



Oregon
Theodore R. Kaloupekis, 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

10/9/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Jackson 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: Friday, October 23, 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.

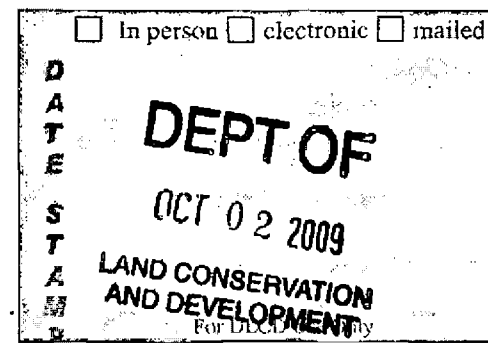
Cc: Craig Anderson, Jackson County
Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative

<paa> YA

FORM 2

DLCD Notice of Adoption

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



Jurisdiction: **Jackson County** Local file number: **LRP2008-00002**
 Date of Adoption: **9/30/2009** Date Mailed: **10/1/2009**
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/16/2009
 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".
 An amendment to the Jackson County Comprehensive Plan by taking a committed exception to Goal 14 to allow a change of zone from Rural Residential (RR-00) one residence per parcel to Rural Residential (RR-5) one residence per 5 acres.

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

Plan Map Changed from: **N/A** to:
 Zone Map Changed from: **RR-00** to: **RR-5**
 Location: **6457 Dark Hollow Road** Acres Involved: **12**
 Specify Density: Previous: **1 per parcel** 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

 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



NOTICE OF ADOPTION

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2009-8 at a properly advertised public hearing on August 12, 2009, at 1:30 p.m., in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon 97501.

The ordinance will go into effect on November 29, 2009 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2009-8 approves 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 12.65 acres on property described as Township 38 South, Range 1 West, Section 19, Tax Lot 304. File LRP2008-00007.

This notice is being mailed to you on October 1, 2009, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact Craig Anderson at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford 774-6918; Jackson County residents outside of Medford's local calling area 1-800-452-5021 and enter the next four digit extension 6918.

You may review this ordinance, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 11:00 a.m. to 4:00 p.m. on Wednesday.

The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed.

This decision is being mailed on October 1, 2009, and the LUBA appeal period will expire on October 22, 2009. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

Attachments: Notary Packet

NOTARY PAGE

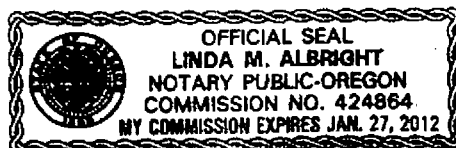
STATE OF OREGON)
COUNTY OF JACKSON)

I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2009-8 by mailing a copy of the Notice of Adoption by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on October 1, 2009.

Handwritten signature of Patricia A. Guida
Signature

Personally appeared before me this 1st day of October, 2009, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.



Handwritten signature of Linda M. Albright
Notary Public for Oregon
My Commission Expires: 1-27-2012

NOTICE OF ADOPTION SENT TO: APPLICANT, AGENT, AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: P & P SHERMAN TRUSTEES
FILE NO: LRP2008-00002

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

IN THE MATTER OF FILE NO.)
LRP2008-00002, 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 12.65 ACRES ON PROPERTY)
DESCRIBED AS TOWNSHIP 38 SOUTH,)
RANGE 1 WEST, SECTION 19, TAX LOT 304.)
PAUL AND PAMELA SHERMAN TRUSTEES,)
VALLEY OAKS TRUST, OWNER.)

ORDINANCE NO. 2009-8

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.

1- ORDINANCE; FILE LRP2008-00002
Applicant: Paul and Pamela Sherman, Trustees, Valley Oaks Trust

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 June 20, 2008, an application was submitted by Matthew G. Fawcett, agent for the owners, Paul and Pamela Sherman Trustees, Valley Oaks Trust, 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 12.65 acres. The application was deemed complete on August 7, 2008.

PROCEDURAL FINDINGS:

1. A notice of the proposed amendment was provided to the Department of Land Conservation and Development (DLCD) on March 16, 2009, 59 days prior to the first evidentiary hearing. A notice was published on Sunday, May 3, 2009 in the Medford Mail Tribune that a first evidentiary hearing was scheduled before the Jackson County Planning Commission on Thursday, May 14, 2009 at 9:00 a.m in the Jackson County Auditorium.
2. On May 14, 2009, the Jackson County Planning Commission (JCPC) held a properly advertised public hearing to consider the evidence and testimony on this application. After considering the evidence and testimony submitted, the JCPC, by motion and vote, recommended that the Board of Commissioners approve the application. The JCPC signed the Recommendation for Approval on June 11, 2009.
3. On August 12, 2009, 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 application.

Now, therefore,

The Jackson County Board of Commissioners finds and concludes as follows:

SECTION 1. FINDINGS OF FACT:

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

- 1.1 The Board of Commissioners finds that proper legal notice was provided to the applicant, property owners within 250 feet of the subject property, and affected agencies, on July 23, 2009 for a public hearing on this matter. Legal notice was published in the Sunday, August 2, 2009 edition of the Medford Mail Tribune.
- 1.2 The Board of Commissioners finds that the JCPC's recommendations are based upon following proper procedures and are consistent with available evidence. The

2- ORDINANCE; FILE LRP2008-00002
Applicant: Paul and Pamela Sherman, Trustees, Valley Oaks Trust

Board of Commissioners hereby adopts, as its own, the Findings of Fact contained in the JCPC Recommendation for Approval, incorporated herein and attached as Exhibit "A".

- 1.3 The Board of Commissioners finds that a Staff Report was prepared for the initial public hearing before the JCPC and that this Staff Report is attached to the JCPC's Recommendation. The Board of Commissioners hereby adopts, as its own, the Staff Report.

SECTION 2. LEGAL FINDINGS:

- 2.1 The Board of Commissioners hereby adopts, as its own, the Legal Findings contained in the JCPC's Recommendation for Approval, incorporated herein and attached as Exhibit "A".

SECTION 3. CONCLUSIONS:

- 3.1 The Board of Commissioners concludes that proper public notice was given.
- 3.2 The Board of Commissioners hereby adopts, as its own, the Conclusions contained in the JCPC's Recommendation for Approval, incorporated herein and attached as Exhibit "A". These conclusions demonstrate that the application is in compliance with the applicable Statewide Planning Goals, Oregon Administrative Rules, including OAR 660-014-0030, the applicable policies in the Jackson County Comprehensive Plan, and the applicable sections of the Jackson County Land Development Ordinance, including Section 3.7.3(C) which relates to minor Comprehensive Plan Map or Zoning Map amendments.
- 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 that the Rural Residential (RR-5) zoning district is appropriate for the entire subject parcel.

SECTION 4. DECISION:

Now, therefore,

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


3- ORDINANCE; FILE LRP2008-00002

Applicant: Paul and Pamela Sherman, Trustees, Valley Oaks Trust

Residential (RR-5, 1 dwelling per 5 acres) on 12.65 acres described as Township 38 South, Range 1 West, Section 19, tax lot 304.

APPROVED this 30th day of September, 2009, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS



Dave Gilmour, Chair

absent
Jack Walker, Commissioner


Dennis C. W. Smith, Commissioner

APPROVED AS TO
LEGAL SUFFICIENCY:

ATTEST:


County Counsel


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 _____, 2009, and the LUBA appeal period will expire on _____, 2009. 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.

4- ORDINANCE; FILE LRP2008-00002
Applicant: Paul and Pamela Sherman, Trustees, Valley Oaks Trust

EXHIBIT A

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

IN THE MATTER OF PLANNING COMMISSION)
FILE LRP2008-00002, 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 12.65 ACRES ON PROPERTY)
DESCRIBED AS TOWNSHIP 38 SOUTH, RANGE)
1 WEST, SECTION 19, TAX LOT 304. PAUL)
AND PAMELA SHERMAN TRUSTEES, VALLEY)
OAKS TRUST, OWNER.)
)
)
)

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 12.65 acres on property described as Township 38 South, Range 1 West, Section 19, tax lot 304.

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 June 20, 2008 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 12.65 acres, was submitted by the agent, Matthew G. Fawcett, for the owners, Paul and Pamela Sherman Trustees, Valley Oaks Trust. The application was deemed complete on August 7, 2008.

PROCEDURAL FINDINGS:

1. A notice of the proposed amendment was provided to the Department of Land, Conservation and Development (DLCD) on May 16, 2009, 59 days prior to the first evidentiary hearing. A notice was published on Sunday, May 3, 2009 in the Medford Mail Tribune that a first evidentiary hearing

1-RECOMMENDATION; File LRP2008-00002
Paul and Pamela Sherman Trustees, Valley Oaks Trust, Owner

was scheduled before the Jackson County Planning Commission on Thursday, May 14, 2009 at 9:00 a.m in the Jackson County Auditorium.

3. On May 14, 2009, 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 April 23, 2009. Legal notice was published in the Sunday, May 3, 2009 edition of the Medford Mail Tribune.

1.2 The Planning Commission finds that the subject property is described as Township 38 South, Range 1 West, Section 19, tax lot 304. The subject property is located at 6457 Dark Hollow Road.

1.3 The Planning Commission finds that File 96-1-ORE determined that tax lot 304 was created through the filing of Royal Orchard Tract #2, a subdivision, recorded on February 1, 1911, and is a legal separate parcel. Assessment records indicate the current owner acquired the property in 2005.

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 Dark Hollow Road, a County owned and maintained roadway.

1.6 The Planning Commission finds that the subject property is within the Jackson County Fire District No. 5 boundary.

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

1.8 The Planning Commission finds that the subject property has a 2395 sq ft dwelling with attached finished garage and undetermined outbuildings.

1.9 The Planning Commission finds that the subject property is not within any Area of Special Concern.

**2-RECOMMENDATION; File LRP2008-00002
Paul and Pamela Sherman Trustees, Valley Oaks Trust, Owner**

1.10 The Planning Commission finds that no designated wetlands are located on the subject property.

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 and Jackson County Fire District #5. Agency comments were considered by the Planning Commission.

1.12 The Planning Commission finds that property owners were notified and comments were received from five property owners. 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 LDO Criteria 3.7.3 (C)(6) states that:

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 Planning Commission concurs with the applicant's findings with respect to this criteria and hereby amends the Staff Report (Exhibit 1) findings accordingly.

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 IV of the staff report, attached hereto as Exhibit 1.

3.2 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

**3-RECOMMENDATION; File LRP2008-00002
Paul and Pamela Sherman Trustees, Valley Oaks Trust, Owner**

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 V of the Staff Report, attached hereto as Exhibit 1.

3.3 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.

3.4 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, subject to the condition as follows:

3.4.1 Crystal Heights Road shall be improved to County standards prior to granting access from Crystal Heights Road to any newly-created parcel resulting from the proposed action. The construction of said improvements may be deferred if a deed declaration is recorded providing that no development permits will be issued for the new lots or parcels until the road improvements are completed.

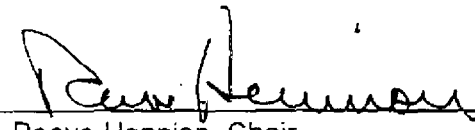
3.5 The Planning Commission concludes that proper public notice was given.

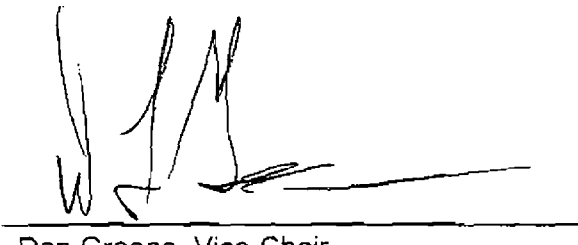
SECTION 4. RECOMMENDATION: The Jackson County Planning Commission: 1) recommends approval of a Comprehensive Plan Amendment for an exception to Statewide Planning Goal 14, Urbanization; and, 2) recommends approval of a Zoning Map amendment to change the zoning district from Rural Residential (RR-00, 1 dwelling per lot) to Rural Residential (RR-5, 1 dwelling per 5 acres). 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 12.65 acres described as Township 38 South, Range 1 West, Section 19, tax lot 304, as illustrated on the zoning map attached hereto as Exhibit 3.

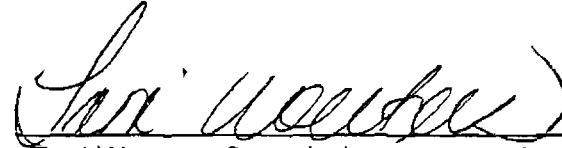
4-RECOMMENDATION; File LRP2008-00002
Paul and Pamela Sherman Trustees, Valley Oaks Trust, Owner

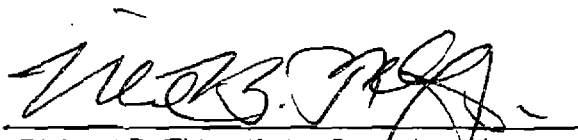
This recommendation for APPROVAL adopted this 11th day of June, 2009,
at Medford, Oregon.

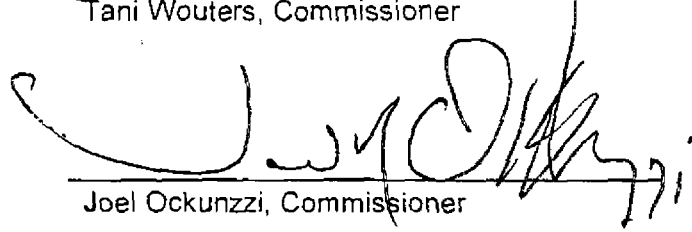
JACKSON COUNTY PLANNING COMMISSION
(Vote: Y=Yes; N=No; A=Abstain)


Reeve Hennion, Chair


Don Greene, Vice-Chair


Tani Wouters, Commissioner


Richard B. Thierolf, Jr., Commissioner


Joel Ockunzzi, Commissioner

ATTEST:


Kelly Madding, Recording Clerk

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5-RECOMMENDATION; File LRP2008-00002
Paul and Pamela Sherman Trustees, Valley Oaks Trust, Owner

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

APPLICANT: Paul D. and Pamela A. Sherman **FILE:** LRP2008-00002
Trustees, Valley Oaks Trust
P. O. Box 1777
Jacksonville, OR 97530

AGENT: Matthew G. Fawcett **OWNER:** same as applicant
916 W. 10th Street
Medford, OR 97501

LEGAL DESCRIPTION: TWP 38 South RANGE 1 West SECTION 19 TAX LOT(S) 304.

PROPOSAL: 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) on 12.65 acres described as Township 38 South, Range 1 West, Section 19, Tax Lot 304.

LOCATION: Located on Dark Hollow Road, approximately 0.85 miles west of the intersection of Dark Hollow and Pioneer Roads.

BACKGROUND: An application was received by Jackson County from Matthew G. Fawcett, agent for the applicant and owner, Paul D. and Pamela A. Sherman, on June 20, 2008. 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 August 7, 2008. A public hearing before the Jackson County Planning Commission is scheduled for May 14, 2009 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) **Access:** Legal access is provided from Dark Hollow Road, a County-maintained facility.
- 2) **Acreage:** The parcel contains 12.65 acres.
- 3) **Assessment:** The parcel is assessed as improved Highest and Best Use Tract Land, Zoning Not Significant.

EXHIBIT 1

- 4) **Lot Legality:** File 96-1-ORE determined that tax lot 304 was created through the filing of Royal Orchard Tract #2, a subdivision, recorded on February 1, 1911, and is a legal separate parcel. Current owner acquired the property in 2005.
- 5) **Fire Protection:** The parcel is within Jackson County Fire District No. 5.
- 6) **Irrigation:** There parcel has no irrigation rights.
- 7) **Zoning:** This parcel was rezoned RR-00 as part of the "exception area" process in 1995. The exception area was approved by the Department of Land Conservation and Development in 1997, thereby changing the zoning from OSR to RR-00. Adjacent zoning is:
North: Rural Residential (RR-5)
South: Exclusive Farm Use (EFU)
East: Rural Residential (RR-00)
West: Rural Residential (RR-5)
- 8) **Land Use:** The parcel has a 2395 sq ft dwelling with attached finished garage and undetermined outbuildings.
- 9) **Sewer/Water/Electrical:** The parcel has an existing septic system and a well. According to the applicant, there are power and telephone service supply lines on Dark Hollow Road which would need to be extended to any future building sites. Also according to the applicant, this is not an impediment and no easement or property acquisition would be required in order to extend power lines to the site.
- 10) **Site Characteristics:** The property slopes from approximately 2000 feet in elevation in the southwest corner of the property to approximately 1950 feet in the northeast corner. Aerial photographs from 2003 and 2005 show that the property is sparsely vegetated, with few or no significant trees. With regards to the surrounding area, applicant states that the "general geomorphology of the area is lower valley ridge - ravine with current vegetative cover of white and black oak; manzanita; poison oak and other native herbs and grasses." There are no designated wetlands located on the property. Aerial photos and contour lines show a drainage flowing from southwest to northeast across the eastern portion of this parcel.
- 11) **Soils:** 96% of the soils on this parcel is designated by the NRCS as Ruch gravelly silt loam (158D). The slopes for this soil type are between 7 and 20 percent. This soil type is suited for irrigated crops, timber production, pasture, and homesite development. Production of irrigated crops is limited mainly by the slope, the moderately slow permeability, and the gravelly surface layer. In summer, irrigation is needed for maximum production of most crops.

4% of the soils are Debenger-Brader loams (44C). The slopes for this soil type are between 1 and 15 percent. This soil type is about 60 percent Debenger soil and 20 percent Brader

soil. This type of soil is suited for hay and pasture, livestock grazing, and homesite development. The main limitation affecting homesite development is the depth to bedrock. This unit is poorly suited to septic tank absorption fields because of the depth to bedrock.

- 15) **Water:** The subject property is served by a private well.
- 16) **Wetlands:** No designated wetlands are located on the subject property.
- 17) **Area of Special Concern:** There are no Areas of Special Concern identified for this parcel.
- 18) **Agency and Property Owner Comments:** Agencies and property owners within 250 feet of the subject property were notified of the proposed zone change. Responses received as of the date of this report's mailing are included in the record while those arriving afterward will be summarized by staff at the initial public hearing on this matter.

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) 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) Oregon Administrative Rules (OAR) 660-14-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development).
- 3) Jackson County Comprehensive Plan: Map Designations Element (Rural Residential Lands), Citizen Involvement, Agricultural Lands, Forest Lands, Economy, Energy Conservation, Housing, Natural and Historic Resources, Natural Hazards, Environmental Quality, Public Facilities and Services, Transportation System Plan, Rural and Suburban Lands, and Urban Lands Elements.
- 4) Compliance with Sections 3.7.3(C) 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. STAFF REPORT FORMAT

Staff concurs with much of the analysis and conclusions provided in the applicant's narrative with respect to the applicable criteria listed in Section II above. As such, comments in Sections IV-VII of this report will be limited to issue areas where some discrepancy may exist between the applicant's conclusions and those of staff. When there is agreement, it will simply be noted under staff's findings and the reader is directed to the applicant's findings for supportive evidence. When discrepancies exist or when further discussion is warranted, it will be noted in the findings below.

IV. COMPLIANCE WITH STATEWIDE PLANNING GOALS:

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

- 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: Staff concurs with applicant's findings on this criteria.

- 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: Staff concurs with applicant's findings on this criteria.

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

FINDING: Staff concurs with applicant's findings on this criteria.

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

FINDING: Staff concurs with applicant's findings on this criteria.

- 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: Staff concurs with applicant's findings on this criteria.

- 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: Staff concurs with much of the applicant's findings on this criteria. Applicant refers to "DLCD findings in 1997 for the exception to Periodic Work Case no.7, Sub Area 2-M." Our evidence shows that the correct sub-area is 2-K. The ordinance that approved this sub-area as committed to rural residential uses is included in the record for reference (Ordinance 94-132). Staff also finds that air, water and land resources may be negatively impacted through approval of this application but that provisions of the Jackson County Comprehensive Plan and Land Development Ordinance have been adopted to ameliorate any such impacts consistent with Goal 6.
- 7) **Goal 7, Areas Subject to Natural Hazards:** The goal is to protect people and property from natural hazards.

FINDING: Any future development must be reviewed with respect to the requirements of the LDO and must comply with all standards relating to natural hazards therein. Staff finds that the proposed zone change will comply with Goal 7 at the time of development through adherence to these standards.
- 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: Staff finds that Goal 8 is not relevant to this application.
- 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: Staff finds that the approval of the zone change will not change the approved uses on the subject property and will not have a negative impact on the economy.
- 10) **Goal 10, Housing:** The goal is to provide for the housing needs of citizens of the state.

FINDING: Staff concurs with applicant's findings on this criteria.
- 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: Staff concurs with applicant's findings on this criteria.

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

FINDING: Staff concurs with much of the applicant's findings on this criteria. Comments on this application relating to transportation have been submitted by the Jackson County Roads Department. Requirements or conditions imposed on the applicant as a result of these comments will satisfy the requirements of Goal 12.

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

FINDING: Any future development must be reviewed with respect to the requirements of the LDC, which has been acknowledged by the state to be in compliance with Statewide Planning Goal 13. Any future development on the subject parcel must comply with all standards relating to energy conservation therein.

- 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 immediately follow.

V. 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: The applicant has submitted findings for this criteria under Goal 14 in the application. Staff concurs with applicant's submitted findings.

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 zoned RR-00. The proposal is to change the zoning on the 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 #7, Exception Area III, Subarea 2-K, 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: Staff concurs with the applicant's findings with respect to this criteria.

- 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:** Staff concurs with the applicant's findings with respect to this criteria.
- 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:** Staff finds that minor impacts to environmental quality could potentially result through approval of this application. However, provisions of the Jackson County Land Development Ordinance have been adopted to ameliorate any such impacts at the time of future development.
- 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:** Staff concurs with the applicant's findings with respect to this criteria.
- 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: Staff concurs with the applicant's findings with respect to this criteria.

- 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: Staff concurs with the applicant's findings with respect to this criteria.

- 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: Staff concurs with the applicant's findings with respect to this criteria.

- 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 System Plan:** Jackson County's Transportation System Plan (TSP) was adopted (Ordinance 2005-3) by the Board of Commissioners on 3/15/05. The TSP replaced

the Comprehensive Plan's Transportation Element at that time. The TSP identifies several goals and policies relating to the provision of a safe, convenient, energy efficient and economical transportation system. Findings of compliance with the applicable sections of the TSP follow.

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.*

- 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: The applicant has submitted findings relating to this section of the TSP. Staff concurs with these findings and also finds that a waiver to the requirements of a Traffic Impact Study are appropriate. Staff's findings are contingent on similar determinations by the Jackson County Roads Department and any conditions imposed thereby.

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: The applicant has submitted findings relating to this section of the TSP. Staff concurs with these findings and also finds that a waiver to the requirements of a Traffic Impact Study are appropriate. Staff's findings are contingent on similar determinations by the Jackson County Roads Department and any conditions imposed thereby.

- 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 V 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: This application will not change the approved uses (residential uses) and will not have a negative impact on Jackson County's economy.

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

FINDING: Any future development will be reviewed for compliance with the LDO 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.

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: Staff concurs with the applicant's findings with respect to this criteria.

- 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: Staff concurs with the applicant's findings with respect to this criteria.

- 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 to Goal 14 has been addressed in this application.

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

FINDING: Staff concurs with the applicant's findings with respect to this criteria.

- 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 has submitted findings that community benefit is clearly demonstrated through this application. Staff finds the term "community benefit" to be highly subjective and somewhat ambiguous and for these reasons cannot determine that "community benefit" has been clearly demonstrated. The Planning Commission should specifically address this criteria at the initial public hearing on this item.

- 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.

VIII. 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 district from RR-00 to RR-5. The findings by the applicant and staff demonstrate compliance with the applicable 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 DEVELOPMENT SERVICES

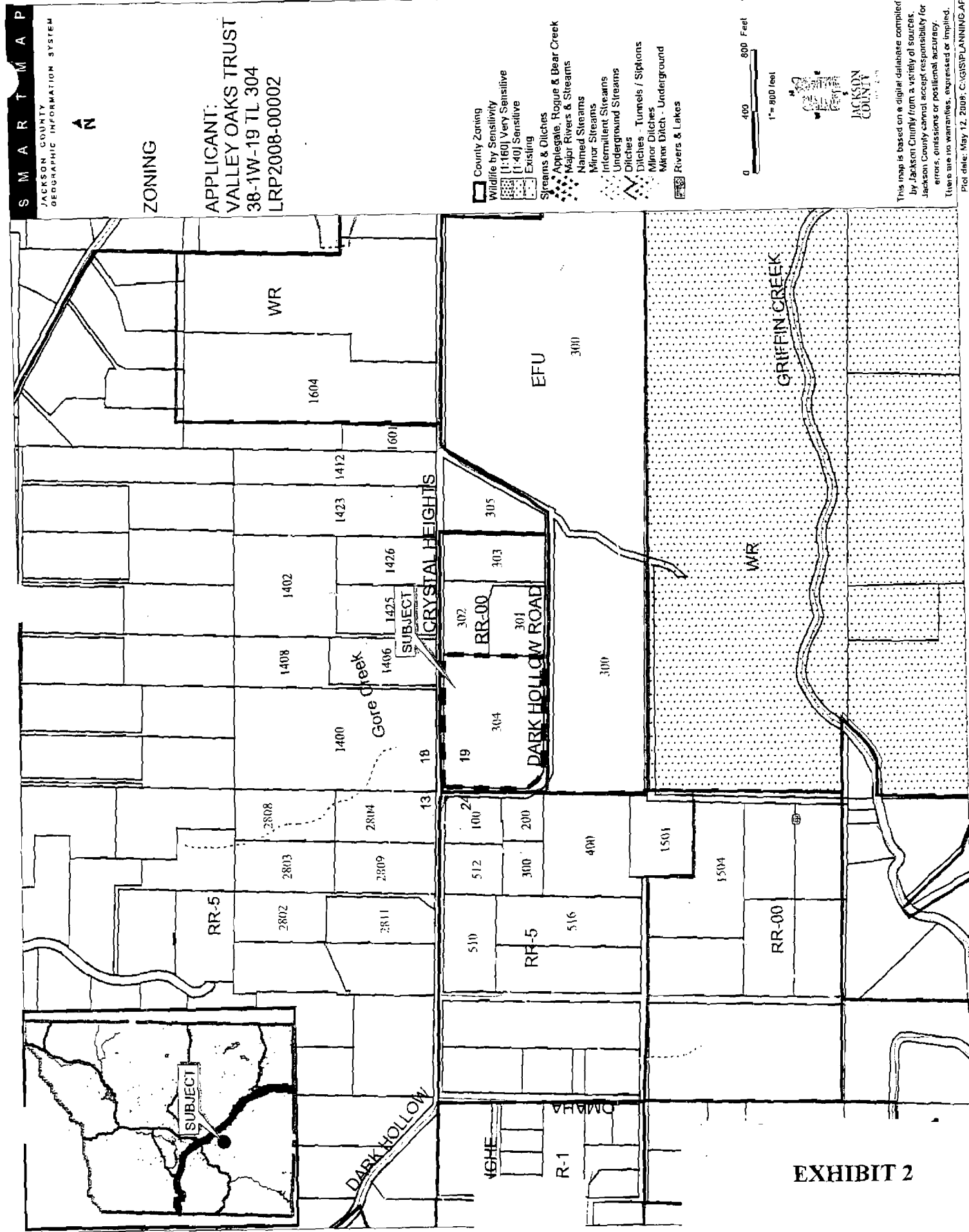
By: Craig M. Anderson, Planner III

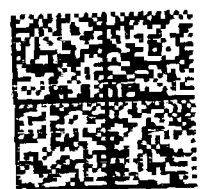
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EXHIBIT 2

RECOMMENDED CONDITIONS FOR FILE LRP2008-00002

1. Crystal Heights Road shall be improved to County standards prior to granting access from Crystal Heights Road to any newly-created parcel resulting from the proposed action. The construction of said improvements may be deferred if a deed declaration is recorded providing that no development permits will be issued for the new lots or parcels until the road improvements are completed.





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FILE NO. LRP2008-00002 NOTICE OF ADOPTION MAILING LIST APPLICANT: SHERMAN DATE CREATED: 10/01/09		APPLICANT P & P SHERMAN TRUSTEES/VLY OAKS TRUST PO BOX 1777 JACKSONVILLE OR 97530	LRP2008-00002	AGENT MATTHEW FAWCETT 916 W 10 TH ST MEDFORD OR 97501	LRP2008-00002
STAFF KELLY MADDING DEVELOPMENT SERVICES DIRECTOR	LRP2008-00002	STAFF CRAIG ANDERSON PLANNER	LRP2008-00002	STAFF FRANK HAMMOND COUNTY COUNSEL	LRP2008-00002
COMMISSIONER DAVE GILMOUR BOARD OF COMMISSIONERS CHAIR	LRP2008-00002	COMMISSIONER DENNIS C.W. SMITH BOARD OF COMMISSIONERS	LRP2008-00002	COMMISSIONER JACK WALKER BOARD OF COMMISSIONERS	LRP2008-00002
IP BROOD NADINE 6165 DARK HOLLOW RD MEDFORD OR 97501	LRP2008-00002	LRP2008-00002 CCI BARBARA DECKER 3303 N VALLEY VIEW RD ASHLAND OR 97520		LRP2008-00002 CCI WALTER FITZGERALD PO BOX 3984 CENTRAL POINT OR 97502	
LRP2008-00002 CCI BRENT MITCHELL 4450 FERN VALLEY RD MEDFORD OR 97504		LRP2008-00002 CCI KAREN BLAIR 32 N ORANGE ST MEDFORD OR 97501		LRP2008-00002 CCI ROY COOPER 1525 ANGELCREST DR MEDFORD OR 97504	
LRP2008-00002 CCI ROSALIE LINDVIG 4415 INDEPENDENCE SCHOOL RD MEDFORD OR 97501					

NOTARY PAGE

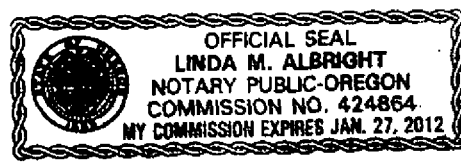
STATE OF OREGON)
COUNTY OF JACKSON)

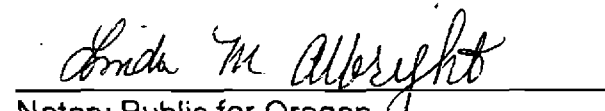
I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2009-8 by mailing a copy of the Notice of Adoption by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on October 1, 2009.


Signature

Personally appeared before me this 1st day of October, 2009, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.




Notary Public for Oregon
My Commission Expires: 1-27-2012

NOTICE OF ADOPTION SENT TO: APPLICANT, AGENT, AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: P & P SHERMAN TRUSTEES
FILE NO: LRP2008-00002