



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: April 08, 2016
Jurisdiction: City of Myrtle Creek
Local file no.: 15-MC010
DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/06/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 003-15 {24138}
Received: 4/6/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Myrtle Creek

Local file no.: 15-MC010

Date of adoption: 02/02/16

Date sent: 4/5/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): Yes 11/16/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Ricky Hoffman, City Planner

Phone: 541-464-6339

E-mail: rjhoffma@co.douglas.or.us

Street address: Douglas Cnty Crthse, Justice Bldg Rm 103

City: Roseburg

Zip: 97470-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

N/A

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from Community Commercial-County to Neighborhood Commercial- City 1 acres.
A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Change from _____ to _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 1069 N. Old Pacific Hwy. T29S 05W 33BD TL700

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from C-2 Douglas County	to C-2 City of Myrtle Creek	Acres: 1
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 1069 N. Old Pacific Hwy. T29S 05W 33BD TL700

List affected state or federal agencies, local governments and special districts: Dept of Revenue; Myrtle Creek; Douglas County; Tri-City Rural Fire District

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Annexation of a 0.24 acre property inside the UGB but currently administered by Douglas County plan and zone designation. Annexation will require a Plan Amedment and a Zone Change to a similar Myrtle Creek designation

**BEFORE THE PLANNING COMMISSION
OF THE
CITY OF MYRTLE CREEK**

IN THE MATTER of a decision by the City Planning Commission for an annexation, comprehensive plan amendment from Community Commercial (CC) of the Douglas County Comprehensive Plan to Commercial plan designation with the Myrtle Creek Comprehensive Plan and a zone change from Douglas County's zoning designation of Community Commercial (C-2) to a Myrtle Creek zoning designation of Neighborhood Commercial (C-2) in order to establish a wellness center/medical marijuana dispensary. The property is described as Tax Lot 700 in Section 33BD, Township 29S, Range 5W, W.M.; Property I.D. No. R63315. Planning Dept. File No. 15-MC010.

**FINDINGS OF FACT
AND
DECISION**

PROCEDURAL FINDINGS

1. This matter came for hearing before the Planning Commission on December 22, 2015, in Myrtle Creek City Hall.
2. The application was filed and deemed complete with the city on November 03, 2015.
3. The application was deemed a Quasi-Judicial Action and referred to the Planning Commission for a public hearing, pursuant to Section 18.180.030 of the Myrtle Creek Municipal Code.
4. Notice of Public Hearing before the Planning Commission was given in accordance with Sections 18.185.170 and 18.185.180 of the City of Myrtle Creek Municipal Code. Notice was sent to affected property owners of record within 150 feet of the proposed request, to service providers, and governmental agencies on December 2, 2015.
5. The Planning Commission members present at the hearing were: Mike O'Sullivan, Stephen Maniaci, Lonnie Rainville and Toni McDermott.
6. There were no declarations of ex parte contact or conflict of interest by members of the Planning Commission.
 - a. Commissioners Rainville and Maniaci disclosed business relations, not related to the subject proposal, with the applicant that may appear or could be construed to be a conflict of interest, but both explained that they were able to remain unbiased and participate in a fair and objective manner.
 - b. There were no objections from the audience and the Planning Commissioners were qualified to hear the matter.
7. During the public hearing, the Planning Commission recognized the following parties in the matter:
 - a. Tony Theiss
 - b. Todd and Serena Theiss

- c. Vincent Pastoria
 - d. Mark Garcia
 - e. Gerald Heilman
 - f. Dan Wiggins
 - g. Dan Jocoy
8. The file and staff report including staff exhibits A-E, were entered into the record before the Planning Commission. Reference was made to the December 15, 2015, Staff Report and findings of fact addressing the applicable provisions contained in the Myrtle Creek Comprehensive Plan and the Myrtle Creek Municipal Code Chapter 18.180 (Amendments and Zone Changes).
 9. The subject property is currently designated Community Commercial on the Douglas County Comprehensive Plan Land Use Map. The applicant proposes for the property to be amended into the City's Comprehensive Plan Map as a Commercial plan designation.
 10. It is being requested that the zoning of the property be changed from Douglas County's C-2 (Community Commercial) to C-2 (Neighborhood Commercial) as designated by the city in order to allow the applicant to apply for a site review process for the establishment of a wellness center and medical marijuana dispensary.
 11. The Commission provided an opportunity to hear testimony from the applicant. No testimony was given by the applicant.
 12. The Planning Commission provided the opportunity to hear additional testimony from parties in favor of the application. Vincent Pastoria brought forward testimony in regards to the public need and convenience for citizens who need access to certain medicine and other products.
 13. The Planning Commission provided an opportunity to hear testimony in opposition to the applicant's request. Mark Garcia, Gerald Heilman, Dan Jocoy and Dan Wiggins all spoke in opposition of the proposal stating concerns relating to moral values, protection of children and disagreement with the appropriateness of the proposal. Mark Garcia also presented a letter from the Tri City Citizens Alliance and the Tri City Neighborhood Watch dated the 22nd of November, 2015 which describes concerns surrounding the siting standards of marijuana dispensaries and the proximity of the proposed dispensary in relation to existing bus stop locations for children. A copy of the letter has been submitted into the official record.
 14. The Planning Commission provided opportunity to allow the applicant to offer rebuttal testimony and/or evidence. Todd Theiss provided a response to the opposing testimony describing an understanding of all the concerns brought forward in the opposing argument however he continued on to state that the concerns are invalid and that the facility would be regulated by the state and the city in a way that would alleviate all the concerns brought forward.
 15. The Planning Commission closed the public portion of the hearing and commenced deliberation on the application.

FINDINGS OF FACT RELATED TO DECISION

- Finding 1. The Planning Commission finds that the applicant has met all the criteria for annexation contained within ORS 222.125.
- Finding 2. The Planning Commission finds that the applicant has sufficiently demonstrated the proposal's appropriateness and desirability, the public convenience to be served by the

proposal and the public necessity of the proposal.

- Finding 3. The Planning Commission finds that the requested Comprehensive Plan Amendment to Commercial and Zone Change to Neighborhood Commercial (C-2), based on staff's analysis is consistent with the Comprehensive Plan and all other applicable policies.
- Finding 4. The Planning Commission finds that the requested comprehensive plan amendment and zone change meets all the applicable criteria as outlined within Section 18.180.030 of the Myrtle Creek Municipal Code.
- Finding 5. The Planning Commission referenced the findings of the Planning Commission staff report dated December 15, 2015 within their deliberation to assist in making their decision.
- Finding 6. The Planning Commission finds that no additional conditions are necessary to be placed on this request because the applicant will be required to meet all the applicable state and local standards at the time they apply for development review, if approved by City Council for the request.

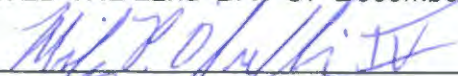
CONCLUSION

1. A motion was made by Commissioner Rainville and seconded by Commissioner McDermott, recommending City Council approve the proposed annexation, comprehensive plan amendment to Commercial and zone change to Neighborhood Commercial (C-2), with the assurance to be made that all requirements and conditions are met, at the time of the city's site review, to approve the desired establishment. The motion passed unanimously.

DECISION

NOW, THEREFORE, it is the decision of the Myrtle Creek Planning Commission that Planning Dept. File No. 15-MC010 be **APPROVED**. This approval will serve as a recommendation to the City of Myrtle Creek City Council for property annexation, comprehensive plan amendment to Commercial and a zone change to Neighborhood Commercial (C-2).

DATED THE 22nd DAY OF December, 2015



Michael O'Sullivan IV, Chairman

ATTEST:



Carolyn D. Shields, City Recorder

**CITY OF MYRTLE CREEK
OREGON
ORDINANCE NO. 805**

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF MYRTLE CREEK, DISPENSING WITH THE CITYWIDE ELECTION ON THE QUESTION; AMENDING THE MYRTLE CREEK MUNICIPAL CODE CHAPTER 18.15 COMPREHENSIVE PLAN; CHAPTER 18.20 ZONING DISTRICTS AND MAPS BY CHANGING THE LAND USE AND ZONING DESIGNATION AND COMPREHENSIVE PLAN MAP DESIGNATION OF CERTAIN PROPERTY WITHIN THE CITY AND WITHDRAWING FROM A SPECIAL DISTRICT

WHEREAS, the City of Myrtle Creek has received petitions and consent from the owners of certain real property to have said territory annexed to the city, and the record owners of the said real property have initiated an amendment to the Myrtle Creek Zoning Map by filing the proper application; and

WHEREAS, the record owners of certain real property initiated an amendment to the Myrtle Creek Comprehensive Plan Map and Zoning Map by filing the proper application and addressing the prescribed filing fee; and

WHEREAS, the territory to be annexed is located within the City of Myrtle Creek urban growth boundary and is contiguous to the corporate limits of the City and is also known as 1069 N. Old Pacific Hwy, Property I.D. No. R63315; and

WHEREAS, pursuant to the provisions of ORS 222.125, the City Council of the City of Myrtle Creek initiated annexation proceedings for the property; and

WHEREAS, the Myrtle Creek Planning Commission on December 22, 2015, held a public hearing on the proposed Annexation, Comprehensive Plan Map Amendments, Zone District Change and Withdrawal from a Special District and provided the opportunity of public participation in the matter; and

WHEREAS, the Planning Commission voted to forward a favorable recommendation to the Myrtle Creek City Council that the City Council proceed to proclaim the said territory as annexed to the City of Myrtle Creek according to ORS 222.125 and ORS 222.111, and that the Comprehensive Plan Map Amendment and Zoning District change request be formally adopted by the Council; and

WHEREAS, the City Council adopted Findings of Fact supporting the Planning Commission's recommendation to approve the requested annexation of said territory and the Zoning District change; and

NOW, THEREFORE THE CITY OF MYRTLE CREEK ORDAINS AS FOLLOWS:

SECTION 1. ANNEXATION OF TERRITORY

The territory described in Exhibit A (legal description) and Exhibit B (map), and which are attached hereto and made a part hereof, is hereby annexed to the City of Myrtle Creek.

SECTION 2. ANNEXATION WITHOUT ELECTION

As authorized by ORS 222.125, the City Council elects to dispense with submitting the question of

annexation of the subject territory to an election by the registered voters of the City and sets the final boundaries of the area to be annexed and proclaims the annexation.

SECTION 3. ZONING OF ANNEXED TERRITORY

The subject property is located within Sub-Area II of the City of Myrtle Creek Urban Growth Boundary as identified within the Myrtle Creek/Douglas County Urban Growth Management Agreement (UGMA). Currently, the property has a Douglas County Comprehensive Plan designation of Community Commercial (CC) and a Douglas County zoning of Community Commercial (C-2). Upon annexation, the subject property will result in the property being assigned the City of Myrtle Creek Comprehensive Plan designation of Commercial and zoned Neighborhood Commercial (C-2).

SECTION 4. WITHDRAWAL OF TERRITORY FROM SPECIAL DISTRICT

The City Council declares that the withdrawal of the subject territory from the special district is in the best interest of the City. The territory described in Section 1, above, is hereby withdrawn from the Tri City Rural Fire Protection District No. 4. The City of Myrtle Creek hereby assumes any general obligations of the territory, if any, owing to said district on the date of withdrawal. After annexation of the subject territory and withdrawal from the district, the City shall be responsible for any general or special obligations by the remaining district. The territory described in Section 1, above, is not withdrawn from any Water District or Sanitary District.

SECTION 5. RECORD OF ANNEXATION AND WITHDRAWAL FROM SPECIAL DISTRICT

The City Recorder shall, upon its passage, submit to the Oregon Secretary of State a certified true copy of this Ordinance; a map depicting the subject territory, and a copy of the "Petition and Consent for Annexation to City of Myrtle Creek, Oregon," signed by 100% of the owners of the subject territory and a legal description of the territory. The City Recorder shall also send, within 10 days of the effective date of the annexation and withdrawal, a description of said territory and a map depicting the new boundaries of the City of Myrtle Creek to the Douglas County Assessor, Douglas County Clerk, Douglas County Planning Department, Oregon Department of Revenue, and all affected utility service providers, pursuant to ORS 222.

SECTION 6. EFFECTIVE DATE OF ANNEXATION


The effective date of annexation shall be the date in which the documents in Section 5, above, are received and filed by the Office of the Secretary of State. For all other purposes, this Ordinance shall be effective thirty (30) days from the date of City Council approval and adoption.

PASSED BY THE CITY COUNCIL ON THE FIRST READING this 19th day of January, 2016.

APPROVED BY THE CITY COUNCIL ON THE SECOND READING this 2nd day of February, 2016.

APPROVED BY THE MAYOR this 2nd day of February, 2016.

Attest:


Carolyn D. Shields, CMC
City Recorder


Ken Brouillard, Mayor

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Douglas, State of Oregon, described as follows:

THE NORTHEASTERLY 100 FEET OF THE PROPERTY DESCRIBED AS BEGINNING AT A POINT ON THE WESTERLY RIGHT OF WAY LINE OF OLD PACIFIC HIGHWAY U.S. 99, SAID POINT OF BEGINNING BEARS NORTH 1925.65 FEET AND EAST 940.06 FEET FROM THE SOUTHWEST CORNER OF THE HENRY ADAMS DONATION LAND CLAIM NO. 42 IN TOWNSHIP 29 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, DOUGLAS COUNTY, OREGON; THENCE RUNNING ALONG THE SAID HIGHWAY RIGHT OF WAY LINE NORTH 47° 25' EAST 400.00 FEET; THENCE LEAVING SAID HIGHWAY RIGHT OF WAY LINE AND RUNNING NORTH 42° 35' WEST 108.41 FEET; THENCE SOUTH 47° 25' WEST 400.0 FEET; THENCE SOUTH 42° 35' EAST 108.41 FEET TO THE POINT OF BEGINNING, ALL SITUATED IN THE WEST 1/2 IN SECTION 33 AND IN THE SAID DONATION LAND CLAIM NO. 42 OF SAID TOWNSHIP 29 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, DOUGLAS COUNTY, OREGON.

NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 1, 2008.

MYRTLE
CREEK

MYRTLE CREEK CITY LIMITS

I-5

SOUTH UMPQUA RIVER

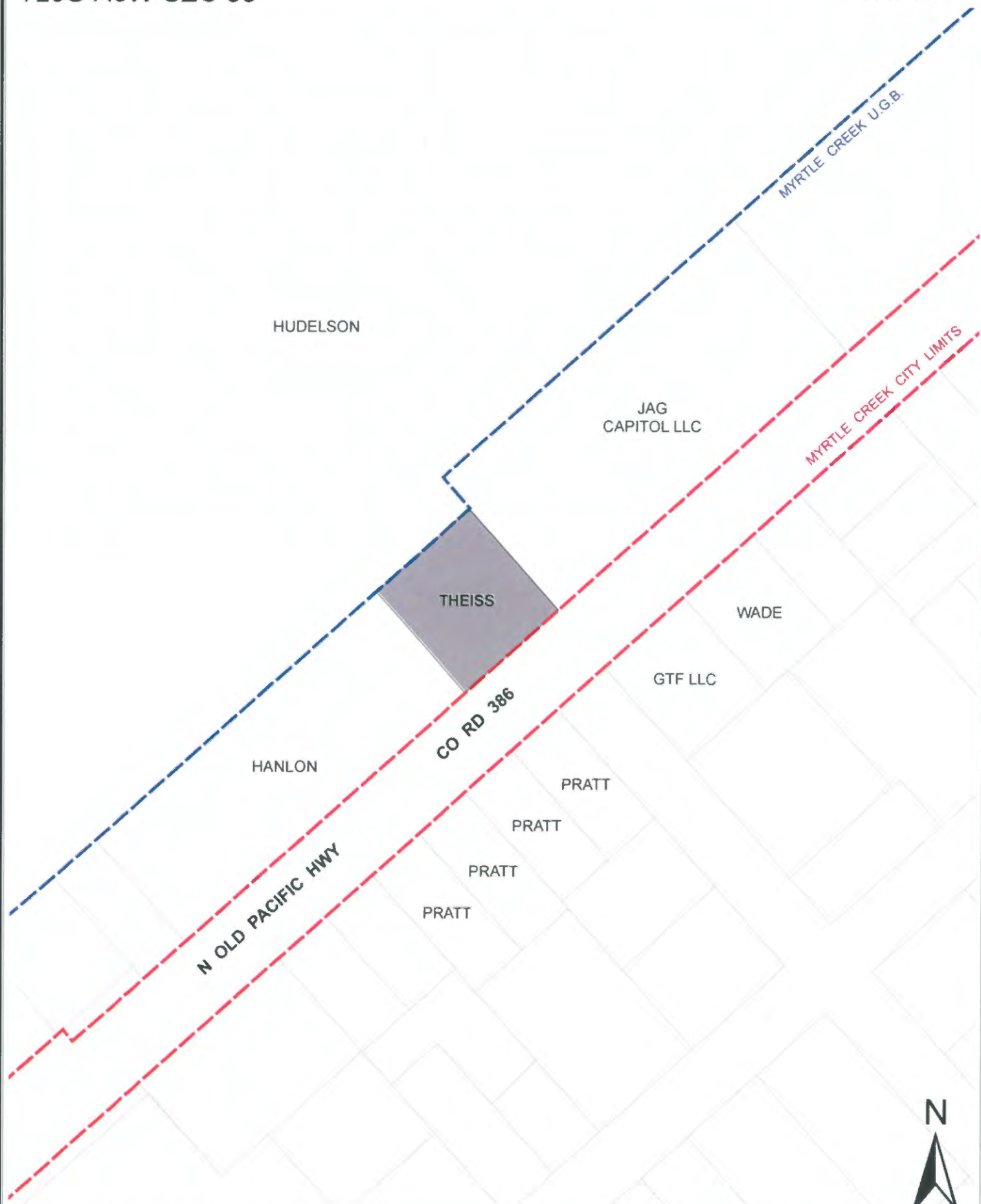
CO RD 388

N OLD PACIFIC HWY

MYRTLE CREEK U.G.B.

SUBJECT
PROPERTY





F1

MYRTLE CREEK U.G.B.

CITY OF MYRTLE CREEK

CO RD 386

C2

R3

N OLD PACIFIC HWY

WALNUT ST

R1

