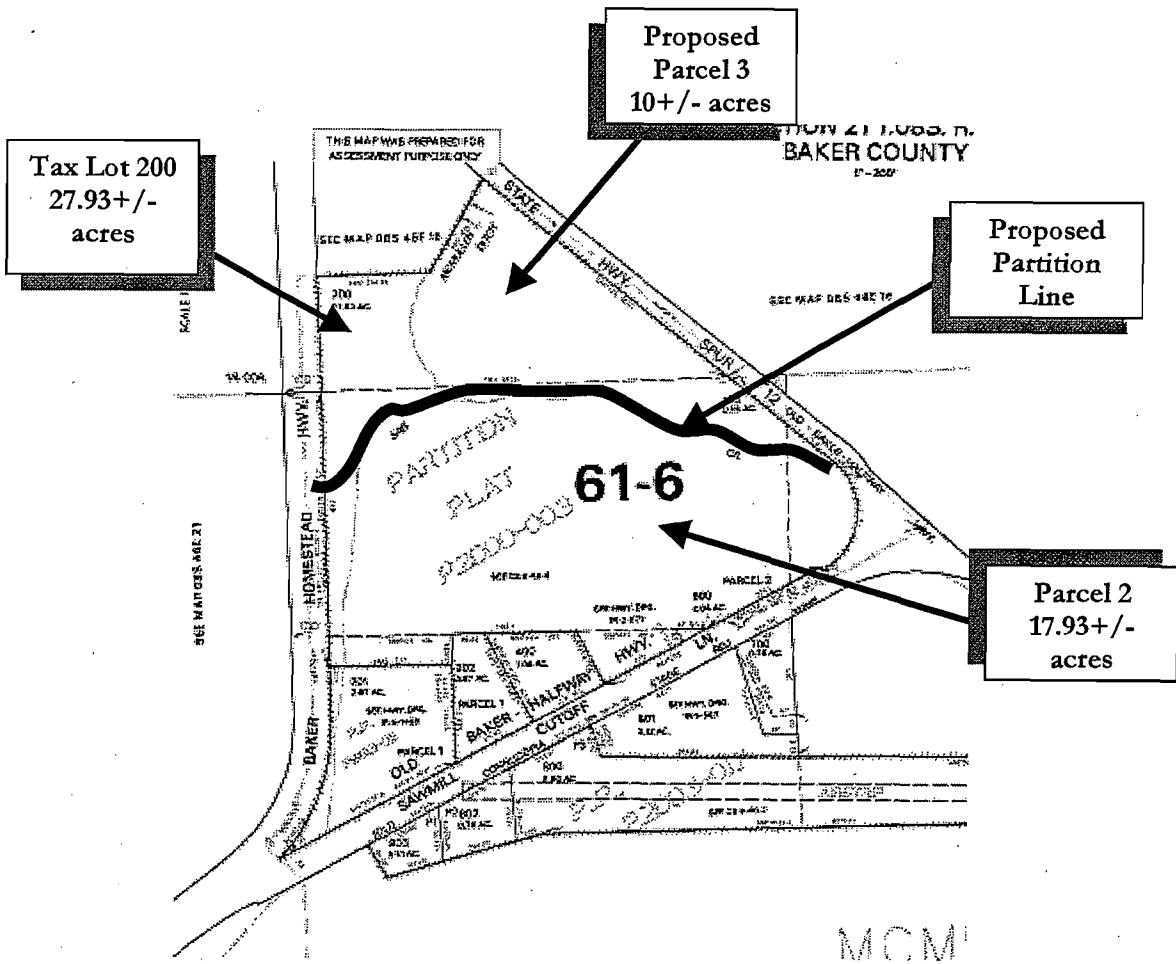


EXHIBIT C

**ELLINGSON
LUMBER CO.**



P.O. BOX 866
BAKER CITY, OREGON 97814
PHONE: 541-523-4404 - FAX: 541-523-7669

January 20, 2009

Mr. Mark Bennet
Baker County Planning Department
Baker County Court House
1995 Third Street
Baker City, OR 97814

Subject: Map 08S 46E 21A, Tax Lot 200

Dear Mark:

Ellingson Lumber Co. owns the above mentioned property near Halfway, Oregon. The parcel consists of 27.93 acres, effectively divided into two pieces by Sag Creek. The property has been in our ownership since the 1960's and is zoned industrial, 61-06. The southern portion was the location of our sawmill and log storage until we closed the facility in 1972. Subsequent to the closing and dismantling of the mill we filled the log pond and leveled the area. At this point the only remaining structures are the wigwam burner and office/shop building on the southern portion and the old manager's residence on the northern portion.

Since the mill closure, we have partitioned the southern property into a 2.67 acre parcel (Tax Lot 201) donated to the county for a tourist kiosk and a 0.97 acre parcel (Tax Lot 202) sold to the Panhandle Snomobile Club for their groomer and equipment storage. A good part of the southern portion has been stabilized with rock to facilitate heavy equipment movement during the mill operations.

The northern portion, containing the old manager's residence, is basically pasture land. It is approximately 10 acres in size as determined by our surveyor using a digitalizing process of the plat map.

Our desire is to divide this parcel into two pieces, north and south, using Sag Creek as the boundary. In addition, we would like to change the zoning on the northern portion to Rural Residential 5. It is our intention to sell both pieces as they are no longer included in our long range planning. In the past we have had purchasers interested in each area, north and south, but not both as a package.

EXHIBIT C

Mark Bennet
January 20, 2008
Page 2

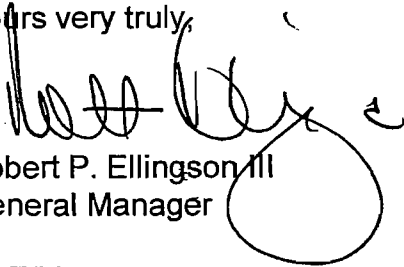
In our view, the northern portion does not lend itself to industrial development. It is effectively much more suited to agricultural endeavors and residential use as that has been the tradition. In contrast, the southern portion has been in industrial use and substantial work has been done to make it more suited for that purpose. Even though the parcels are adjacent, there is no way to get from one to the other without going out on to Sawmill Cutoff Lane and driving around via the Old Baker Halfway Highway, also known as Oregon State Highway Spur 12.

In visiting with a person in your office, I was told that the zone change process was quite lengthy and I had the feeling that she was trying to discourage me from attempting such. We have not had that experience with zone changes in Baker City. However, if that is the case, at a minimum, we would like to divide the property using Sag Creek as the proposed boundary.

I realize that Halfway may not have a great deal of industrially zoned property. However, by removing the northern portion of Tax Lot 200, there would still remain over 17 acres which I think is adequate. After all, the property has been vacant for 35 years and we have received very little genuine interest in utilizing it other than temporarily for forest fire mobilization or equipment storage.

I would appreciate the opportunity to discuss this matter with you at your earliest convenience.

Yours very truly,



Robert P. Ellingson III
General Manager

RPE/hh

encl

EXHIBIT D

Environmental Review Checklist

This checklist is to help planning officials, agency officials, and the Planning Commission determine what environmental impact a proposed change/development will have. Planning Department Staff and the Applicant complete the checklist jointly, in accordance with the provisions of the Baker County Zoning and Subdivision Ordinance.

Applicant: Ellingson Lumber Co.

Application Type: Post Acknowledgement Plan Amendment to the Baker County Comprehensive Plan, Zone Change from Industrial (I) to Limited Use Combining (LUC) Zone.

Application # PA-09-001

Proposed Development: No development proposed as part of this request.

Comments are due by: Wednesday, March 4, 2009

Location: Halfway, Oregon

Impact Criteria	Yes	No	Uncertain	Not Applicable	Comments
Hydrology:					
Affect watershed?		XX			
Alter storm water drainage pattern?		XX			
Affect downstream areas?		XX			
Change in the quality or quantity of groundwater supply?		XX			
Alter surface water quality?		XX			
Potential for accidental spills of hazardous or toxic material near body of water?		XX			
Construction in floodplains or wetlands?		XX			

Hydrology Summary: Because the proposed zone would allow uses similar to those currently allowed in the existing Industrial Zone, the proposed zone change isn't likely to impact hydrology. No development was proposed as part of the zone change request and any future development issues pertaining to hydrology would be mitigated through compliance with the Baker County Flood Zone Ordinance 88-2 and by obtaining appropriate permits from DSL for any development on wetlands.

Geologic:	Yes	No	Uncertain	Not Applicable	Comments
Affect erosion potential (either on or off site)?		XX			
Stability?		XX			
Bearing qualities of the soil?		XX			
Geologic formation?		XX			
Is the area suitable for septic system(s)? (A DEQ Site Evaluation may be necessary to show this.)	XX				There is a septic system and drainfield used for the existing dwelling, located on the northern portion of the parcel, that was replaced in the 1990's.

Atmospheric:	Yes	No	Uncertain	Not Applicable	Comments
Effect due to local circulation patterns?		XX			
Prevailing winds?		XX			
Condition up or down wind that could be impacted by the proposed development?		XX			
Affect air quality?		XX			
Create objectionable odors?		XX			
Introduce smoke, dust, or suspended particles into the air?		XX			
Particulate/dust migration beyond facility/property boundaries?		XX			
Increase noise levels?		XX			

Atmospheric Summary: Because the proposed zone would allow uses similar to those currently allowed in the existing Industrial Zone, the proposed zone change isn't likely to impact the atmosphere due to the fact the uses in the proposed zone are similar to the uses allowed in the current zone (Industrial) and no development was proposed as part of the request.

Economic Considerations:	Yes	No	Uncertain	Not Applicable	Comments
Economic impact on schools?		XX			<i>See Summary Below</i>
On Fire Districts?		XX			
Water Districts?		XX			
Sewer Districts?		XX			
Law Enforcement?		XX			
Emergency Services?		XX			
Any other jurisdiction?		XX			
Tax rate of the tax code?			XX		

Economic Considerations Summary: Because the proposed zone would allow uses similar to those currently allowed in the existing Industrial Zone, the proposed zone change may have a positive influence on the economy of Halfway, Oregon by providing increased opportunities for economic development and opportunities for uses that do not exist with the current zone (Industrial). The Planning Department and the applicant determined that the proposed zone change would not have any negative economic impacts due to the recessed economy of Halfway, Oregon and the increased potential to provide additional jobs and income for the area by providing additional uses in the proposed zone. Future development may influence the tax code, but it can't be determined how at this time.

Infrastructure Impacts:

◆ **What method will be used to deliver the following services to the proposed development:**

- *Water: No development was proposed as part of the zone change request. Any future development on the parcel will require a well for domestic or commercial water use.*
- *Sanitary Waste Treatment: No development was proposed as part of the zone change request. Any future development on the parcel will require a DEQ approved onsite septic system.*
- *Storm Water Collection: No development was proposed as part of the zone change request. At the time any future development may occur, a storm water collection facility may be required based upon the type of development and the permitting process required for the development.*

◆ **Please list here any additional impact the proposed development may have:**

No development is proposed as part of the zone change request.

Conclusion:

- 1) Does the project have the potential to degrade the quality of the environment, or curtail the diversity in the environment?

Yes [No] Uncertain

- 2) Does the project have the potential for cumulative impacts on environmental quality?

Yes [No] Uncertain

- 3) Does the project have environmental effects which will cause substantial adverse effects to humans either directly or indirectly?

Yes [No] Uncertain

- 4) Is there potential for an already poor environment being further degraded?

Yes [No] Uncertain

- 5) Is there potential for an environment close to its natural condition being degraded?

Yes [No] Uncertain

- 6) Will this action adversely affect threatened or endangered species (or critical habitat), significant archeological resources, National Register eligible historical sites, or other statutorily protected resources?

Yes [No] Uncertain

EXHIBIT D

OWNER	ADDLINE_2	CITYSTATE	ZIP
OR Dept of Fish & Wildlife	2995 Hughes Lane	Baker City, OR	97814
OR Dept of Land Cons & Dev/Jon Jinings	888 NE Hill Street, Suite 3	Bend, OR	97701
OR Dept of Land Cons & Dev	635 Capitol; ST NE	Salem, OR	97301-2540
OR Dept of Transportation/Mike Berry	3014 Island Ave.	LaGrande, OR	97850
OR Dept. of Transportation/District 14	1390 SE 1st Ave	Ontario, OR	97914
ODANatural Resources Div./Jim Johnson	635 Capitol Street NE	Salem OR	97301
USFS Whitman Unit	P.O. Box 907	Baker City, OR	97814
OR Division of State Lands	1645 NE Forbes Road, Suite 11	Bend OR	97701
Pine Valley Rural Fire District	P.O. Box 452	Halfway, OR	97834
State Fire Marshall / Richard Smith	325 NE Goodfellow Street	Ontario, OR	97914
Baker County Weed Department			
Baker County Road Department			
Baker County Watermaster's Office			
Baker County Sheriffs Department			
Oregon Dept. Environmental Quality	700 SE Emigrant, #330	Pendleton, OR	97801
Idaho Power	PO Box 70	Boise, ID	83707
County Fire Gary Timm	1616 Second Street	Baker City, OR	97814
1000 Friends of Oregon	534 SW 3rd Ave, Suite 300	Portland, OR	97204



EXHIBIT E

1995 Third Street
Baker City, Oregon 97814

February 23, 2009

Baker County Planning Department
Attn: Lauri Hoopes

RE: Ellingson Lumber Co.

There are a couple of concerns with regards to the Watermaster's office. The piece of property has a surface water right for irrigation, domestic and stock. The source of water is from Pine Creek and has a priority date of 1885.

The property also has a ground water right from a well for sprinkling log deck, maintenance of log pond, and fire protection. If this proposal goes through and they would like to use the well they would need to transfer the character of use to commercial or multi-use.

A point to consider is the 5 years of consecutive non use. If the well or surface water has not been used for 5 consecutive years or more then it could be subject to forfeiture and could be cancelled. We currently have no information regarding this non use but information could arise in the future.

Mary Hayes
Asst. Watermaster
2-23-09



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
District 13
3014 Island Avenue
La Grande, OR 97850
(541) 963-8406
FAX (541) 963-0249

March 4, 2009

VIA FACSIMILE: 541-523-8352

Lauri Hoopes
Baker County Department of Planning
1995 Third Street
Baker City, Oregon 97814

Re: Proposed Zone Change from 27.93+/- acres known as Tax lot 200 in Section 21A if T&S, 46E, W.M., Baker County, Oregon, based on the Limited Use Combining Zone

Dear Ms. Hoopes:

The Oregon Department of Transportation (ODOT) has reviewed the above referenced notice. The subject tax lot is adjacent to Oregon Highway 012 (OR 86). ODOT has jurisdiction of this transportation facility. The applicant's use of the property is subject to state laws administered by ODOT, which require the applicant(s) to obtain access permits to carry out the intended use of the property. The subject tax is also adjacent to Pine Town Lane and Sawmill Cutoff Lane, both county roads. These county roads provide reasonable alternate access as defined in OAR 734-051-0080 to the subject parcel, therefore access to Hwy 012 (OR 86) is not likely, however, the applicant does have the right to apply. ODOT may require a Traffic Impact Study to determine any potential transportation impacts and mitigation.

ODOT also requests that the applicant coordinates with DLCD to demonstrate compliance with Goal 12.

Thank you again for the opportunity to review and comment on this proposal. Please enter this letter into the record of the proceedings. Also, please provide me with a copy of the decision.

ODOT would welcome the opportunity to discuss the access further if necessary. Thank you for coordinating notice.

Respectfully,

A handwritten signature in black ink that reads "Michael R. Buchanan".

Michael R. Buchanan
District 13 Manager

MRB:lmh

Cc: Tom Kuhlman, Traffic
Cheryl Jarvis-Smith, Planning
Brad Payton, TMM Baker

**BAKER COUNTY
ROAD
DEPARTMENT**

KEN HELGERSON
ROADMASTER

RICK HOLDEN
ASSISTANT ROADMASTER

TERRY MILLER
Shop Foreman

3050 AE@ STREET

KATHY HOGGE
Management Asst.

BAKER CITY, OREGON 97814

PHONE (541) 523-6417

FAX (541) 523-8233

Email:

bcroad@bakercounty.org

March 19, 2008

Baker County Planning
1995 Third St.
Baker City, Oregon

The Baker County Road Department currently has no planned improvements to either Sawmill Cutoff Lane or Pine Town Lane.

Pine Telephone currently holds Road Department permits for the installation of new fiber optic lines on both of these roads with work to be done in this construction season (April – November).

Rick Holden
Assistant Roadmaster

EXHIBIT F

*Baker County Department of Planning
& Community Development*
1995 Third Street, Baker County, Oregon 97814
Phone: 541-523-8219; Fax: 541-523-5925

March 12, 2009

Ellingson Lumber Company
PO Box 866
Baker City, Oregon 97814

RE: Environmental Impact Review Committee Comments

Dear Mr. Ellingson,

The Site Plan Review Advisory Committee has reviewed your application, the Environmental Review Checklist and the comments received from the Oregon Department of Transportation and the Baker County Watermaster's Office regarding your request for a Post Acknowledgement Plan Amendment and Zone Change, in conformance with Section 905 (C) of the Baker County Zoning and Subdivision Ordinance.

BCZSO Section 905 (C) reads as follows:

C. Impact Report: After response from the other departments and agencies, the Site Plan Review advisory committee will recommend to the Planning Commission whether or not the project has a significant effect on the environment and hence whether an environmental impact report of a negative declaration is appropriate.

The Site Plan Review Advisory Committee believes that your proposal for Tax Lot 200 in Section 21A of Township 8 South, Range 46 East, W.M., Baker County, Oregon to change the zoning from Industrial (I) to a new zone based on the Limited Use Combining (LUC) Zone has the potential to promote positive economic development opportunities for the community of Halfway, Oregon.

After a review of the Environmental Review Checklist and the related comments submitted to the Baker County Planning Department, the Site Plan Review Advisory Committee has determined that your proposal for a zone change will have minimal effect on the environment and will recommend to the Baker County Planning Commission that an Environmental Impact Report of negative declaration is not necessary without a development proposal. Additional impacts could be possible that will require specific mitigation at the time of approval; therefore, additional information from you regarding mitigation with the affected agencies may be required.

Comments received by the Baker County Planning Department include responses from the Oregon Department of Transportation and the Baker County Watermaster's Office. The Oregon Department of Transportation verified that Tax Lot 200 is adjacent to Oregon Highway 012 (Hwy 86) and that ODOT has jurisdiction over this transportation facility. Any development on Tax Lot 200 shall be subject to the state laws administered by ODOT that may require the applicant to obtain access permits. A Traffic Impact Study may be necessary to determine any potential transportation impacts. The Baker County Planning Commission and the Baker County Board of Commissioners will review the concerns addressed by the Oregon Department of Transportation and mitigation may be warranted now or at the time of development as a Condition of Approval.

EXHIBIT F

The Baker County Watermaster's Office stated Tax Lot 200 has a surface water right for irrigation, domestic and stock. The source of water is from Pine Creek and has a priority date of 1885. In addition, the parcel also has a ground water right from a well for sprinkling log decks, maintenance of a log pond, and fire protection. In the event the proposed zone change is approved, the applicant would need to transfer the character of use to a commercial or multi-use if use of the well is required. If the well or surface water has not been used for five consecutive years or more, the well or surface water could be subject to forfeiture and may be cancelled. The Baker County Planning Commission and Baker County Board of Commissioners will review the information submitted by the Baker County Watermaster's office and may establish requirements for compliance as Conditions of Approval.

If you have any questions or concerns regarding the preceding information, please feel free to contact the Baker County Planning Department at 541-523-8219.

Sincerely,

Lauri Hoopes, Planner

Exhibits

Exhibit "A"	Copy of Environmental Review Checklist
Exhibit "B"	Letter from ODOT
Exhibit "C"	Letter from Baker County Watermaster's Office

EXHIBIT G



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ARTICLE 3: USE ZONES

SECTION 314.01 PERMITTED USES

In the I Zone the following uses and their accessory uses shall be permitted outright.

- A. Manufacturing, compounding, fabricating, processing, repairing, packaging, storage and warehousing.
- B. Farming.
- C. Farm, truck and heavy equipment sales and service.
- D. Truck terminal.
- E. Welding and machine shop.
- F. Utility facilities including local distribution utility facilities as defined in Section 108 (B) and 108.
- G. Metallic and non-metallic mineral recovery, processing and storage.
- H. Storage and processing of agricultural products.



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ARTICLE 3: USE ZONES

SECTION 314.02 CONDITIONAL USES

In the I Zone the following uses may be permitted subject to the requirements of Subsection 314.03 of this Section.

- A. Watchman's quarters.
- B. Any process, storage or manufacturing which emits odors, fumes, gases or treated liquids.
- C. Wrecking/Junk Yard.
- D. Livestock feedlots and sales yards.
- E. Quarters/temporary housing in conjunction with industrial use.



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ARTICLE 3: USE ZONES

SECTION 314.03 CRITERIA FOR CONDITIONAL USE

In addition to the requirements of Article 6 of this Ordinance, those Conditional Uses listed in Subsection 314.02 of this Section must meet the following criteria, if applicable.

- A. State and federal agencies concerned with the emissions which are proposed must be notified and shall be involved if they wish in the planning of the proposal.

- B. The proposed use must be able to control the emissions to the extent that adjacent property is not substantially inhibited from being utilized for its designated purpose.



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ARTICLE 3: USE ZONES

SECTION 314.04 LIMITATIONS ON USES

In addition to Subsection 314.03 of this Section, the uses of this Section 314 shall be subject to a development proposal. A plan which proposes the use for the property shall be submitted to the Planning Office. The development proposal (plan) process shall be utilized to determine the lot size necessary to accommodate the proposed use. Particular attention shall be given to providing septic service, parking, and access. Land in the I Zone shall not be divided or developed without an approved development proposal. Because of the significance of mineral and aggregate resources found at the two Oregon Portland Cement sites and the Northeast Baker-Frontage Road site, respectively, any industrial development within these sites shall not jeopardize the removal and processing of the resource (see policy 30, page V-82, of Comprehensive Plan).

EXHIBIT H

PLAN AMENDMENT AND ZONE CHANGE

Date: February 3, 2009

Applicant: Ellingson Lumber Co.
PO Box 866
Baker City, Oregon 97814

Application: PA-09-001

Parcel Description: Tax Lot 200 in Section 21A of Township 8 South,
Range 46 East, W.M., Baker County, Oregon

Site Address: 38350 Sawmill Cutoff Lane
Halfway, Oregon

Proposed Zone for 27.93+/- acres known as Tax Lot 200 in Section 21A of Township 8 South, Range 46 East, W.M., Baker County, Oregon, based on the Limited Use Combining Zone as follows:

❖ **Northern Portion of Tax Lot 200 (10.52+/- acres)**

• **Permitted Uses:**

- A. Single Family Dwellings—no more than two (2) dwellings on northern portion (10.52+/- acres).
- B. Farm uses, except for feedlots and sales yards, subject to livestock concentration limitations found in Article 4, Section 407 of this Ordinance.
- C. Home Occupations

❖ **Southern Portion of Tax Lot 200 (18.04+/- acres)**

• **Permitted Uses (with a Baker County approved site plan):**

- A. Commercial Dwellings: a dwelling designed or intended to serve or accommodate one or more transient or traveling persons such as hotels, motels, vacation lodges and others of a similar nature.
- B. Service Stations
- C. Travel Trailer Parks and RV Parks: An area used primarily for siting recreational vehicles/trailers for overnight/temporary camping purposes. A recreational vehicles park is more developed than a campground, with electrical hookups, and

cleared/paved areas for placement of the recreational vehicles. *See also Campground Section 108(B).*

- D. Public Use Buildings or use: A structure or use intended or used for public purpose by a city, a school district, the County, the State or by any other public agency or public utility. This does not include landfill sites, garbage dumps or utility facilities.
- E. Convenience Stores
- F. Public or Private Parks or Playgrounds
- G. Welding or Machine Shop
- H. Storage and Processing of Agricultural Products
- I. Manufacturing, compounding, fabricating, processing, repairing, and packaging. As much as possible, such uses must be conducted within enclosed buildings with the exception of parking and loading. Raw and finished materials may be stored outside. However, all operations must be free of objectionable odor, noise, dust, heat, glare or other adverse effects on neighboring parties.

- **Conditional Uses:**

- A. Local distribution utility facilities as defined in Section 108 (B) of the Baker County Zoning and Subdivision Ordinance.
- B. Watchman's Quarters
- C. Quarters/Temporary Housing in Conjunction with Industrial Use
- D. Any processing, storage or manufacturing which emits odors, fumes, gases or treated water.

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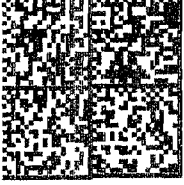
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BAKER COUNTY PLANNING DEPARTMENT
BAKER COUNTY COURTHOUSE
1995 Third Street • Baker City, OR 97814
(541) 523-8219

Attn: PLAN Amendment Spec.
Dept Land Cons. & Development
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540