



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/28/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: Crook County Plan Amendment  
DLCD File Number 001-13

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, June 07, 2013

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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 Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Phil Stenbeck, Crook County  
Jon Jinings, DLCD Community Services Specialist  
Karen Swirsky, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

DEPT OF

MAY 20 2013

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Crook County**

Local file number: **AM-13-0026**

Date of Adoption: **5/14/2013**

Date Mailed: **5/17/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 2/15/2013

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".

Zone map change for Oregon Division of State Lands property from EFU-3 to County Industrial.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from:

to:

Zone Map Changed from: **EFU-3**

to: **County Industrial**

Location: **Highway 126 and Millican in Prineville UGB.**

Acres Involved: **80**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-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. 001-13 (19706) [17546]

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

City of Prineville, Crook County Fire

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Local Contact: **Phil Stenbeck**

Address: **300 NE 3<sup>rd</sup> Street, Room 12**

City: **Prineville, OR**

Zip: **97754-**

Phone: **(541) 447-8156** Extension:

Fax Number: **541-416-3905**

E-mail Address: **phil.stenbeck@co.crook.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information ([ORS 197.615](#) ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption ([ORS 197.830 to 197.845](#) ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. ([ORS 197.615](#) ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).



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

AN ORDINANCE AMENDING the Crook County  
Zoning Map and the City of Prineville Urban Growth  
Boundary (T15S, R15E, S14, TL2300 - DSL property)

ORDINANCE 262

WHEREAS, Crook County finds that there is a need to amend the Crook County Zoning Map and the City of Prineville Urban Growth Boundary; and

WHEREAS, Crook County has publicly reviewed the proposed Legislative Amendments to the Crook County Zoning Map and the City of Prineville Urban Growth Boundary; and after review of the staff and hearing testimony; and

WHEREAS, the Crook County Planning Commission has recommended adoption of the proposed Legislative Amendments to the Crook County Court;

NOW, THEREFORE, the Crook County Court hereby ordains as follows:

SECTION ONE: The Crook County Zoning Map and the City of Prineville Urban Growth Boundary are amended as found in Exhibit A attached:

First Reading: 5-1-, 2013

Second Reading: 5-14-, 2013

DATED this 1st day of May, 2013.

STATE OF OREGON } ss 2013025  
COUNTY OF CROOK }  
I CERTIFY THAT THE WITHIN INSTRUMENT WAS  
RECEIVED FOR RECORD ON THE 15th DAY OF  
May, 2013, AT 2:06 PM  
AND RECORDED IN CJRN  
RECORDS OF SAID COUNTY IN NO 2013-025  
DEANNA E. BERMAN, CROOK COUNTY CLERK  
DEPUTY

CROOK COUNTY COURT

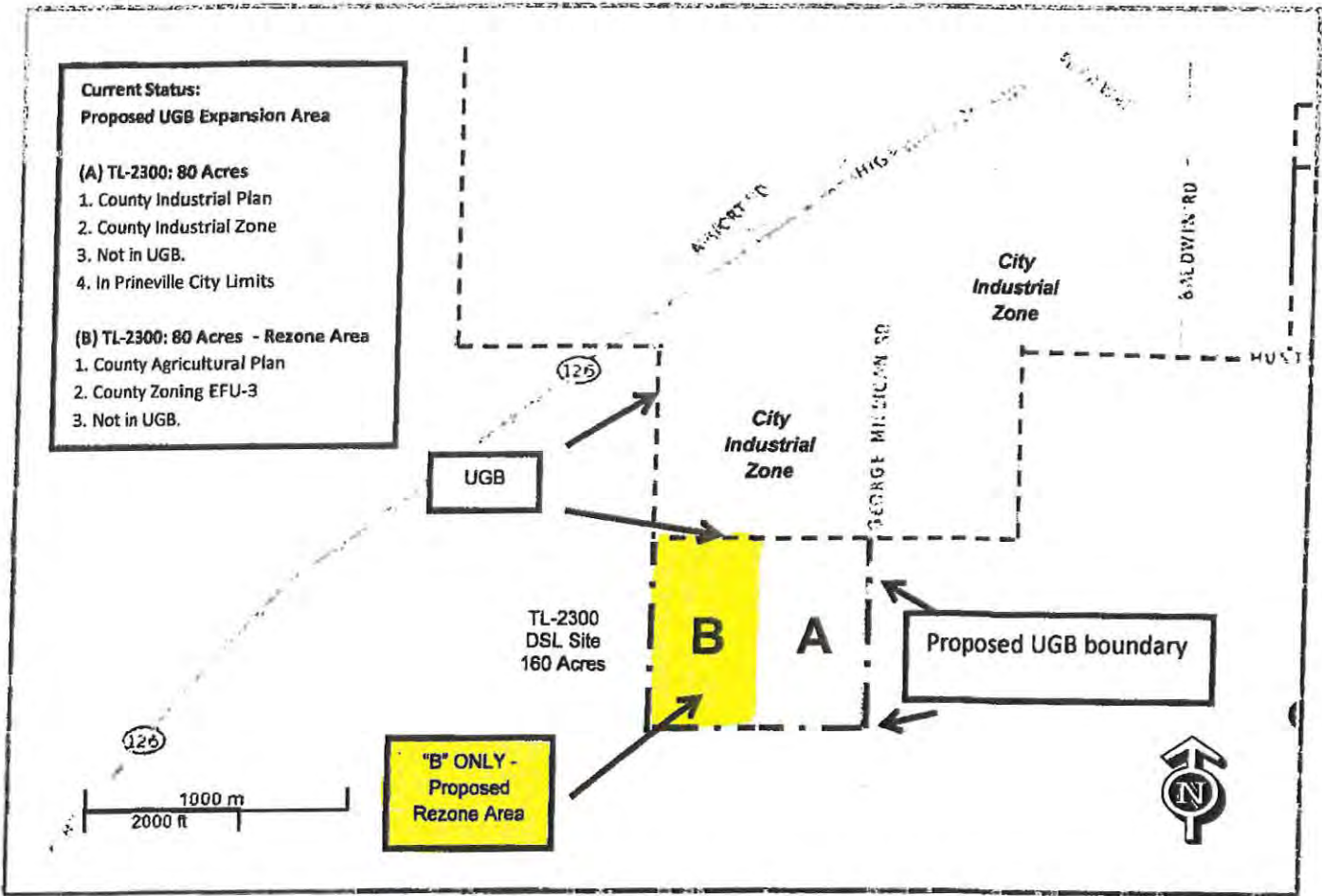
Mike McCabe  
Judge Mike McCabe

Ken Fahlgren  
Commissioner Ken Fahlgren

Seth Crawford  
Commissioner Seth Crawford

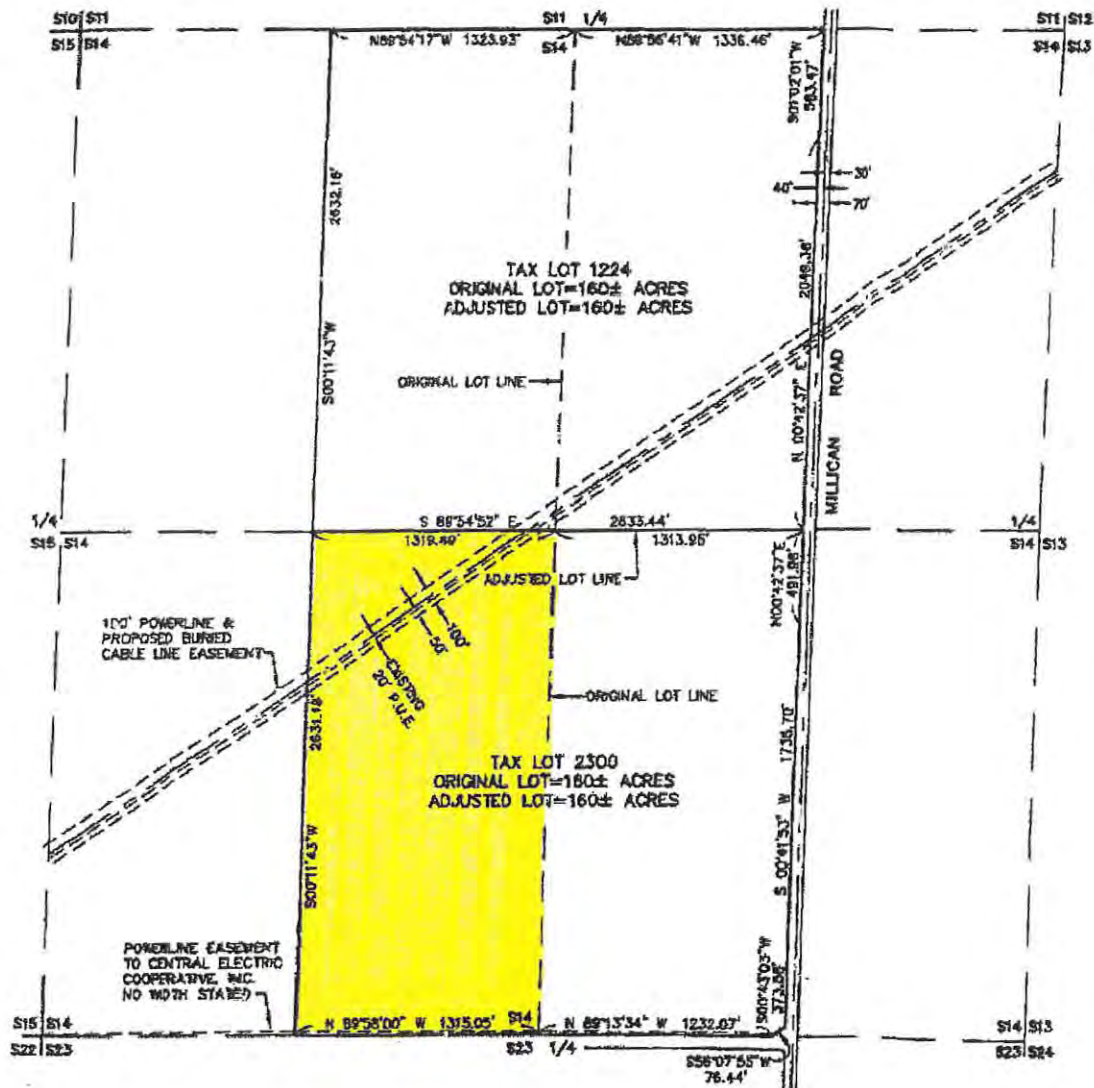


**Exhibit A**  
**Proposed**  
**Zone Change Area**  
**T15S, R15E, S14, TL 2300**  
**DSL Millican Road Site**  
**80 Acres**



Premierwest Bank & DSL  
 BA-2012-101

4. **PROPOSAL:** The purpose of this boundary line adjustment is to maintain the original size of each lot or parcel but split them from north to south instead of east to west. This will provide for a more functional square lot and give each lot or parcel road frontage onto George Millican Rd.



**Exhibit A**  
**Proposed**  
**Zone Change Area**  
**T15S, R15E, S14, TL 2300**  
**DSL Millican Road Site**  
**80 Acres**



**Crook County**  
**Community Development Department**  
**Planning Division**  
300 NE 3<sup>rd</sup> Street, Room 12, Prineville, OR 97754  
(541)447-8156  
Fax (541)416-3905  
ccplan@co.crook.or.us

## **COUNTY COURT STAFF REPORT**

**DATE:** May 1, 2013

**APPLICATION NO.** AM 13-0026

**APPLICANT:** Oregon Department of State Lands (DSL)  
775 Summer Street NE, Suite 100  
Salem, OR 97301

**CONTACT:** Douglas Parker, DSL Asset Planner  
John Russell, Manager, Asset Management Section  
Oregon Department of State Lands (DSL)  
775 Summer Street NE, Suite 100  
Salem, OR 97301  
(503) 986-5246 (Doug) (503) 986-5281 (John)

**PROPERTY LOCATION:** T 15 S R 15 EWM (Sec 14) TL 2300. (160 acres)

**PROPOSAL:** The applicant is requesting approval of a Zone Map Amendment which changes the zone classification of 80 acres of the subject property from Exclusive Farm Use – 3 (EFU-3) to County Light Industrial (L-M). Please see the map found on page 8 (Exhibit A) for details.

The property was included within the Prineville Urban Growth Boundary by City UGB amendment file AM 2013-100.

**PLANNING COMMISSION DATES:** March 27, 2013 and April 10, 2013

**COUNTY COURT DATES:** May 1, 2013 and May 14, 2013

### **BACKGROUND**

This request flows from a previous application AM 12-0094 which was approved in August of 2012. As you may recall, in that request two properties were adjusted to create two square parcels each containing approximately 160 acres. One parcel was brought completely within the UGB, while the other parcel was completely removed from the UGB.



This effort was undertaken to help create an Industrial parcel which would meet the functional needs of the type of industrial businesses which have been considering the City of Prineville and Crook County as a home. In the past two years, the City of Prineville has seen an increase in Industrial development on Industrial lands within the UGB. The type of development that has occurred, data centers, has consumed several hundred acres of Industrial land within the City of Prineville Urban Growth Boundary (UGB). This consumption of land by new business, was followed by a review of the Industrial lands within the UGB which could possibly be used for additional data centers, should the need arise again. City, County and State agency staff believe that adjustment of the UGB in the manner proposed, efficiently and effectively created an additional industrial site, that would meet the needs of an additional data center, should the need arise.

The proposed UGB expansion before you today, will add 160 acres to the UGB helping to replenish the land that has been consumed by developed over the past two years. 80 acres of the 160 acre parcel is already zoned County Light Industrial with the remaining 80 acres being zoned Exclusive Farm Use (EFU-3). The proposed zone change before you today, will convert the remaining 80 acres of land zoned Exclusive Farm Use (EFU-3) to County Light Industrial. This will further enhance the UGB Industrial lands base and help to create a large Industrial site within the Prineville UGB. The City of Prineville UGB expansion (AM-2013-100) and this zone change combined adds 160 acres of Industrial land to the UGB. This land is adjacent to the previously adjusted site of 160 acres, creating an undeveloped 320 acre Industrial land area within the Prineville UGB.

### LEGISLATIVE AMENDMENT

This Legislative Amendment process is guided by the City of Prineville/Crook County Urban Growth Boundary Agreement. The Urban Growth Boundary Agreement outlines each jurisdictions responsibilities in this situation. The County's role in this Legislative Amendment process is to be a partner. The land being added to the UGB will receive a City Comprehensive Plan designation of Industrial. 80 acres of the 160 acre parcel will also receive a zone change to County Light Industrial Zone, and will be under County land use jurisdiction until annexed into the City.

### FACTORS FOR CONSIDERATION

**ZONING:** The property is presently zoned Exclusive Farm Use EFU-3. CCC Chapter 18.24 contains requirements for the EFU-3 zone. Requirements for a zone change are found in CCC Section 18.170.010 (2). The property is within the Urban Growth Boundary (UGB), and is not in a mapped and regulated critical wildlife area.

#### **CCC Section 18.170.010 (2) Zone Map Change.**

An applicant requesting a quasi-judicial amendment must satisfy the following factors for quasi-judicial amendments:

#### **(2) Zone Map Change**

- (a) That the zone change conforms with the Crook County Comprehensive Plan, and the change is consistent with the plan's statement and goals.



*Finding: Staff finds the proposed zone change conforms with the Crook County Comprehensive plan, and the change is consistent with the plan's statement and goals. The Crook County Comprehensive Plan states:*

**INDUSTRY**

*"The goal in providing for industrial use in Crook County and the City of Prineville is to provide for the needs of existing industries and to direct future industrial growth to concentrated areas away from residential neighborhoods through zoning and other planning regulation."*

- (b) That the change in classification for the subject property is consistent with the purpose and intent of the proposed amendment.

*Finding: Staff finds the change in classification for the subject property is consistent with the purpose and intent of the proposed amendment, which is to replenish Industrial lands within the City of Prineville Urban Growth Boundary (UGB).*

- (c) That the amendment will presently serve the public health, safety and welfare considering the following factors:
  - (i) The availability and efficiency of providing necessary public services and facilities.

*Finding: Staff finds that the proposed amendment will presently serve the public health, safety and welfare when considering the availability and efficiency of providing necessary public services and facilities. The applicant has provided evidence which considered the availability and efficiency of providing necessary public services and facilities as a part of the application for inclusion within the UGB.*

- (ii) The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Crook County Comprehensive Plan.

*Finding: The proposed Industrial land site is located away from residential land and is consistent with the specific goals and policies contained within the Crook County Comprehensive Plan. The Comprehensive Plan states:*

*"The goal in providing for industrial use in Crook County and the City of Prineville is to provide for the needs of existing industries and to direct future industrial growth to concentrated areas away from residential neighborhoods through zoning and other planning regulation."*

- (d) That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question. (Ord. 236 § 6 (Exh. F), 2010)

*Finding: Staff finds that there has been a change in circumstances since the property was last zoned. The change in circumstances includes the recent boundary line adjustment and UGB adjustment with the adjacent parcel. These actions were taken to create usable*

*Industrial land within the Prineville UGB which recently saw the consumption of several hundred acres of Industrial land. The proposed zone change helps to replenish the Industrial land supply within the Prineville UGB.*

**COMPREHENSIVE PLAN:** Pages 58 to 64 of the Crook County Comprehensive Plan contain policies for Industrial areas of the County.

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

**OREGON STATEWIDE PLANNING GOALS:**

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

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

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

Goal 3 is **not** applicable to the present proposal because the subject property is within the Urban Growth Boundary (UGB), and has been found not to be agricultural land.

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

**Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces** is not applicable, because the property does not include any such resources.

**Goal 6 – Air, Water, and Land Resources Quality** is not applicable, because there is no indication that the proposed uses will significantly impact these resources.

**Goal 7 – Natural Resources and Hazards** is not applicable, as there is no indication of any natural hazards in the vicinity of the property.

**Goal 8 – Recreational Needs** is not applicable. The property is not designated as an eligible site for a destination resort, and is not presently zoned or used for recreation. There is no likelihood of a negative impact on recreation.

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

**Goal 10 – Housing** is not applicable, as the proposal does not conflict with any of the policies under this Goal, and impacts on the housing stock will be positive.

**Goal 11 – Public Facilities and Services** is not applicable, as the proposal does not conflict with any of the policies under this goal.

**Goal 12 – Transportation** is not applicable, as the proposal does not conflict with any of the policies under this Goal.

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

**Goal 14 – Urbanization** is not applicable, as the property is presently within the UGB.

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

#### **SUMMARY OF APPLICANT’S EXHIBITS**

The applicant has submitted the following exhibits in support of the application:

- A. Zone Change Map Amendment Application.
- B. Burden of Proof Statement
- C. Warranty deed.
- D. Vicinity map.
- E. Assessor’s map (index).

The Burden of Proof Statement, is hereby referenced. It includes:

(1) Description of the proposed Zone Map Amendment:

(2) Statewide Planning Goals applying to the proposal: The applicant states that Goal 3 does not apply to the proposal, as the property is within the UGB (City file AM 2013-100), and is therefore not agricultural land.



(3) Consistency with the Comprehensive Plan: The property is going through a concurrent application for inclusion in the UGB, which requires the zone change to be consistent with the City Comprehensive Plan. The proposed zoning is also consistent with the other half of the property which is already zoned industrial and is within City Limits. Therefore, the proposal is consistent with the Comprehensive Plan.

(4) Consistency with the public interest: The applicant states that the property is located near existing urban uses. The property is within the UGB, and is designated for urban inclusion. It will not return to a rural state. The proximity of existing urban development will facilitate the provision of urban services.

The proposal is intended to attract a large industrial businesses, providing increased employment.

## **STAFF ANALYSIS**

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

The proposal involves no exceptions to the Statewide Goals.

The statement submitted by the applicant addresses those issues which are required to be addressed for a zone change which are found in CCC Section 18.170.010 (2).

It should be noted that the County and City are currently amending the UGB (City files AM 2013-100). City file AM 2013-100 supports the proposed Zone map change to County Light Industrial. Upon completion of the UGB amendment, the property will have a Comprehensive Plan designation of City Industrial. At this time, the remaining portion of the property which is not zoned industrial will receive the County Light Industrial zone designation.

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

On the basis of the data submitted and Planning staff knowledge of the area, the applicants' findings are in accordance with the characteristics of the property and the surrounding area.

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

Goal 1 – Citizen Involvement, and Goal 2 – Land Use Planning are applicable to the proposal.

Goals 1 and 2 are being complied with by the approval process.

Goal 3 – Agricultural Lands is not applicable, since the property is within the UGB (City file AM 2013-100) and is therefore not agricultural land.

Goal 12- The County and City have adopted the Hwy 126 Corridor Plan. OAR 660-012-0060 allows zone changes consistent with the Comprehensive Plan and transportation system plan –TSP – without analysis of the potential effect on transportation. A consultant reviewed the property for consistency with the transportation planning rule. The consultant assessment is found in the City UGB expansion record for City file AM 2013-100.

Goal 14 – Urbanization is addressed in the City’s UGB amendment file AM 2013-100.

## **APPENDIX A**

### **SUPPLEMENTARY INFORMATION**

**ACCESS:** The property fronts on George Millican Road, a county road. The road is used for other adjacent industrial users in the area.

**UTILITIES:** Electrical, water and sewer are available along George Millican Road.

**FLOOD ZONE:** The property is in Flood Zone X, outside the 500 year flood zone.

**WETLAND:** There are no designated wetlands on the property.

**WILDLIFE:** The property is not in a critical wildlife area.

**FIRE AND RESCUE:** Fire and ambulance service are available from the Prineville Fire Department.

### **CONCLUSION**

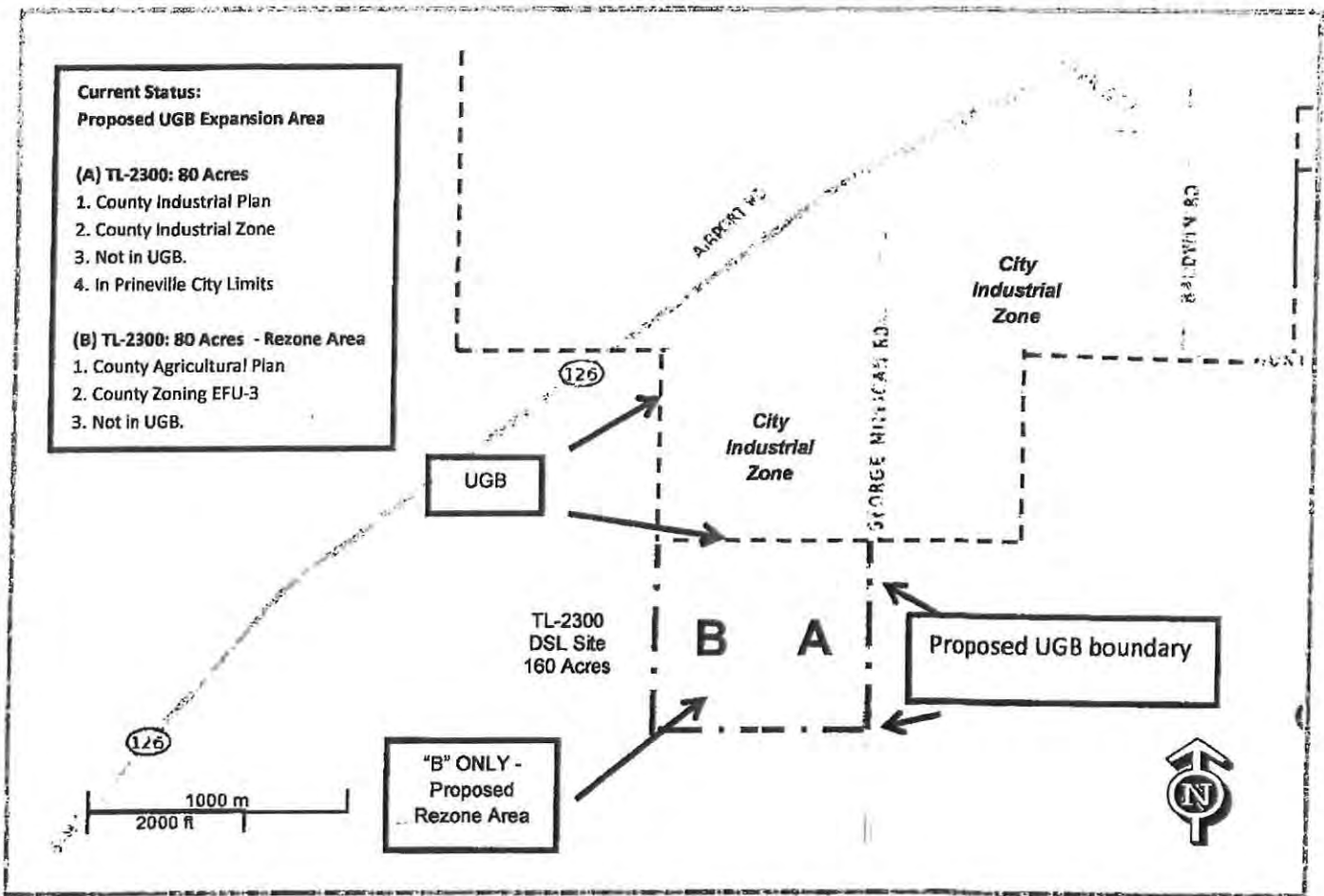
The Planning Commission has recommended approval of the request to the County Court.

Respectfully submitted,



Phil Stenbeck, CFM  
Assistant Planning Director

**Exhibit A**  
**Proposed**  
**Zone Change Area**  
**T15S, R15E, S14, TL 2300**  
**DSL Millican Road Site**  
**80 Acres**





Y PLANNING DEPT.  
Third Street  
e, OR 97754

Hasler

FIRST-CLASS MAIL

05/17/2013

US POSTAGE

\$00.86<sup>0</sup>



ZIP 97754  
011D11611651

DEPT OF

MAY 20 2013

LAND CONSERVATION  
AND DEVELOPMENT

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**