



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: January 08, 2016

Jurisdiction: Curry County

Local file no.: CP/ZC-1503

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 01/07/2016. 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 36 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](mailto:plan.amendments@state.or.us)



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

**FOR DLCD USE**  
 File No.: 003-15 {24127}  
 Received: 1/7/2016

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: Curry

Local file no.: **CP-ZC 1503**

Date of adoption: 01/06/2016      Date sent: 1/7/2016

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): 11/10/2015

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): Carolyn Johnson - Planning Director

Phone: 541 247-3228

E-mail: johnsonc@co.curry.or.us

Street address: 94235 Moore St., Suite 113

City: Gold Beach

Zip: 97444-

**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:

A change in Comprehensive Plan designation from "Residential" to "Commerical" with a concurrent zone change from Rural Residential-Five (RR-5) to Heavy Commercial (C-2) for a property consisting of approximately 9.38 acres with a street address of 15887 Highway 101, Brookings, Oregon

**For a change to a comprehensive plan map:**

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

- |                         |               |             |  |
|-------------------------|---------------|-------------|--|
| Change from Residential | to Commercial | 9.38 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): 4113-09AC-02900 15887 Highway 101, Brookings, Or.

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 RR-5	to C-2	Acres: 9.38
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): 4113-09AC-02900

List affected state or federal agencies, local governments and special districts: ODOT and DLCD

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.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the Adoption	)	
Of a Change to the Curry County	)	
Comprehensive Plan and Zoning	)	ORDINANCE NO. 15-07
Maps Related to File No. CP/Z 1503	)	
For Applicant Harder Diesslin	)	
Development Group LLC	)	

The Board of Curry County Commissioners ordains as follows:

**Section 1**

With respect to the subject property described below, this ordinance changes the Curry County Comprehensive Plan designation from "Residential" to "Commercial" with a concurrent zone change from Rural Residential – 5 acres (R-5) to Heavy Commercial (C-2).

**Section 2**

This ordinance is being adopted under the authority of ORS Chapters 197 and 215 and the Curry County Zoning Ordinance (CCZO) following published notice. It shall be effective upon adoption.

**Section 3**

This amendment to the Curry County Comprehensive Plan and Zoning Maps applies only to the following land as described in the records of the Curry County Assessor:

Approximately 9.38 acres Assessor Map No. 41-13-09AC Tax Lot 2900

This property is shown on the attached map marked as Exhibit "A" that is attached hereto and incorporated by reference.

**Section 4**

The Curry County Board of Commissioners approved this application for a comprehensive plan and zone change in accordance with sections 2.060(3)(a), 9.021 and 9.030 of the Curry County Zoning Ordinance. A hearing was held on the application on December 17, 2015. Testimony and written documents were offered in support of the application; no one offered any testimony or written documents in opposition to the application. The findings supporting the Board's decision are found in

the staff report (without exhibits or attachments) marked as Exhibit "B" that is attached hereto and incorporated by reference. The conditions of approval are found in Exhibit "C" that is also attached hereto and incorporated by reference.

**Section 5**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 17th day of December, 2015.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

ABSTAIN  
Thomas Huxley, Vice Chair

  
David Brock Smith, Commissioner

Recording Secretary:

\_\_\_\_\_

First Reading: December 17, 2015  
Second Reading: January 06, 2016  
Effective Date: April 05, 2016

Approved as to Form:

N/A  
Curry County Legal Counsel

January 6, 2016

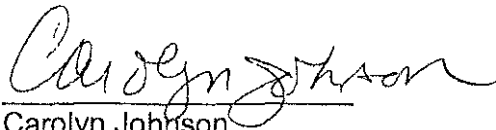
On January 6, 2016, the Curry County Board of Commissioners adopted Ordinance No 15-07 to change to the Curry County Comprehensive Plan and Zoning Maps related to File No. CP/Z 1503 for applicant Harder Diesslin Development Group LLC.

Section 3 of Ordinance 15-07 references Exhibit "A" as an attachment and notes Exhibit A is incorporated into the Ordinance by reference.

Section 4 of Ordinance 15-07 references the findings supporting the Board's decision as Exhibit "B" and the conditions of approval related to File CP/Z 1503 as Exhibit "C" as exhibits; both Exhibit B and Exhibit C are noted as incorporated into the Ordinance by reference.

Due to technical limitations that do not enable recording of colored exhibits, Exhibits A, B, and C cannot be entered into the Curry County recording system.

Original Exhibits A, B, and C noted herein are a part of the Ordinance 15-07 approval and are located in the Community Development Department office of Curry County located at 94235 Moore Street, Suite 113. Electronic Copies of these exhibits are available at no charge upon request by contacting 1-541-247-3304.



Carolyn Johnson  
Curry County Planning Director

Exhibit A

Subject Property

15887 Highway 101









**BOARD OF COMMISSIONERS  
STAFF REPORT AND FINDINGS**

**Ordinance 15-07 Exhibit B**

**DATE:** December 17, 2015

**SUBJECT:** Board of Commission consideration of Application 1503 for a Comprehensive Plan/Zoning Ordinance (CP/ZO) amendment for a 9.38 acre property at 15887 Benham Lane (Assessor Map No. 41-13-09AC, Tax Lot 2900) in the Brookings Urban Growth Boundary (UGB). The land use for the subject site is proposed to be changed from Rural Residential – 5 acres (RR-5) to Heavy Commercial (C-2).

**APPLICANT:** Harder Diesslin Development Group LLC, represented by Eric Oberbeck of Cascadia Geoservices.

**RECOMMENDATION:** The subject property is in the Urban Growth Boundary adjacent to other commercially zoned property and conforms to the policies of the Comprehensive Plan. The rezoning of the property as conditioned will not negatively impact the services in the area (including the transportation system) in the area, would conform to the intent of the Heavy Commercial (C-2) zone and would not disturb or interfere the permitted residential uses on neighboring properties. Staff recommends the Board of Commission approve Ordinance 15-07 authorizing a Comprehensive Plan/Zone Change (CP/ZO) from Residential to Commercial and Rural Residential – 5 acres to Heavy Commercial (C-2) for a 9.38 acre property at 15887 Benham Lane (Assessor Map No. 4113-09AC, Tax Lot 2900).

**I. EXECUTIVE SUMMARY**

**The property:** The subject site is relatively flat with heavier vegetated area on the northeasterly boundary and a single family home on the lower south easterly area. The property is free of geological and flood hazards, wetlands, streams, rivers or lakes. Services and facilities that will be available to the property include the following:

Harbor Water PUD for water  
Harbor Sanitary District for sewer  
Coos Curry Electric Cooperative for  
electricity  
Verizon for telephone

Curry County Sheriff's department for  
police services  
Harbor Rural Fire Protection District for  
fire services  
Highway 101 and East Benham Lane

**Figure 1** identifies the site and its surrounds; English Village shopping mall is to the northeast, U.S. Highway 101 to the west, and residential property lies to the north and east.

**Figure 1**

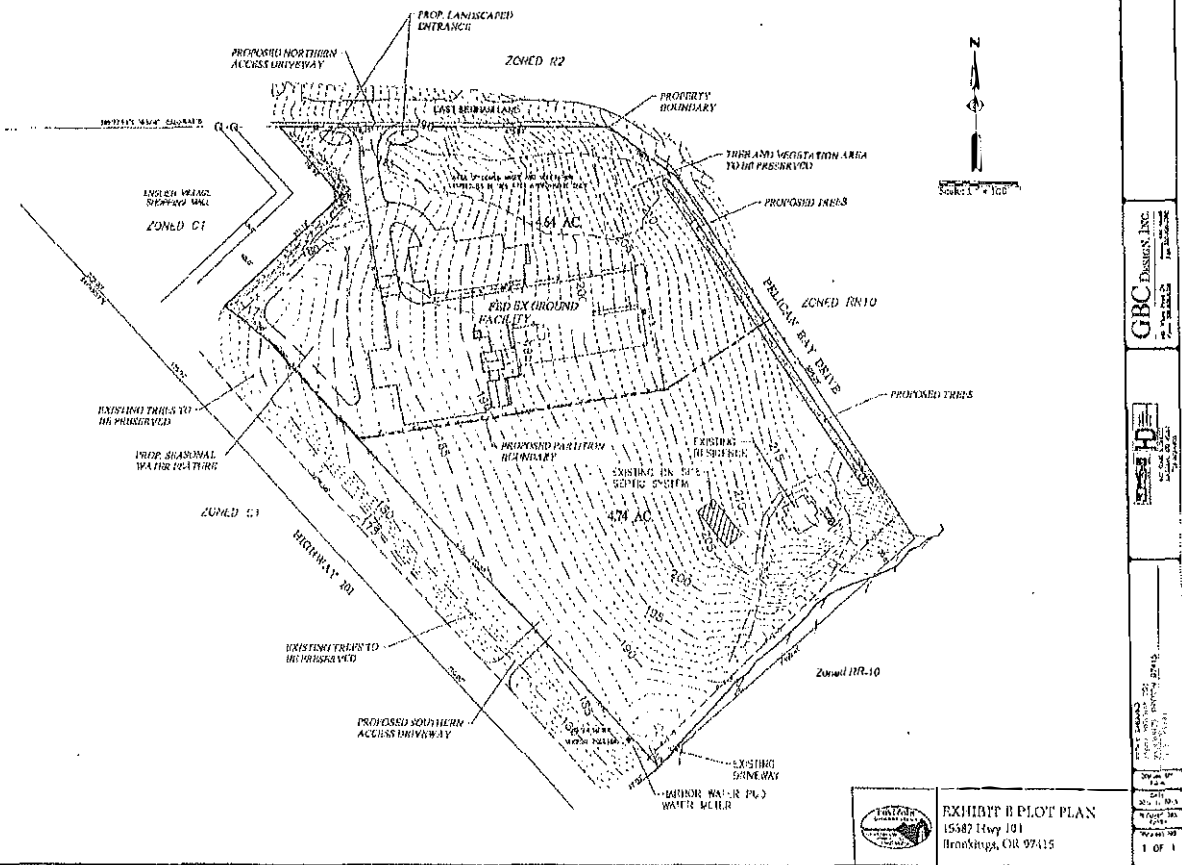


**Reason for the application:** The applicant requests the proposed amendments as commercial development on RR-5 zoned property is limited to very few commercial uses, none of which could accommodate what the applicant seeks for future development of the property. If the BOC authorizes the subject application, a wide variety of commercial uses are permitted by right and residential uses would be subject to a Conditional Use Permit requirement.

**Discussion/Review:** If the BOC authorizes the CP/LZ amendments and there are no subsequent successful appeals, the applicant will move forward with an application for a partition that would split the 9.38 acres into two separate parcels; a **4.64 acre parcel** directly adjacent to and with access from Benham Lane for a Federal Express Ground Facility (Fed Ex) and a **4.74 acres** parcel adjacent to and with access from Highway 101 of the property for a future retail commercial facility.

Wholesale trucking and storage establishments (like a Fed-Ex) can be developed by right in the C-2 zone. The applicant is working with Fed Ex to prepare plans and materials needed for a partition of the subject property should the BOC authorized the CP/ZO application. **Figure 2** notes the configuration of the proposed partition.

**Figure 2**



**II. PUBLIC AGENCY COMMENTS/STAFF RESPONSE**

On November 25, 2015, consistent with the County's Zoning Code and requirements for public notification, a twenty day notice was mailed to surrounding property owners and interested agencies (Harbor Water District, DLCD, Fire Marshall, ODOT) regarding the proposal and this December 17, 2015 public hearing. Additionally, a notice was published in the Curry County Reporter.

Comments received by staff were as a result of the notice, follow-up from an October 21, 2015 Pre-application for the proposal, and information provided by the Curry County Administration and Economic Development Department, the City of Brookings and

DLCD. Written comments from ODOT to the applicant are noted below and are reflective of the Planning Director's phone conversations with ODOT. These comments are addressed in **Attachments 1 and 2.**

- From the **City of Brookings**: In a December 2, 2015 memorandum from Donna Colby-Hanks, Planning Manager, City of Brookings, she notes: *the subject property is adjacent to Highway 101 and if rezoned to commercial would be consistent with the current development of the area with commercial uses along the highway. Conditions buffer the adjacent residential uses from the subject property as suggested by the applicant should be applied to the approval. The applicant states in his findings that the proposal is for siting a Fed Ex facility and addresses impacts from that facility. Unless the zone change is qualified and conditions are placed on the approval, impacts from more intense uses allowed in this zone, especially traffic, are not adequately addressed. Although qualified zone changes can be challenging, Staff (City) makes a favorable recommendation for granting approval of a qualified zone change with conditions to address impacts on the above referenced file.*

**Staff response:** A condition of approval is recommended for the subject application requiring a Traffic Impact Analysis

- From the **Oregon Dept. of Land Conservation and Development Department**: Taken from a summary of an October 26, 2015 e-mail from Dave Perry, DLCD Representative:
  - The focus of the meeting should be on the proposed amendment, rather on the prospective development (FEDEX facility).
  - The findings must show that residential land needs can be met without this property and that area land needs for heavy commercial uses are not otherwise being met.
  - The applicant will need to address relevant requirements of the Statewide Planning goals (e.g., Goals 10, 11 and 14).
  - Public water and sewer services must be available to the property if it is to be reclassified for urban uses.
  - The potential impact of the proposed change (from residential to commercial) on the state and local transportation facilities and the surrounding residential properties will need to be evaluated.

**Staff response:** These points are addressed in Attachments 1 and 2.

- E-mail Communication of August 27, 2015 from **ODOT** from Ron Hughs, ODOT Region 3 Access Management Engineer to the applicants, in part:  
*We have to do some preliminary traffic calculations to finalize any volume restrictions. There is a huge change in traffic numbers for different types of use. As an example the volumes go from approximately 100 ADT (Average Daily Traffic) to 850 ADT for different types of markets and 127 ADT to 716 ADT for different restaurants. These numbers are per one thousand gross square feet of*

*the buildings. As you can see a lot is dependent on the type and size you would like to develop. Also as an example, a truck terminal generally generates about 10 trips per day per thousand square feet. You probably have more specific numbers for a Fed-Ex facility, but the point is that this type of facility is far less than the other uses.*

*We need more information from you before we can develop a not-to-exceed number. Our intent is to work with you toward what you would like to pursue. The location of the approach on the highway is also dependent on the type and volume of the traffic entering and exiting this location. We want the approach located out of the influence area of the intersection or existing approaches to minimize the conflicts or over-laps among all locations. This gives the travelling public an opportunity to see any vehicles entering or exiting the locations and to respond to any potential emergency.*

*If your intent is to develop the south site for a more intense use, then a Traffic Impact Analysis (TIA) will be required which should identify the impacts to the highway and any proposed improvements to alleviate those impacts. I can't say for certain what those impacts are without the analysis. You would need to hire a traffic engineer licensed in Oregon and we would work with your traffic consultant on what information is necessary to approve the approach.*

**Staff Response:** Should the BOC authorize the CP/ZO amendment a condition of approval specific to ODOT's recommendation should be required as a part of the approval.

- Received on December 8, 2015, letter from Julie Schmeltzer, Curry County Director of Administration and Community Development supporting the proposal and identifying how the application meets the vision of the County for economic development and complies with the Zoning Ordinance.

**Staff Response:** The support letter can be found in Attachment 3.

Last, a December 2, 2015 letter on the following page was received from the South Coast Development Council in support of the proposed CP/ZO amendments.

The South Coast Development Council's mission is to promote and support businesses that provide quality jobs through responsible development on Oregon's South Coast.



December 2, 2015

Carolyn Johnson  
94235 Moore St.  
Gold Beach, OR 97444

50 Central Avenue, Suite A  
Coos Bay, OR 97420  
541 266-9753  
FAX 541 267-2753

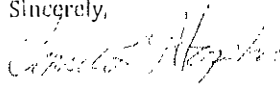
**RE: Rezone of Rural Residential 10 (RR10) to Heavy Commercial (C2)**

To Whom It Concerns:

The South Coast Development Council would like to take this opportunity to voice our support for the request by the Harder Diesslin Development Group, LLC, to rezone Tax Lot 2900, T41S, R13 W, Sec. 09AC from Rural Residential (RR10) to Heavy Commercial (C-2) and the concurrent request to partition the site into 2 parcels, 4.64 and 4.76 acres.

The proposed FedEx facility that would be placed on the northern parcel of this proposed rezone and partition request, once approved would lend itself to increased access by home businesses in need of shipping. The closure of the local Harbor Post Office earlier this year has placed a significant strain on the Brookings Post Office, which absorbed both the personal and business shipping needs of the community. A new FedEx facility would create the ability to not only reduce the strain caused by the Harbor Post office closure, but it would also increase the shipping ability, for more home business as well as businesses that are dependent on shipping access in order to be a successful and viable business.

The South Coast Development Council urges that you consider approving this zoning change and partition both to improve the economy of the local area, as well as increase shipping access for the local businesses and community. In an area that struggles with the closure of the local post office, this is a great opportunity to create an avenue or reaching the larger market for many local businesses, which has a great impact on the local economy.

Sincerely,  
  
Connie Stopher  
Executive Director  
South Coast Development Council

\*\*\*\*\*

Sponsor Investors:

Bandon Dunes Golf Resort ❖ Bay Area Hospital ❖ City of Coos Bay ❖ Coos County  
❖ Jordan Cove Energy ❖ Oregon International Port of Coos Bay ❖

### III. CONCLUSION

Subject to a condition for a Traffic Impact Analysis for the subject site, the applicable goals and policies of the Comprehensive Plan and the standards for a zone change can be met with the requested change the Comprehensive Plan designation from "Residential" to "Commercial" and zone change from Rural Residential-5 to Heavy Commercial for property identified as Curry County Tax Assessor Map No.: 41-13-09AC Tax Lot 2900.

### IV. RECOMMENDED CONDITION OF APPROVAL

ODOT advises that a Traffic Impact Analysis will determine what would be necessary to provide vehicular access to and from the lower portion of the property for future development. The TIA will also identify appropriate turn movements from Hwy 101 and identify capacity for the lower portion of the site that would not negatively impact the traffic level of service for the area. Future land division or development of the subject property could not proceed absent the required TIA. This requirement is discussed further in **Attachment 2**.

If the Board determines to approve the requested CP/ZO amendments the following condition must be required to comply with Comprehensive Plan Goal #12 and Zoning Ordinance Section 9.021(5):

- 1) The Applicant shall complete a Traffic Impact Analysis (TIA) consistent with the direction provided by ODOT in their August 27, 2015 e-mail transmittal.

### V. ATTACHMENTS

**Attachment 1** includes the applicant's justification for the CP/ZO application as well as findings and supporting documentation containing the applicable criteria and an examination of the relevant facts in relation to the criteria. An e-mail thread from ODOT is also included in this attachment, noted therein as attachment 3. Also included in Attachment 1 is correspondence between the applicant's representative and the Planning Director.

**Attachment 2** includes a staff analysis of the proposal and notes findings related to application compliance with the County's land use goals.

**Attachment 3** includes correspondence received from the City of Brookings, DLCD and the Curry County Administration and Economic Development Department.

**Attachment 1**

Eric Oberbeck (Agent) application, response to staff request for additional information and other application material



**CURRY COUNTY DEPARTMENT OF PUBLIC SERVICES  
94235 MOORE STREET, SUITE 113  
GOLD BEACH, OREGON 97444**

**David Pratt, AICP  
Director**

**Phone (541) 247-3284  
FAX (541) 247-4579**

File # \_\_\_\_\_ Fee \$6,177 \_\_\_\_\_ Receipt # \_\_\_\_\_ Accepted by \_\_\_\_\_

**LAND USE DECISION APPLICATION FORM**

Application Type (Check One)

Comp Plan/Zone Change     Conditional Use     Variance     Partition     Subdivision

Application Date: October 7, 2015

Hearing / Decision Date: \_\_\_\_\_

*APPLICANT: Please complete all parts of this form. The attached application checklist will be marked by staff to reflect the information and supporting items required for this request. Please return this prepared checklist, the completed application form and required fee at the time of submission. Please note that your application cannot be reviewed or processed until all the required items have been provided.*

**1. PROPERTY OWNER OF RECORD**

Name: Marjorie Reynolds, Trustee for the Harvey G & Etta Schaefer Trust  
Mailing Address: 480 Fred Haight Dr.  
City, State, ZIP: Smith River, CA 95567  
Telephone #: 707-954-6516    E-Mail: mrhotrodjr@charter.net

**APPLICANT**

Name: Walt Harder, Harder Diesslin Development Group LLC. (Or Assignees)  
Mailing Address: 112 F Street,  
City, State, ZIP: Salida, CO 81201  
Telephone #: (719) 539.6060    E-Mail: walt@waltharder.com

**AGENT**

Name: Eric Oberbeck, Cascadia Geoservices, Inc.  
Mailing Address: PO Box 1026  
City, State, ZIP: Port Orford, OR 97465  
Telephone #: 541-332-0433    E-Mail: eric@cascadiageoservices.com

**2. BASIC PROPOSAL (Briefly describe your proposed land use)**

The applicant and their Assignees, through their agent, are seeking to rezone Tax Lot 2900, T41S, R13 W, Sec. 09AC (site or subject property) from Residential 10 (R10) to Heavy Commercial (C-2).

Upon rezoning the subject property, the applicant is seeking to partition the site into two parcels (Exhibit B - Plot Plan). The subject property, which is 9.38 acres and has a physical address of 15887 Highway 101, Brookings, Oregon 97415, is located within the Brookings-Harbor Urban Growth Boundary and is adjacent to and east of



Highway 101 (Exhibit A - Location Map). Once the application is approved, the applicant is proposing to construct a Federal Express Ground Facility on the northern parcel and to develop the southern parcel for future commercial and retail space.

**3. PROPERTY INFORMATION**

Assessor Map #4113-09AC  
Zoning: Residential 10 (R-10)

Tax Lot (s): 2900  
Total Acreage: 9.32

**4. PROPERTY LOCATION**

Address (if property has a situs address) 15887 Highway 101, Brookings, Oregon 97415

Description of how to locate the property: The existing access driveway is located on the east side of Highway 101 approximately .22 miles south of the intersection of Highway 101 and E Benham Lane.

**5. EXISTING LAND USE (briefly describe the present land use of the property)**

Vacant      Developed; Describe existing development. There is an existing house which was built in 1977 on the southern portion of the subject property (Exhibit B - Plot Plan). The house has service provided by the Harbor Water District and has an on-site septic system (DEQ Permit Number 08-81-88R included here as Attachment 1). Access to the house is from a private driveway located on the east side of Highway 101.

**6. SURROUNDING LAND USES (Briefly describe the land uses on adjacent property)**

The subject property is located in an area of both commercial and residential use. The adjacent lands to the east and south are zoned Residential 10 (R-10) and are partially developed with single family residences (Exhibit C - Plat Map with Zoning). Surrounding properties to the north are zoned Light Commercial (C-1) and Heavy Commercial (C-2) and are developed with retail and commercial buildings. Highway 101 borders the property to the west. The area west of Highway 101 is zoned Light Commercial (C-1) and has been developed with office and retail buildings.

**7. SERVICE AND FACILITIES AVAILABLE TO THE PROPERTY**

Please indicate what services and facilities are available to the property. If on-site sewage disposal and/or water source is proposed, a copy of the approved site evaluation or septic system permit and a copy of any water rights or well construction permit must be submitted with this application.

Water Source: Harbor Water District PUD  
Sewage Disposal: Harbor Sanitary Sewer District  
Electrical Power: Coos Curry Electric Cooperative, Inc.  
Telephone Service: Frontier Communications.  
Fire Department/District: Harbor Rural Fire Protection District.  
School District: The Brookings-Harbor School District 17C.

**8. ROAD INFORMATION**

Nearest Public Road; Highway 101 and East Benham Lane.

Private Roads Serving the Property; Private driveway which provides access from Highway 101 approximately .22 miles south of Highway 101 and East Benham Lane.

Road Condition; the private driveway has an unimproved gravel driving surface.

Legal Status; the easement for the subject property provided by the state of Oregon Department of Transportation (ODOT) was recorded October 25, 1972 in the Curry County Book of Records Volume 26, page 1016 and is included here as Attachment 2.

Ownership: I own the road  Easement on others property  Joint Owner

Please submit record of ownership (i.e. deeds, easement, plat dedication, etc.) (See Attachment 2).

Proposed New Roads/Driveways (Briefly describe any new road construction related to this application; the applicant is requesting that ODOT grant a second easement on East Benham Lane which will allow access to the proposed northern parcel and the Federal Express Ground Use facility. The proposed access is illustrated on Exhibit B - Plot Plan. In addition, the applicant is requesting that the existing driveway adjoining Highway 101 be relocated to the north as shown on Exhibit B - Plot Plan. ODOT has been contacted regarding the proposed changes to the existing easement. Email correspondence with ODOT regarding these changes is included here as Attachment 3.

9. **PHYSICAL DESCRIPTION OF THE SUBJECT PROPERTY**

Topography (Briefly describe the general slope and terrain of the property)

The subject property, which is part of the Harbor Bench, slopes from 8 to 10 degrees to the west. The property lies at an elevation of from 96 to 130 feet above mean sea level (AMSL). The site is bordered on the east by the Harbor Hills.

Vegetation (Briefly describe the vegetation on the property);

Much of the subject property is covered with perennial grasses. There is an area along the northern property boundary which has both deciduous and evergreen trees and native and exotic shrubs and bushes. Evergreen trees exist along the western property boundary which adjoins the Highway 101 Right of Way. The site is not listed on the Curry County Wetland Inventory Map.

10. **FINDINGS OF FACT**

Oregon Statute and the zoning ordinance requires that land use decisions be supported by factual findings. The burden of proof is on the proponent therefore it is required that the application provide findings to support the request in this application. The standards and criteria that are relevant to this application will be provided by the staff and are considered to be a part of this application form. Please read the standards and criteria carefully and provide factual responses and evidence to address each standard. These findings must be sufficiently specific to allow the decision maker to determine whether your request meets the relevant standard. Please attach your written findings and supporting evidence to this application.

**FAILURE TO PROVIDE THE REQUIRED FINDINGS WILL PREVENT THE APPLICATION FROM BEING PROCESSED AND IT WILL BE RETURNED AS BEING INCOMPLETE.**

The applicant, through his agent, is seeking to rezone Tax Lot 2900, T41S, R13 W, Sec. 09CA (property or subject property) from Residential 10 (R10) to Heavy Commercial (C-2). Once the rezoning is complete, the applicant is proposing to partition the property into two parcels (Exhibit B - Plot Plan) and to construct a Federal Express Ground Facility on the northern parcel and develop the southern parcel for future commercial or retail businesses. The subject property, which is 9.38 acres and has a physical address of 15887 Highway 101, Brookings, Oregon 97415, is located within the Brookings-Harbor Urban Growth Boundary adjacent to and east of Highway 101 (Exhibit A - Location Map).

Following is a summary of documents provided here as attachments to this report.

1. Oregon Department of Environmental Quality (DEQ) On-site Septic System Permit 05-81-88R dated July 14, 1988.
2. Right of Way Easement created recorded July 7, 1977 in Curry County Book of Records 53, Page 74.
3. E-mail chain from Oregon Department of Transportation beginning dated August 27, 2015 regarding access to the subject property.
4. Geotechnical Site Assessment, 15887 Highway 10, Brookings, Oregon 97415 dated September, 2015 completed for Mr. Walt Harder, Harder Diesslin Development Group/Remax Mountain River by Cascadia Geoservices, Inc., pg 45. The report describes the geologic hazards associated with the subject property and provides recommendation options to mitigate these hazards.

**Section 9.021. Standards for a Zone Change.**

(Following is a discussion of the applicable standards (No. 1 through 4) for a zone change as outlined in the Curry County Zoning Ordinance corrected September, 2009).

The Commission or Board shall determine that the zone change request meets the following standards:

1. **Rezoning of the subject property will conform with the intent of all relevant policies of the Comprehensive Plan.**

It is the applicant's position that the proposed zone change conforms to the intent of all relevant policies of the Curry County Comprehensive Plan (CCCP).

Chapter 9 of the Curry County Comprehensive Plans deals with the Economy of Curry County. Chapter 9 states;

**"In order for the county to remain economically stable, it must develop and support its economic base".**

Goal 9 of the Oregon State Lands Use Goals (OAR 660-015-0000(9), which deals with Economic Growth requires that the Comprehensive Plan help;

**"diversify and improve the economy of the state". Plans and policies shall contribute to a stable and healthy economy in all regions of the state. The economic inventory shall include areas suitable for economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability, labor market factors, transportation, current market forces, availability of renewable and non-renewable resources, availability of lands and pollution control requirements"**

It further provides that the comprehensive plan should also emphasize the expansion of and increase productivity of existing industries and economic sectors as a means of strengthening local economic development. It states;

**"The economic indicator most often used in analyzing the economic structure of a region is employment".**

**"It provides that the economic structure of an area can also be considered in terms of basic and non-basic sectors. The commonly accepted activities which are part of the basic sector include manufacturing."**

The Curry County Comprehensive Plan (CCCP) recognizes that the viability and future well-being of the county is inseparably linked to its economy and to the improvement of conditions in the county which will require future expansion and development of all sectors of its local economy. This requires that Curry County defines policies which allow for future economic growth and designate appropriate lands for commercial use. It is our opinion that rezoning the subject property and allowing the development of the site into a Federal Express Ground Facility conforms to the intent of Chapter 9 of the CCCP. This proposed application, if approved, will help to develop and to support the economic base of Southern Curry County.

Because of the rapid increase in e-commerce, affordable, cost-effective shipping methods are imperative to both manufacturers and online retailer's so that they can distribute their products to a global marketplace. The proposed Federal Express Ground Facility will allow new businesses to develop and existing businesses to expand by offering clients an expedient and cost-effective shipping alternative. This includes not only home businesses but also established brick and mortar businesses. And it includes not only shipping products to clients but will also allow businesses to receive inventory and supplies on a timely, competitive basis. The proposed development will diversify and improve the economy of Curry County by allowing the creation of new manufacturing businesses and by allowing existing manufacturing businesses to grow. It will allow the development of new e-commerce businesses including home-based businesses to both develop and prosper. This will in turn contribute to a stable and healthy economy in our region and will allow for economic activity and growth. It will provide employment opportunities both directly through jobs created by Federal Express and other, on-site commercial and retail outlets and indirectly, by helping to support and to grow both existing businesses and creating new businesses.

It is further our opinion that the subject property is an area which is suitable for economic growth and activity and that it will help to strengthen the economic base of Curry County. The subject property is in an area of mixed commercial and residential use and is adjacent to Highway 101.

The 1979 Curry County Comprehensive Plan (CCCP) noted that parts of the Curry County labor force are presently under-utilized with more people available for jobs than there are jobs available. This is certainly true today. In 1979 when the CCCP was written, the forest and wood products industry was the dominant single industry in the county followed by agriculture and fishing. Now, e-trade is the fastest growing sector of the economy and is an integral part of the future economy of Curry County. With the development of a new Federal Express Ground Facility conveniently located within the Highway 101 corridor, approval of this application helps to insure that not only

Brookings and Harbor but all of Curry County will expand economically. This will help to insure that the economy of Curry County will continue to grow which will in turn add to the County's tax base.

**2. Rezoning of the subject property will conform with the intent of the zoning designation to which the subject property is proposed to be changed as defined in the purpose statement of the proposed zone;**

Heavy Commercial (C-2) Zoning allows more intensive, commercial uses, where necessary, for community convenience. This zone is intended to be applied only within urban growth boundaries identified by the Comprehensive Plan.

The subject property is within the Brookings-Harbor Urban Growth boundary. Rezoning of the subject property will conform to the intent of the zoning designation of C-2 as defined in the above purpose statement. The subject property is located adjacent to Highway 101 and as such is ideally situated to support activities allowed under a C-2 Zone. The property is located in an area which is mixed use and which includes both Light and Heavy Commercial Zoning. Rezoning the subject property will not change the overall use of the surrounding area and will provide community convenience by providing a convent shipping point for both businesses and residents.

**3. Rezoning of the subject property will not seriously interfere with the permitted uses on other nearby properties.**

The subject property is located in an area of mixed commercial and residential use. Rezoning the subject property to commercial will not interfere with other permitted uses on other nearby properties. The surrounding properties are Rural Residential, Residential 2, Light Commercial, Heavy Commercial and Master Plan-Airport. These permitted uses on land appropriately zoned will be able to continue.

**4. Rezoning of the subject property will not adversely impact the orderly provision of public services (water, sewer, police, fire, schools, etc.) in the area in which the property is located.**

Rezoning the subject property to Heavy Commercial will not adversely impact the orderly provision of public services including water, sewer, police, fire and schools in the area in which the property is located. The property is currently served by local public services and the Brookings-Harbor School District 17C. Harbor Sanitary District has agreed to provide sanitary sewer services to the subject property once the subject property is annexed into the Harbor Sanitary District.

**5. Amendments to the comprehensive plan and zoning designations of the subject property which significantly affect a transportation facility (see # 6, below) shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility as identified in the Transportation System Plan. This shall be accomplished by one of the following:**

Rezoning of the commercial property will not affect a transportation facility.

**NOTE – SIGNED COPIES OF THE APPLICATION ARE ON FILE WITH THE COMMUNITY DEVELOPMENT DEPARTMENT.**

**11. APPLICANT'S SIGNATURE AND STATEMENT OF UNDERSTANDING**  
(Please read the statement below *before* signing the signature blank)

I, Eric Oberbeck with Cascadia Geoservices, Inc., have filed this application for

Walt Harder, Harder Diesslin Development Group LLC. (Or Assignees), for a Comprehensive Plan Change and Zone Change with the Curry County Department of Public Services-Planning Division to be reviewed and processed according to State of Oregon and county ordinance requirements. Our signatures above affirm that we have discussed the application with the staff, and that we acknowledge the following disclosures:

(a) We are stating all information and documentation submitted with this application is true and correct to the best of our knowledge.

(b) We understand that if false information and documentation has been submitted and the decision is based on that evidence, the decision may be nullified and the county may seek all legal means to have the action reversed.

(c) We understand any representations, conclusions or opinions expressed by the staff in pre-application review of this request do not constitute final authority or approval, and we are not entitled to rely on such expressions in lieu of formal approval of our request.

(d) We understand that I we may ask questions and receive input from staff but acknowledge that we are ultimately responsible for all information or documentation submitted with this application. We further understand staff cannot legally bind the county to any fact or circumstance which conflicts with State of Oregon or local ordinance, and in event a conflict occurs, the statement or agreement is null and void.

(e) We understand that we have the burden of proving that this request meets statutory and Ordinance requirements and we must address all of the criteria that may apply to the decision being made. The criteria for approving or denying this request have been provided to us as a part of the application form.

(f) We understand the staff is entitled to request additional information or documentation any time after the submission of this application if it is determined as such information is needed for review and approval.

(g) We understand this application will be reviewed by the Oregon Department of Land Conservation & Development (DLCD) and possibly other state agencies as part of the statewide land use coordination process. We understand that agencies that participate in the review process have the legal right to appeal the approval of the request.

(h) We understand that it is our responsibility, and not the county's, to respond to any appeal and to prepare the legal defense of the county's approval of our request. We further realize it is not the county's function to argue the case at any appeal hearing.

(i) We understand that we are entitled to have a lawyer or land use consultant represent us regarding our application and to appear with us at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of most land use decisions, we understand that it may be in my best interests to seek professional assistance in preparation of this application.

(j) The undersigned are the owner (s) of record for the property described as:

Assessor Map(s) 4113-09AC, Tax Lot 2900 in the records of Curry County.

This application MUST BE SIGNED BY ALL PROPERTY OWNERS OF RECORD, or you must submit a notarized document signed by each owner of record who has not signed the application form, stating that the owner has authorized this application.

(l) Signature \_\_\_\_\_  
Print Name; Marjorie Reynolds, Trustee for the Harvey G & Etta Schaefer Trustee

**ADDITIONAL NOTES:**

All fees must be paid at the time your application is filed. Staff will examine the application when filed to check for completeness and will not accept it if required items are missing. A final completeness check will be made prior to doing public notice regarding the pending decision. If it is determined to be incomplete or the findings are insufficient you will be notified and you must provide the required information in a timely manner to avoid denial of the request.

ORS 215.427 required the county to take final action on a land use application (except for plan/zone changes) including all local appeals within 120 days if inside an Urban Growth Boundary (UGB) or 150 days if outside a UGB once the application is deemed complete.

**PLOT PLANS:**

All applications require that a plot plan of the subject property be included with the application form. The plot plan is an understandable map of your property and its relationship to adjacent properties. The plot plan must show certain essential information that is needed for the staff and the decision makers in the evaluation of your request. The plot plan is also incorporated into the public notice sent to adjacent property owners and affected agencies. The plot plan should be prepared on a single sheet of paper (preferable 8 ½ x 11”) so copies can easily be reproduced for review.

An example plot plan is attached to this form to give you an idea of what information should be included on your plan and how it should be drawn. The plot plan **does not** have to be prepared by a surveyor or engineer, and can generally be prepared by the applicant from the Assessor map of the property. The dimensional information included on the plot plan must be accurate and drawn to scale so that the plot plan reasonably represents the subject property and any development therein. If your application is for a land partition or subdivision Oregon Statute required that plat maps must be prepared by a surveyor licensed by the state.

Figures

Exhibit A- Location Map

Exhibit B - Plot Plan

Exhibit C – Plat Map with Zoning

Attachments

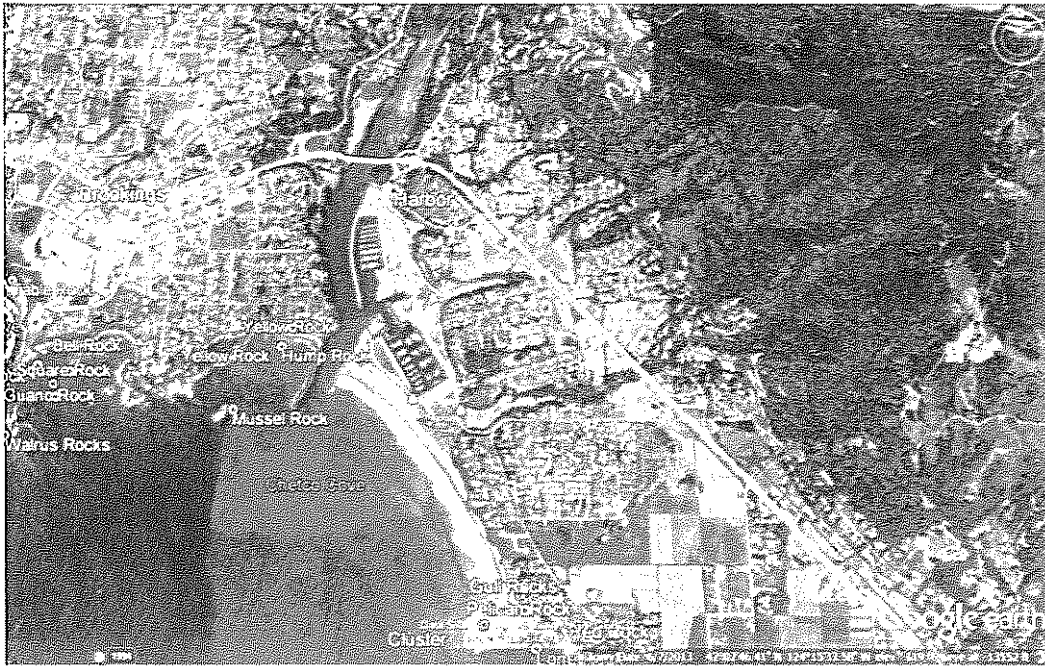
Attachment 1; Oregon Department of Environmental Quality (DEQ) On-site Septic System Permit 05-81-88R dated July 14, 1988.

Attachment 2: Right of Way Easement created recorded July 7, 1977 in Curry County Book of Records 53, Page 74.

Attachment 3: E-mail chain from Oregon Department of Transportation beginning dated August 27, 2015 regarding access to the subject property.

Attachment 4: Geotechnical Site Assessment, 15887 Highway 10, Brookings, Oregon 97415 dated September, 2015 completed for Mr. Walt Harder, Harder Diesslin Development Group/Remax Mountain River by Cascadia Geoservices, Inc., pg 45. The report describes the geologic hazards associated with the subject property and provides recommendation options to mitigate these hazards.

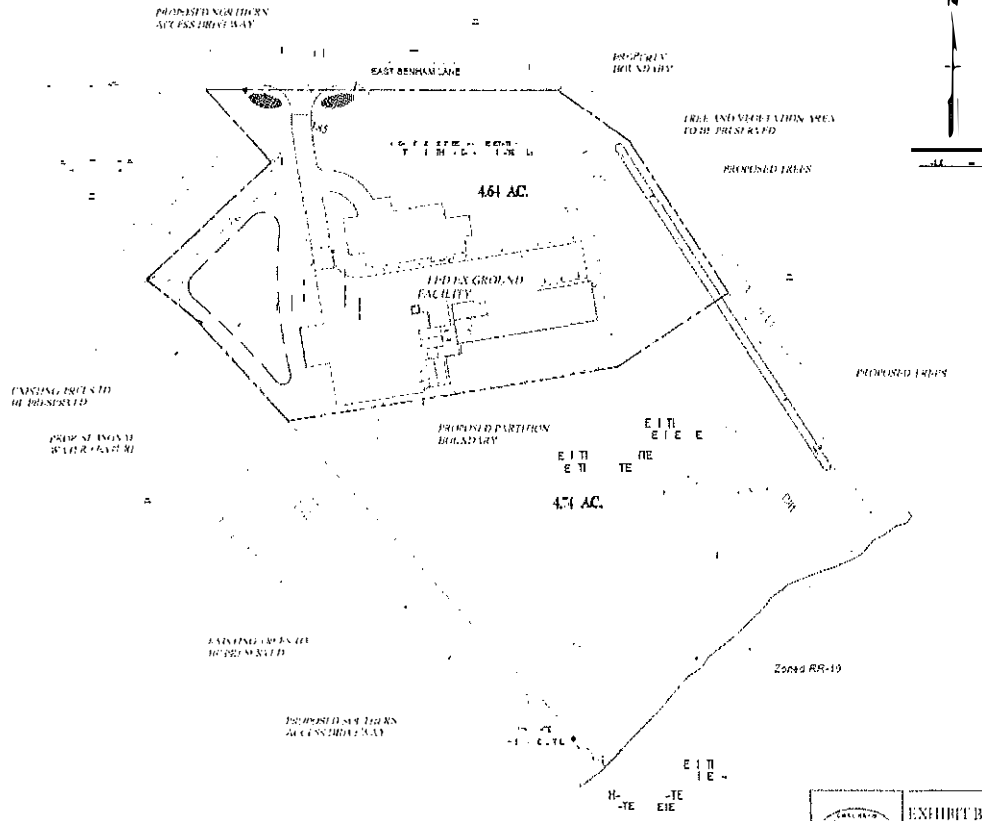
Exhibit A



Subject property

# Exhibit B

PROPOSED LANDSCAPED  
ENTRANCE




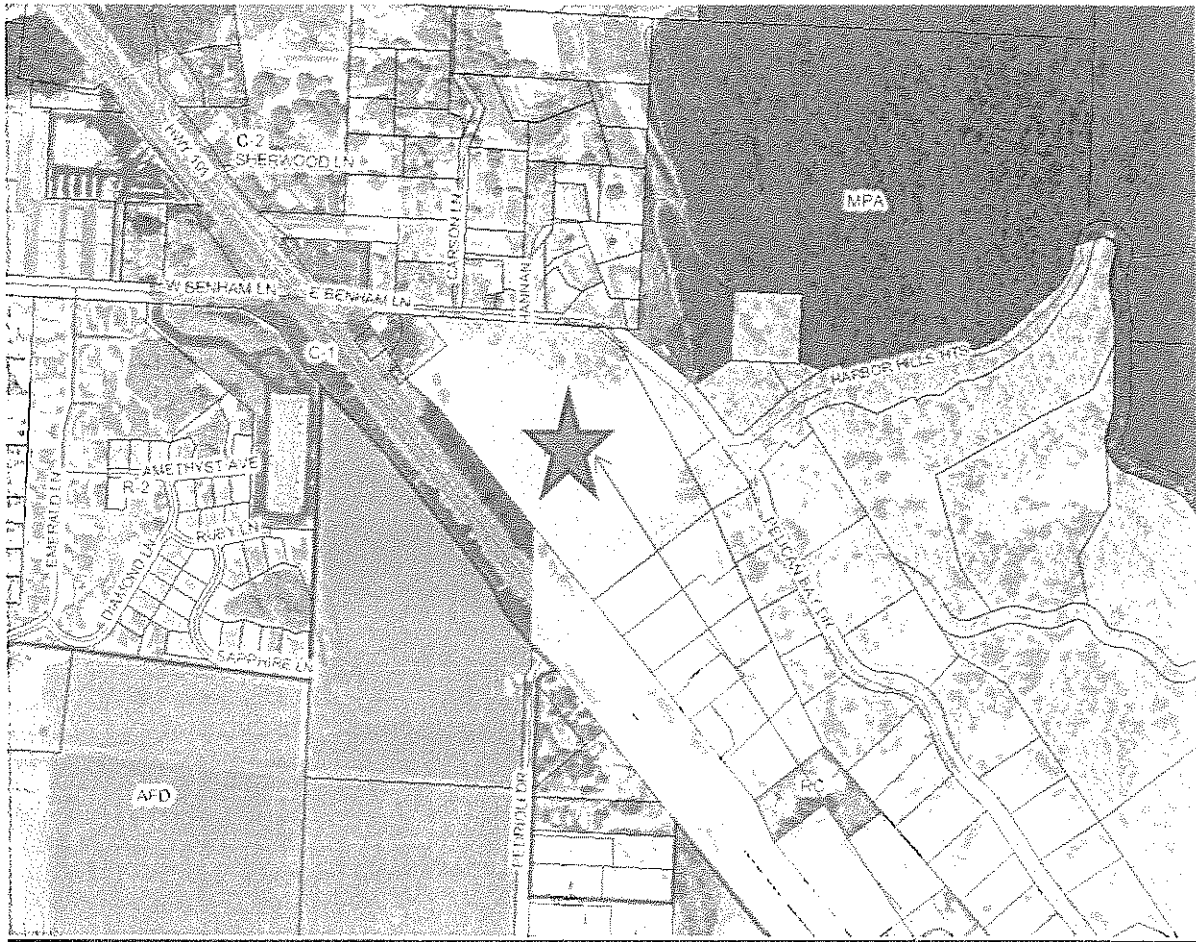

**EXHIBIT B PLOT PLAN**  
 15782 Hwy 101  
 Brookings, OR 97415



Exhibit C



Subject property

Attachment 1

STATE OF OHIO  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Case No. CE 10-0000000

Project Name: Harder Diesslin Development Group LLC  
 Location: 11000 W. 11th St., Cleveland, OH 44111  
 Permit No.: 11000 W. 11th St.

**PERMITS ARE NOT TRANSFERABLE**

ALL WORK FOR THIS PERMIT TO BE COMPLETED WITHIN THE PERMIT TERM. WORK NOT COMPLETED BY THE END OF THE PERMIT TERM SHALL BE CONSIDERED ABANDONED. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE PROPER MAINTENANCE AND REPAIR OF ALL PERMITTED FACILITIES. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE PROPER MAINTENANCE AND REPAIR OF ALL PERMITTED FACILITIES.

**SPECIFICATIONS**

Unit Volume	<u>1500</u> Gallons	Depth of Disposal Cell	<u>3</u> feet	Number of Cells	<u>1</u>
Maximum Depth	<u>3</u> feet	Minimum Depth	<u>3</u> feet	Number of Cells	<u>1</u>
Cell Type	<u>Open Cell</u>	Pressure Cell	<u>No</u>	Minimum Height of Earthen Embankment	<u>10</u> feet
Cell Back Depth	<u>17</u> inches	Cell Type	<u>No</u>	Number of Cells	<u>1</u>

PHASE COVER INSPECTION REQUIRED (S - CONTACT)

### CERTIFICATE OF SATISFACTORY COMPLETION

As Built Drawing with Stationing of Cell(s) in plan: 11000 W. 11th St.  
 Inspected Date: 7-13-13  
 Inspected by: H. W. Baker  
 Inspected by Department of Law:   
 CE Processed Inspection Worksheet provided by OAH/LEP Division 71

In accordance with Chapter 6703 of the Ohio Revised Code, this Certificate is issued as evidence of satisfactory completion of an on-site sewage disposal system at the location identified above.

Issuance of this Certificate does not constitute a warranty or guarantee that this on-site disposal system will function indefinitely without failure.

H. W. Baker (Inspector)      S. Baker (Owner)      7-14-13 (Date)      C. Baker (Signature)

Attachment 2

BR 53 . PAGE 74

Harve Shafer  
W.O.# 9960

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, for a good and valuable consideration, the receipt thereof acknowledged, do hereby grant unto Coos-Curry Electric Cooperative, Inc., a cooperative corporation, whose post office address is P. O. Box 460, Coquille, Oregon, and to its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of Curry, State of Oregon, and more particularly described as follows:

A tract of land situated in the South 1/4 of the NE 1/4 of Section 9, Township 41 South, Range 13 West, Willamette Meridian.  
Tax Lot # 2700

and to construct, operate and maintain on the above described land and/or upon all streets, roads, or highways abutting said lands, an electric transmission or distribution line or system, and to remove and trim trees and brush to the extent necessary to keep them clear of said electric line or system and to cut down from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wires in falling.

The undersigned covenant that they are owners of the above described lands and that the said lands are free and clear of encumbrances and liens whatsoever character except those held by the following persons:

IN WITNESS THEREOF, the undersigned have set their hands and seal this 7<sup>th</sup> day of July, 1977, signed, sealed and delivered in the presence of:

WITNESSES:

OWNER'S SIGNATURE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

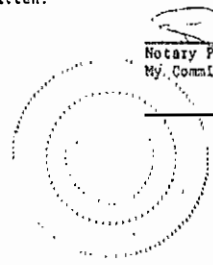
Harve Shafer (Et. Vir.)  
Eva Shafer (Et. Ux.)  
\_\_\_\_\_

STATE OF OREGON )  
County of Curry

BE IT REMEMBERED, that on this 7<sup>th</sup> day of July, 1977, before me, the undersigned, a Notary Public in and for said County and State; personally appeared the within named HARVE SHAFER & EVA SHAFER who are known to me to be the identical person s, described in and who executed the within instrument and acknowledged to me that he s executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal, this day and year last above written.

Form 16  
(Revised Oct. 23, 1964)  
Peace Officers Review  
Coos-Curry Electric  
PO Box 819  
Coquille, OR  
47918



Robert C. Deane  
Notary Public for Oregon  
My Commission Expires = Dec. 13, 1977

State of Oregon }  
County of Curry } ss. Deeds  
I hereby certify that the within instrument was  
filed for record July 19, 1977  
at 8:50 o'clock PM and recorded  
in Book of Records Vol. 53 Page 24  
BERNARD G. MATHER, County Clerk  
Bernard G. Mather Deputy  
Fee Rec'd. 3.00

Attachment 3  
e-mail chain with ODOT regarding the application

----- Forwarded message -----

From: **HUGHES Ronald H \* Ron** <[Ronald.H.HUGHES@odot.state.or.us](mailto:Ronald.H.HUGHES@odot.state.or.us)>  
Date: Thu, Aug 27, 2015 at 2:34 PM  
Subject: RE: 15887 Hwy 101, Brookings, OR  
To: Walt Harder <[walt@waltharder.com](mailto:walt@waltharder.com)>, Eric Oberbeck <[eric@cascadiaeotechnical.com](mailto:eric@cascadiaeotechnical.com)>, James Cant <[jcant@fischercompany.com](mailto:jcant@fischercompany.com)>  
Cc: MCDONALD John <[John.MCDONALD@odot.state.or.us](mailto:John.MCDONALD@odot.state.or.us)>, WADDINGTON Jeff S <[Jeff.S.WADDINGTON@odot.state.or.us](mailto:Jeff.S.WADDINGTON@odot.state.or.us)>, Leroy Blodgett <[leroy.blodgett@gmail.com](mailto:leroy.blodgett@gmail.com)>, WANG Wei \* Michael <[Wei.WANG@odot.state.or.us](mailto:Wei.WANG@odot.state.or.us)>

I agree with most of the items addressed in Eric's e-mail. To my knowledge the English Village people have not exercised the indenture for the proposed parking lot, therefore there is one existing reservation for the 9+ acre piece. It is a 35' unrestricted reservation located on the south end of the parcel. The other reservation is for the existing English Village and is currently being used for that development.

We agree that it is possible to indenture the existing reservation at the southern end of the existing parcel to a point common to the two new parcels for a shared access location. I don't remember saying anything about a 60' indenture. That is usually reserved for public roads or streets. Depending on what the intentions for this location are, we could possibly go to a 38+/-' width (two 12' lanes in and out and a 14' exiting left-turn lane) for the new driveway. This size is normally wide enough for all anticipated traffic. We might be able to widen a little more if larger trucks are anticipated to use this driveway. If the intent is to put curb and sidewalks into the sites then perhaps an additional adjustment can be made. The reservation is typically for vehicular traffic not for pedestrians, bicycles, or utilities.

We have to do some preliminary traffic calculations to finalize any volume restrictions. There is a huge change in traffic numbers for different types of use. As an example the volumes go from approximately 100 ADT (Average Daily Traffic) to 850 ADT for different types of markets and 127 ADT to 716 ADT for different restaurants. These numbers are per one thousand gross square feet of the buildings. As you can see a lot is dependent on the type and size you would like to develop. Also as an example, a truck terminal generally generates about 10 trips per day per thousand square feet. You probably have more specific numbers for a Fed-Ex facility, but the point is that this type of facility is far less than the other uses. We need more information from you before we can develop a not-to-exceed number. Our intent is to work with you toward what you would like to pursue. The location of the approach on the highway is also dependent on the type and volume of the traffic entering and exiting this location. We want the approach located out of the influence area of the intersection or existing approaches to minimize the conflicts or over-laps among all locations. This gives the travelling public an opportunity to see any vehicles entering or exiting the locations and to respond to any potential emergency.

If your intent is to develop the south site for a more intense use, then a Traffic Impact Analysis (TIA) will be required which should identify the impacts to the highway and any proposed improvements to alleviate those impacts. I can't say for certain what those impacts are without the analysis. You would need to hire a traffic engineer licensed in Oregon and we would work with your traffic consultant on what information is necessary to approve the approach.

Jeff, could you confirm the information on the reservations.

H. Ronald Hughes, P.E.  
Region 3 Access Management Engineer  
3500 NW Stewart Parkway  
Roseburg, OR 97470  
(T): 541.957.3696  
(C): 541.580.9157  
(F): 541.672.6148  
E-mail: Ronald.H.Hughes@odot.state.or.us

**From:** Walt Harder [mailto:[walt@waltharder.com](mailto:walt@waltharder.com)]  
**Sent:** Thursday, August 27, 2015 1:12 PM  
**To:** Eric Oberbeck; James Cant  
**Cc:** HUGHES Ronald H \* Ron; MCDONALD John; WADDINGTON Jeff S; Leroy Blodgett  
**Subject:** Re: 15887 Hwy 101, Brookings, OR

For our purposes the northern parcel will be acceptable under these circumstances.

The future value of the southern parcel will be a function of it's 'developability'. If traffic numbers are curtailed it will have a negative effect on value.

I need to know what will be required to increase the potential traffic volume for this access point and be able to estimate the cost of doing so. Will it be possible to develop a grocery-anchored retail center with restaurant on the southern parcel(s).

Many thanks, Walt.

15887 Hwy 101, Brookings, OR  
20 messages

Eric Oberbeck <[eric@cascadia.net](mailto:eric@cascadia.net)>  
To: HUGHES Ronald H \* Ron <[Ronald.H.HUGHES@odot.state.or.us](mailto:Ronald.H.HUGHES@odot.state.or.us)>, John McDonald <[John.McDonald@odot.state.or.us](mailto:John.McDonald@odot.state.or.us)>, Jeff Waddington <[Jeff.S.Waddington@odot.state.or.us](mailto:Jeff.S.Waddington@odot.state.or.us)>, Walt Harder <[walt@waltharder.com](mailto:walt@waltharder.com)>, Leroy Blodgett <[leroy.blodgett@gmail.com](mailto:leroy.blodgett@gmail.com)>  
Fri, Aug 27, 2015 at 12:51 PM

Following is a summary of my understanding as to the access issues with the above described property. This email is based on my conversation with Ron Hughes and John McDonald with ODOT in Roseburg and with Jeff Waddington, ODOT Permit Specialist in Coquille. I am also cc'ing Walt Harder who is the Project Manager and Leroy Blodgett who is the Real Estate Broker representing the Seller and the Buyer. Here is my understanding:

The property (41S13W09AC, TL 2900) is 9.38 acres and is currently in escrow. The Buyer plans to rezone the parcel into two parcels. The northern parcel will be used for a Fed Ex Ground Facility and the southern parcel for either retail or commercial space. The property currently has two Easements by Reservation. ODOT will allow the Buyer to use one of these easements to access Hwy 101. The easement is currently 35 feet wide but could be widened up to 60 feet with a permit which would cost \$200. There are no other restrictions on the easement.

The Buyer will need to access both parcels from a single access point. The access point will need to be no less than 700 foot south of the intersection of E Bonham Lane and Hwy 101.

Both easements are still appurtenant with the property and have not been sold or transferred. The owner of English Village Shopping Center currently leases an access from ODOT.

Once the application is submitted to the county, ODOT will provide the Buyer a "not to exceed traffic flow" for the southern parcel when they comment on the county rezone application. They are not concerned about the Ground Facility based on the low traffic numbers provided them. If the Buyer decides to lease to a restaurant or comparable on the southern parcel, they may exceed those traffic numbers which may require that they do a traffic study and possibly make changes to the

access. This will be based on the tenant.

Please make sure that I have this correct. If you reply, please reply all. Thanks, Eric

Eric Oberbeck, RG, CEG  
Cascadia Geoservices, Inc.  
190 6th Street  
Mail: PO Box 1026  
Port Orford, Oregon 97465  
Direct, 541-332-0133  
Cell, 541-655-0021  
e-mail: eric@cascadiageoservices.com  
web: www.cascadiageoservices.com



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Walt Harder <walt@waltharder.com>

Thu, Aug 27, 2015 at 1:11 PM

To: Eric Oberbeck <eric@cascadiageotechnical.com>, James Cant <jcant@fischercompany.com>  
Cc: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, John McDonald <John.McDonald@odot.state.or.us>, Jeff Waddington <Jeff.S.Waddington@odot.state.or.us>, Leroy Blodgett <leroy.blodgett@gnail.com>

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The future value of the southern parcel will be a function of it's developability. If traffic numbers are curtailed it will have a negative affect on value.

I need to know what will be required to increase the potential traffic volume for this access point and be able to estimate the cost of doing so. Will it be possible to develop a grocery-anchored retail center with restaurant on the southern parcel(s).

Many thanks, Walt,

Walt Harder



112 F Street, Sallida, CO 81201  
(719) 721-5900 cell / (719) 539-6060 otc  
(719) 539-1714 fax

*The problems we face today exist because the people who work for a living are outnumbered by those who vote for a living*  
(Quoted in: "kibbutz")

Eric Oberbeck <eric@cascadiageotechnical.com>

Thu, Aug 27, 2015 at 2:30 PM

To: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, John McDonald <John.McDonald@odot.state.or.us>, Jeff Waddington <Jeff.S.Waddington@odot.state.or.us>, Walt Harder <walt@waltharder.com>

Ron, John and Jeff,

A question came up from the Buyer on the Hwy 101 Parcel in Brookings, Would it be possible for the Buyer to develop an access off of East Benham Lane to access the northern parcel with the Fed Ex Ground Facility now and later develop a second access point off of Hwy 101 to access the southern parcel with grocery-anchored retail center with restaurant?  
Thanks, Eric

Eric Oberbeck, RG, CEG  
Cascadia Geoservices, Inc.  
190 6th Street  
Mail: PO Box 1026  
Port Orford, Oregon 97465  
Direct, 541-332-0133  
Cell, 541-655-0021  
e-mail: eric@cascadiageoservices.com

Web: www.cascadiageoservices.com



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{Quoted text hidden}

HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>

Thu, Aug 27, 2015 at 2:34 PM

To: Wall Hardor <wall@walhardor.com>, Eric Oberbeck <eric@cascadiageotechnical.com>, James Cant <jcant@fischercompany.com>

Cc: MCDONALD John <John.MCDONALD@odot.state.or.us>, WASHINGTON Jeff S <Jeff.S.WASHINGTON@odot.state.or.us>, Leroy Blodgett <leroy.blodgett@gmail.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>

I agree with most of the items addressed in Eric's e-mail. To my knowledge the English Village people have not exercised the indenture for the proposed parking lot, therefore there is one existing reservation for the 9+ acre piece. It is a 35' unrestricted reservation located on the south end of the parcel. The other reservation is for the existing English Village and is currently being used for that development.

We agree that it is possible to indenture the existing reservation at the southern end of the existing parcel to a point common to the two new parcels for a shared access location. I don't remember saying anything about a 60' indenture. That is usually reserved for public roads or streets. Depending on what the intentions for this location are, we could possibly go to a 38+/-' width (two 12' lanes in and out and a 14' exiting left turn lane) for the new driveway. This size is normally wide enough for all anticipated traffic. We might be able to widen a little more if larger trucks are anticipated to use this driveway. If the intent is to put curb and sidewalks into the sites then perhaps an additional adjustment can be made. The reservation is typically for vehicular traffic not for pedestrians, bicycles, or utilities.

We have to do some preliminary traffic calculations to finalize any volume restrictions. There is a huge change in traffic numbers for different types of use. As an example the volumes go from approximately 100 ADT (Average Daily Traffic) to 850 ADT for different types of markets and 127 ADT to 716 ADT for different restaurants. These numbers are per one thousand gross square feet of the buildings. As you can see a lot is dependent on the type and size you would like to develop. Also as an example, a truck terminal generally generates about 10 trips per day per

thousand square feet. You probably have more specific numbers for a Fed Ex facility, but the point is that this type of facility is far less than the other uses. We need more information from you before we can develop a not to exceed number. Our intent is to work with you toward what you would like to pursue. The location of the approach on the highway is also dependent on the type and volume of the traffic entering and exiting this location. We want the approach located out of the influence area of the intersection or existing approaches to minimize the conflicts or over laps among all locations. This gives the travelling public an opportunity to see any vehicles entering or exiting the locations and to respond to any potential emergency.

If your intent is to develop the south site for a more intense use, then a Traffic Impact Analysis (TIA) will be required which should identify the impacts to the highway and any proposed improvements to alleviate those impacts. I can't say for certain what those impacts are without the analysis. You would need to hire a traffic engineer licensed in Oregon and we would work with your traffic consultant on what information is necessary to approve the approach.

Jeff, could you confirm the information on the reservations.

## H. Ronald Hughes, P.E.

Region 3 Access Management Engineer  
3500 NW Stewart Parkway  
Roseburg, OR 97470  
(T) 541.957.3696  
(C) 541.580.9157  
(F) 541.672.6148  
E-mail: Ronald.H.Hughes@odot.state.or.us

**From:** Walt Harder [mailto:walt@waltharder.com]  
**Sent:** Thursday, August 27, 2015 1:12 PM  
**To:** Eric Oberbeck; James Cant  
**Cc:** HUGHES Ronald H \* Ron; MCDONALD John; WADDINGTON Jeff S; Leroy Blodgett  
**Subject:** Re: 15887 Hwy 101, Brookings, OR

(Quoted text hidden)

HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us> Thu, Aug 27, 2015 at 2:36 PM  
To: Eric Oberbeck <eric@cascadiageotechnical.com>, MCDONALD John <John.MCDONALD@odot.state.or.us>, WADDINGTON Jeff S

<Jeff.S.WADDINGTON@odot.state.or.us>, Walt Harder <walt@waltharder.com>  
Cc: WANG Wei \* Michael <Wei.WANG@odot.state.or.us>

Yes, that is a possibility.

## H. Ronald Hughes, P.E.

Region 3 Access Management Engineer  
3500 NW Stewart Parkway  
Roseburg, OR 97470  
(T) 541.957.3696  
(C) 541.580.9157  
(F) 541.672.6148  
E-mail: Ronald.H.Hughes@odot.state.or.us

Leroy Blodgett <leroy.blodgett@gmail.com> Thu, Aug 27, 2015 at 2:38 PM  
To: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>  
Cc: JEFF S WADDINGTON <jeff.s.waddington@odot.state.or.us>, john.mcdonald@odot.state.or.us, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, James Cant <jcant@fishercompany.com>, Walt Harder <walt@waltharder.com>, Eric Oberbeck <eric@cascadiageotechnical.com>  
Ron,

The owner of the 9 ac. parcel has not agreed to transfer the access to English Village and they have told me they do not intend to do that,



Walt Harder <walt@waltharder.com>

Thu, Aug 27, 2015 at 2:41 PM

To: Leroy Blodgett <leroy.blodgett@gmail.com>

Cc: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, JEFF S WADDINGTON <jeff.s.waddington@odot.state.or.us>, MCDONALD John <john.mcdonald@odot.state.or.us>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, James Cant <jcant@fishercompany.com>, Eric Oberbeck <eric@cascadiageotechnical.com>

Perhaps I'm misunderstanding something here. Are there any access rights/privileges/easements or uses that are currently tied to or associated with the 9 acre parcel that we're under contract to buy that ARE NOT being conveyed with the purchase?

Thanks, Walt.

Walt Harder



112 F Street, Salida, CO 81201

(719) 221.5000 cell / (719) 539.6060 ofc

(719) 539.4774 fax

*The problems we face today exist because the people who work for a living are outnumbered by those who vote for a living.*

[Quoted text hidden]

Walt Harder <walt@waltharder.com>

Fri, Aug 27, 2015 at 2:43 PM

To: James Cant <jcant@fishercompany.com>

Cc: Eric Oberbeck <eric@cascadiageotechnical.com>

Eric,

Then the only impediment to gaining access from Benham for FedEx alone is public sentiment?

Please confirm,

Walt

Walt Harder



112 F Street, Salida, CO 81201  
(719) 221.5909 cell / (719) 539.6660 ofc  
(719) 539.4774 fax

*The problems we face today exist because the people who work for a living are outnumbered by those who vote for a living.*

[Quoted text hidden]

Leroy Blodgett <leroy.blodgett@gmail.com> Thu, Aug 27, 2015 at 2:45 PM  
To: Walt Harder <walt@waltharder.com>  
Cc: JEFF S WADDINGTON <joff.s.waddington@odot.state.or.us>, HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fishercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, Eric Oberbeck <eric@cascadiageotechnical.com>, MCDONALD John <john.mcdonald@odot.state.or.us>

The seller intends to sell the property with all the existing access rights. I am not sure why or how ODOT intends to transfer any of their rights without their permission.

[Quoted text hidden]

Eric Oberbeck <eric@cascadiageotechnical.com> Thu, Aug 27, 2015 at 2:46 PM  
To: Walt Harder <walt@waltharder.com>  
Cc: James Cant <jcant@fishercompany.com>

Walt, Yes. Possible opposition to our proposal because of concern about traffic.

Eric Oberbeck, RG, CEG  
Cascadia Geoservices, Inc.  
190 6th Street  
Mail: PO Box 1026  
Port Orford, Oregon 97465

WADDINGTON Jeff S <Jeff.S.WADDINGTON@odot.state.or.us> Fri, Aug 28, 2015 at 7:24 AM  
To: Leroy Blodgett <leroy.blodgett@gmail.com>, Walt Harder <walt@waltharder.com>  
Cc: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fishercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, Eric Oberbeck <eric@cascadiageotechnical.com>, MCDONALD John <John.MCDONALD@odot.state.or.us>

When Jan was purchasing the "L" shaped piece (part of the 9 acres), that's when the moving of one of the reservation was discussed. ODOT can't nor won't transfer any rights without property owner permission.

868+00, is the existing access for English Village. (see attached map)

877+10 (35') and 877+10 (35') are the access point to TL2900. Even with the two reservation ODOT will still look at one access point for the entire property.

I will be working with our Property management unit next week on the English Village Accesses.

Thanks,

Jeff Waddington  
ODOT, District 7

307 Highway 42E  
Coquille, OR 97423  
(V) 541-396-1151  
(C) 541-290-0540  
(F) 541-396-5321

**From:** Leroy Blodgett [mailto:leroy.blodgett@gmail.com]  
**Sent:** Thursday, August 27, 2015 2:46 PM  
**To:** Walt Harder  
**Cc:** WADDINGTON Jeff S; HUGHES Ronald H \* Ron; James Cant; WANG Wei \* Michael; Eric Oberbeck; MCDONALD John

[Quoted text hidden]

[Quoted text hidden]

**WADDINGTON Jeff S** <Jeff.S.WADDINGTON@odot.state.or.us> Fri, Aug 28, 2015 at 7:24 AM  
**To:** Leroy Blodgett <leroy.blodgett@gmail.com>, Walt Harder <walt@waltharder.com>  
**Cc:** HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fischercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, Eric Oberbeck <eric@ascadiageotechnical.com>, MCDONALD John <John.MCDONALD@odot.state.or.us>

See attached map

Thanks,

Jeff Waddington  
ODOT, District 7  
307 Highway 42E  
Coquille, OR 97423  
(V) 541-396-1151  
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(F) 541-396-5321

**From:** WADDINGTON Jeff S  
**Sent:** Friday, August 28, 2015 7:21 AM  
**To:** 'Leroy Blodgett'; Walt Harder  
**Cc:** HUGHES Ronald H \* Ron; James Cant; WANG Wei \* Michael; Eric Oberbeck; MCDONALD John

**Subject:** RE: 15887 Hwy 101, Brookings, OR

[Quoted text hidden]

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 Capture.PNG  
1267K

**Leroy Blodgett** <leroy.blodgett@gmail.com> Fri, Aug 28, 2015 at 7:27 AM  
To: WADDINGTON Jeff S <Jeff.S.WADDINGTON@odot.state.or.us>  
Cc: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, MCDONALD John <John.mcdonald@odot.state.or.us>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, James Cant <jcant@fischercompany.com>, Wall Harder <wall@wallharder.com>, Eric Oberbeck <eric@cascadiagootochnical.com>

Thanks Joff!

[Quoted text hidden]

**Walt Harder** <wall@wallharder.com> Fri, Aug 28, 2015 at 8:17 AM  
To: WADDINGTON Jeff S <Jeff.S.WADDINGTON@odot.state.or.us>  
Cc: Leroy Blodgett <leroy.blodgett@gmail.com>, HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fischercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, Eric Oberbeck <eric@cascadiagootochnical.com>, MCDONALD John <John.MCDONALD@odot.state.or.us>

Jeff,

Please see attached sketch of our proposed plan.

Our goal is to create a 3 +/- acre parcel that would be accessed from Benham for the FedEx Ground facility (relatively low traffic impact) then be able to develop the remainder parcel that will front Hwy 101.

While we don't have any definite plans for the remainder we'd like to be able to consider a grocery anchored retail center with a possible restaurant pad site. I have no way of establishing the future traffic impact at this time but would like to be sure that an access to such a center will be allowed and sufficient to handle such use.

I realize this will involve a TIS and regular permitting process at a later date. Again, just need to confirm that it's feasible for us to plan on this in the future and understand the process.

Many thanks, Walt.

**Walt Harder**



112 F Street, Salida, CO 81201  
(719) 221,5000 call / (719) 539,6060 etc  
(719) 539,4774 fax

Hwy 101 Access.pdf  
481K

Eric Oberbeck <eric@cascadiageotechnical.com> Fri, Aug 28, 2015 at 8:37 AM  
To: Walt Harder <walt@waltharder.com>  
Cc: WASHINGTON Jeff S <Jeff.S.WASHINGTON@odot.state.or.us>, Leroy Blodgett <leroy.blodgett@gmail.com>, HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fischercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, MCDONALD John <John.MCDONALD@odot.state.or.us>

Jeff, so even though there are two grants of access, we would not be able to access the northern parcel from East Benham Lane? Both Parcels would have to be accessed from the south?

Eric Oberbeck, RG, CEG  
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190 6th Street  
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Direct, 541-332-0433  
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e-mail: eric@cascadiageoservices.com  
web: www.cascadiageoservices.com

WASHINGTON Jeff S <Jeff.S.WASHINGTON@odot.state.or.us> Fri, Aug 28, 2015 at 8:39 AM  
To: Eric Oberbeck <eric@cascadiageotechnical.com>, Walt Harder <walt@waltharder.com>  
Cc: Leroy Blodgett <leroy.blodgett@gmail.com>, HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>, James Cant <jcant@fischercompany.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>, MCDONALD John <John.MCDONALD@odot.state.or.us>

Our preference would be one, but you can request two. Then we negotiate.

Thanks,

Jeff Waddington  
ODOT, District 7  
307 Highway 421  
Coquille, OR 97423  
(V) 541-396-1151  
(C) 541-290-0540  
(F) 541-396-5321

From: Eric Oberbeck [mailto:eric@cascadiageotechnical.com]  
Sent: Friday, August 28, 2015 8:38 AM  
To: Walt Harder  
Cc: WASHINGTON Jeff S; Leroy Blodgett; HUGHES Ronald H \* Ron; James Cant; WANG Wei \* Michael; MCDONALD John

Eric Oberbeck <eric@cascadiageotechnical.com> Fri, Aug 28, 2015 at 8:49 AM  
To: HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>

Ron, thanks for your reply. Eric

Eric Oberbeck, RG, CEG  
Cascadia Geoservices, Inc.  
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web: www.cascadiageoservices.com

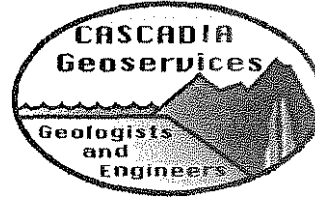


**Attachment 4  
Geotechnical assessment**

**THIS DOCUMENT IS 45 PAGES LONG AND IS INCLUDED IN THE RECORD BY REFERENCE.  
HARD COPY OF THE GEOTECHNICAL ASSESSMENT CAN BE SECURED ELECTRONICALLY AT  
NO COST FROM THE CURRY COUNTY COMMUNITY DEVELOPMENT DEPARTMENT.**

**CASCADIA GEOSERVICES, INC.**

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www.cascadiageoservices.com



November 4, 2015

Carolyn Johnson, Planning Director  
Curry County Public Services  
94235 Moore St, Gold Beach, OR 97444

Re: Response to October 27, 2015 Letter Regarding Rezoning Application  
15887 Highway 101, Brookings, Oregon 97415

Dear Carolyn,

Following is my response to your letter date October 27, 2015. Please include this letter with our application for the Zone Change submitted October 7, 2015. Thank you for clarifying that the subject property is zoned RR-5 and not RR-10. The confusion comes from it being shown on the county's GIS map as being zoned RR-10.

**ODOT is in the process of a safety study on Hwy 101 from the Chetco River Bridge to the Oregon/California border. The safety needs analysis identified the Benham Lane/Hwy 101 intersection as having mobility deficiencies in the future. How will the traffic generated from uses allowed in the heavy commercial zone effect this intersection?**

In our recent discussions with ODOT, we provided them with traffic volumes for the Fed Ex facility. These were provided to us by Fed Ex. Based on these, at full phase, traffic volume will consist of one line haul trailer daily, arriving in the morning and leaving in the afternoon. In addition, there will be 10 P/D vans arriving and leaving daily. Arrival times will be spread out across the day with activity stopping after the line haul trailer leaves. And, there will be up to 51

employee passenger vehicles entering and leaving the facility. The facility will not provide retail service so there will be no retail traffic. Upon their review, ODOT's response was that based on the low traffic volume, a TIA for the northern parcel was not warranted. Further, they made no mention to us of concerns regarding access to the Fed Ex facility from East Benham Lane or of issues with the intersection. We attribute this to the projected low traffic volume.

As we discussed at the pre-application meeting, East Benham Lane will allow the Fed Ex drivers a signal access into the facility rather than having to cross or slow down on Highway 101. The East Benham Lane access will also prevent Fed Ex drivers from having to use the center lane of Highway 101 to turn left into the facility against moving highway traffic or to cross moving lanes of highway traffic on a left turn from the facility. We believe that ODOT agrees with our assessment that the East Benham Lane/Hwy 101 intersection access is the safest and therefore the preferred access.

I discussed the East Benham Lane access with Doug Robbins, Curry County Road Master. He told me that he felt the access point on East Benham Lane was suitable for the proposed northern parcel. He said that he would do a site visit this week. And, based on our site evaluation, it is our opinion that the limited traffic volume associated with the Fed Ex Facility will not have an adverse impact on the East Benham Lane/Hwy 101 intersection.

**The potential traffic and circulation impacts of the proposed Zone change (from residential to commercial) over the entire parcel will need to be evaluated. ODOT has indicated the potential need for a transportation impact analysis (TIA) with future development of the southerly parcel. We (ODOT, you and I) need to discuss how this requirement can be met if the property is rezoned.**

During our conversation and follow up email with ODOT, Ronald Hughes, P.E.

Page 7



Region 3 Access Management Engineer, told us that a TIA would not be required as part of this application unless we were proposing to develop the southern parcel with a high traffic volume facility such as a restaurant. He reiterated this to us in an email dated August 27<sup>th</sup>, 2015 which is included with the Application as Attachment 3.

At the time that the southern parcel is developed, we understand that ODOT will be contacted and asked to review the plan. It is our understanding from talking to ODOT that they will determine at that time whether a TIA is warranted.

**While Statewide Planning Goal # 9 is addressed in the application, other Statewide planning goals must be addressed. These include Goal 10 (Housing), Goal 11 (Public Facilities and Services), Goal 12 (Transportation), Goal 13 (Energy Conservation) and Goal 14 (Urbanization).**

Following is a list of the referenced Statewide Planning Goals and a discussion regarding the applications impact on these goals.

Goal 11 - Public facilities: To plan and develop a timely, orderly and efficient arrangement of public facilities and services as a framework for urban and rural development in the county.

Findings: The subject property is located within the Brookings/Harbor Urban Growth Boundary and is currently serviced by Harbor Water PUD. Harbor Sanitary Sewer District services the adjacent commercial property to the north of the subject property. In an e-mail date October 12, 2015 from Kelly Beebe, District Manager with Harbor Sanitary District, (included here as Attachment A), Harbor Sanitary District has agreed to provide service to future developments on the subject property.

Conclusion: Public facilities are available to the proposed development. We believe that approval of this application will provide a timely, orderly

10 | P a g e

and efficient arrangement of public facilities and services to this part of the county thereby further building the framework for urban development in the county.

Goal 12 - Transportation: To provide and encourage a safe, convenient and economic transportation system for the county. Under Policy 2, all development proposals, plan amendments, and zone changes shall conform to the adopted Transportation System Plan.

Findings: There is currently a deeded access off of Highway 101 which serves the existing house located on the subject parcel. This was affirmed in an email from Ronald Hughes, with ODOT dated August 27, 2015 and included with the application as Attachment 3. Mr. Hughes states that the access driveway can be moved and widened to better serve the proposed future commercial development on the southern parcel.

As discussed, the East Benham Lane intersection will provide the Fed Ex drivers a signal access rather than crossing or slowing down on Highway 101. The East Benham Lane access will also allow drivers not to use the center lane to turn left into the facility against moving traffic or to have to cross moving lanes of traffic on a left turn from the facility. We believe that the East Benham Lane access is the safest option.

Conclusion: It is our opinion that the proposed development conforms to the goals and objectives of the Curry County Transportation System Plan by helping to provide a safe, convenient and economic transportation system for the county.

Goal 13 - Energy: To conserve energy by designating land uses which lead to the maximum conservation of all forms of energy based on sound economic principles.

Findings/Conclusion: This goal is not applicable to this application.

Goal 14 - Urbanization: To provide an orderly and efficient transition from rural urban land use in the County. Under Policy 2. Curry County defines "urban uses" as those which are high intensity residential, commercial or industrial uses located inside urban growth boundaries or outside urban growth boundaries where an exception to Goal 14 has been justified.

Findings: The subject property is currently zoned Rural Residential Zone 5 (RR-5) and is within the Brookings/Harbor Urban Growth Boundary. The RR-5 zone is designed to allow for low density residential development **outside urban growth boundaries** and rural communities defined by the Comprehensive Plan. Uses permitted outright include single family dwellings or mobile homes on each contiguous ownership or platted subdivision lot approved prior to August 12, 1986 or lot subsequently approved at the minimum lot size specified by this zone subject to approval of on-site sewage disposal and domestic water source by the agency regulating these facilities.

The subject property is proposed for rezoning to Heavy Commercial (C2) zoning which is designed to apply to areas where more intensive commercial uses are necessary for community convenience. This zone is intended to be applied only **within urban growth boundaries** identified by the Comprehensive Plan. In addition to uses permitted outright such as hotels, restaurants or retail establishments, conditional uses include single family dwellings or manufactured homes, **multiple-family dwellings and recreational vehicle park/rural or urban, or campground.**

Conclusions: Goal 14 provides for an orderly and efficient transition from rural to urban land use within the Urban Growth Boundary. By definition,

ENCLOSURE

this includes high intensity residential, commercial or industrial uses. By rezoning the parcel from RR-5 to C2, the property can be developed either into commercial use or into multiple-family dwellings under a Conditional Use Permit. This allows for a more "high-intensity" residential use as provided or under Goal 14.

**The subject property is adjacent to residential properties with the exception of Light Commercial to the northwest. The impacts from this zone change must be identified with planned mitigation measures related to traffic and circulation impacts and drainage and if/how the re-zoning of the property would be compatible with the neighboring residential property.**

As you describe, the subject property is in an area of both residential and commercial use. It also borders Highway 101 and the Highway 101 Commercial/Industrial Corridor. Our proposed development is similar to other existing developed, multi-use zones within the Brookings and Harbor area where commercial and industrial developments are located along the Highway 101 Corridor and residences are located to the east along the base of Harbor Hills. There are two residences located west of East Benham Lane/Pelican Bay Drive which will be above and adjacent to the commercial development on the southern parcel.

The proposed development includes preserving an .86 acre treed and vegetated area along the county's East Benham Lane ROW and planting a tree screen along the eastern property boundary and Pelican Bay Drive. As previously stated, the traffic volume for the Fed Ex facility will be low and, as such, will have no adverse effect on surrounding residences. The Fed Ex facility will adopt "Night Sky" regulations to keep this facility neighborhood friendly.

The two residences located on East Benham Lane/Pelican Bay Drive will be buffered by the planted tree screen along the eastern property boundary and

by the natural 14 to 20% west facing gradient of the parcel which will result in the commercial development on the southern parcel being lower than the residences. The access point to the southern parcel will be from an existing easement off of Highway 101. This will insure that there will be no increase in traffic on Pelican Bay Drive from the southern commercial development.

Drainage on both parcels will be handled onsite by an engineered open swale and a series of surface and subsurface interceptors drains. In accordance with Brookings Stormwater Management Plan, there will be no net runoff of stormwater onto adjoining properties.

**The subject property is in a holding zone (Rural R-R-5) in the Brookings Urban Growth Boundary (UGB) and its prospective use is urban-density residential. The Brookings and Curry County made the case during the UGB expansion 15 years ago that this property would be needed to satisfy a portion of the projected (20-year) residential land needs. Your application findings must show that residential land needs can be met without this property and that area land needs for heavy commercial uses are not otherwise being met (refer to Brookings Economic Opportunities Analysis). Please identify / quantify how these residential needs have changed and provide justification for the proposed Heavy Commercially proposed zoning designation.**

From 1990 to 2000, the population of Brookings grew 23.8% increasing by 1,047 residents<sup>1</sup>. This was due primarily to the completion of Pelican Bay State Prison which opened in 1989. The population grew 16.3% from 2000 thru 2010 adding 889 residents. This was a decrease in population of 7.2%. From 2010 until 2014, Brookings has grown by 1.1% or 71 people<sup>2</sup>. The population of Brookings/Harbor combined is currently 6,336.

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<sup>1</sup> U.S. Census Bureau. Archived from the original on 2013-05-18. Retrieved November 1, 2015 at <http://www.census.gov>.

<sup>2</sup> Annual Estimates of the Resident Population for Incorporated Places: April 1, 2010 to July 1, 2014<sup>4</sup>. Retrieved November 1, 2015 at <http://www.census.gov>.

There are currently 141 undeveloped residential lots and land for sale under \$500,000 within the Brookings/Harbor area<sup>3</sup>. This is in addition to the 180 residences for sale under \$1,000,000. In comparison, there are currently 2 vacant commercial parcels listed for sale in the Brookings/ Harbor area. And, with annexation of U.S. Borax's 550-acre Lone Ranch property opposite Sam Boardman State Park into the city, plans are in place to add an additional 1,000 homes over the next 20 years.

The unemployment rate in Brookings is currently 10.9% (Oregon average is 6.2%<sup>4</sup>). Job growth in Brookings is -3.42%<sup>5</sup>. Much of the labor force here is seasonal including agriculture and construction. Much of the population growth which has occurred in Brookings since 1990 has been due to Pelican Bay State Prison which employs 1400 people.

Based on these statistics, Brookings doesn't need more housing, it needs more jobs. At full phase, The Fed Ex Facility will either create or sustain 16 full-time jobs. These will be in management, administration, package handling and drivers. In addition to providing employment opportunities at the Fed Ex facility, it will also provide employment opportunities indirectly by creating new jobs related to new and expanding local businesses. These will include home based businesses and business where receiving inventory and timely shipping of product is essential. This will allow Brookings's businesses to compete within a global market place.

The Curry County Comprehensive Plan recognizes that the viability and future well-being of the county is inseparably linked to its economy and to the improvement of conditions in the county which will require future expansion and development of all sectors of its local economy. **This requires that Curry County defines policies which allow for future economic growth and designate**

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<sup>3</sup> RMLS.com™ Regional Multiple Listing Service retrieved November 1, 2015 from www.rmls.com.

<sup>4</sup> State of Oregon Employment Department. Retrieved November 1, 2015 at <https://www.qualityinfo.org>

<sup>5</sup> Sperling's Best Places retrieved November 1, 2015 at <http://www.bestplaces.net>.

November 4, 2015

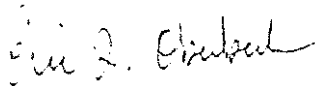
appropriate lands for commercial use. Rezoning Tax Lot 2900 and allowing the development of a FedEx Ground Facility conforms to the intent of Chapter 9 of the Curry County Comprehensive Plan. This proposed application, if approved, will help to develop and to support the economic base of Southern Curry County.

**Letters from the Harbor Water District PUD and the Harbor Sanitary Sewer District are required noting that that water and sanitary sewer needs of future development will be accommodated should the Comprehensive Plan and Zone Change to Heavy Commercial be completed.**

Both the Harbor Water District PUD and the Harbor Sanitary Sewer District have been contacted and either currently do service this parcel or have agreed to provide service to the new development on this parcel. Letters have been requested from both entities.

Please contact me if you need further clarification. Thank you, Eric

Sincerely,



Eric Oberbeck, RG, CEG  
Cascadia Geoservices, Inc.  
190 6th Street  
Mail: PO Box 1026  
Port Orford, Oregon 97465  
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**Attachment 2**  
**CP/ZO goals and criteria compliance**

The applicant has the burden of proof in justifying any land use decision. The applicant's findings to support the requested land use changes are noted in **Attachment 1**. **Attachment 2** includes Curry County's applicable criteria to this application and an examination of the relevant facts related to the criteria.

**Curry County Comprehensive Plan:**

**Section 19.2 Comprehensive Plan Revisions**

Any change in the comprehensive plan shall be based on a justification of the public need for the change and shall be supported by information that forms a factual basis for the change.

**Findings:** Under Comprehensive Plan Section 19.2, applicant must (1) establish that the requested amendment fulfills a public need and (2) submit factual information to support the request. Public need is not a defined term. The Board has discretion to determine what the public need is and whether applicant has submitted substantial evidence to show that the request fulfills the stated need. The Applicant in **Attachment 1** speaks to public needs for jobs and County policies that support economic development.

**Conclusion:** If the BOC finds the documentation presented is adequate and the evidence provided supports the requested GP/ZO modification, the requirements of ZO Section 19.2 are met and the applicant will have satisfied the referenced standards.

**Curry County Comprehensive Plan Policies:**

Both the change in zoning and the amendment to the Comprehensive Plan designation must comply with applicable Comprehensive Plan policies. The CCZO implements the Comprehensive Plan policies by specifying zoning districts, the permissible land uses within each zone and procedures for changing a zone. The Comprehensive Plan designation is simply a grouping of the zones that allow similar uses as delineated in the CCZO. The commercial and residential Comprehensive Plan designations do not have characteristics separate from the representative zoning districts. Therefore, if the applicant's requested zone change satisfies the Comprehensive Plan policy requirements, the Comprehensive Plan designation necessarily satisfies the policy requirements. Compliance with the Comprehensive Plan policies below under CCZO Section 9.021(1) is provided as follows:

**Curry County Zoning Ordinance**

**Section 3.080 Rural Residential (RR)**

Purpose of Classification. The Rural Residential Zone is designed to allow for low density residential development outside urban growth boundaries and rural communities defined by the Comprehensive Plan.



**Findings/Conclusion:** This property is located within the Brookings UGB and therefore the RR-5 (5 acre parcel minimum) zoning designation is not appropriate.

**Section 3.150 Heavy Commercial Zone (C-2)**

Purpose of Classification: The C-2 zone is designated to be applied to areas such as community shopping centers and business districts which cater to the community's commercial needs. This zone is intended to be applied only within urban growth boundaries identified by the Comprehensive Plan.

**Findings/Conclusion:** The proposal is to rezone the property from RR-5 to C-2 to accommodate future commercial use of the site. The property is within the Brookings Urban Growth Boundary. The property to the northeast is zoned C-1 (Light Commercial). The proposed zone change meets the standard set forth in ZO Section 3.150 because the subject property is in an area suitable for uses permitted and conditionally permitted the C-2 zone to serve the commercial needs of the community. This criterion is met.

**Section 9.010 Authorization to Initiate Amendments.**

*An amendment to the ordinance in the text or the map may be initiated by the Board of County Commissioners, the Planning Department Director or by application of a property owner or his authorized agent.*

**Findings/Conclusion:** The Applicant's agent filed an application for a zone change and an amendment to the Comprehensive Plan designation pursuant to CCZO Article II; thus this criterion has been met.

**Section 9.020 Application for a Zoning Change.**

*An application for an amendment by a property owner or his authorized agent shall be filed with the Commission or Board in accordance with Article II of this ordinance.*

**Findings/Conclusion:** The findings and conclusion under CCZO Section 9.010 are incorporated herein. The application has been filed with the Board as permitted in this section. This criterion is met.

**Section 9.021 Standards for a Zone Change**

*The Board of Commission or Board shall determine that:*

2. *Rezoning of the subject property will conform with the intent of the zoning designation to which the subject property is proposed to be changed as defined in the purpose statement of the proposed zone;*

**Findings/Conclusion:** The C-2 zone is "designed to apply to areas where more intensive commercial uses are necessary for community convenience. This zone is intended to be applied only within urban growth boundaries identified in the Comprehensive Plan." This subject property is located within the Brookings Urban Growth Boundary. The property is next to other commercial uses. Rezoning of the

subject property will conform to the intent of the C-2 zoning. Therefore the criterion for Section 9.021(2) is met.

3. *Rezoning of the subject property will not seriously interfere with the permitted uses on other nearby parcels;*

**Findings/Conclusion:** As noted in the discussion of Goal 11, Policy 6 and Goal 12, the applicant intends to include the vegetated buffer and tree screen on the northeasterly development of a future Fed Ex project site and a residential buffer on the plat application for a partition to be processed by the Community Development Department if the BOC approves the requested CP/ZO amendment. With the proposal of the applicant for buffering, the intent of Therefore the criterion for Section 9.021(3) is met.

4. *Rezoning of the subject property will not adversely impact the orderly provision of the public services (water, sewer, police, fire, schools, etc.) in the area in which the property is located;*

**Findings/Conclusion:** The Applicant notes that all necessary public services will be provided to the subject property. Therefore, the proposed zone change will not adversely impact the orderly provision of public services in the area and this for Section 9.021(4) is met.

5. *Rezoning shall not negatively affect the transportation system/plan.*

**Findings/Conclusion:** Access to the site from Benham Lane to the northerly end of the site can be accommodated by the traffic light at the Benham Lane/Hwy 101 location as envisioned in the Comprehensive Plans Transportation Plan. As conditioned, the future development of the southerly portion will provide a Traffic Impact Study (as advised by ODOT) to determine how access to the site, site capacity and turn movement can be completed without negatively impacting the area.

### **Section 9.030 Application for a Comprehensive Plan Amendment**

*An application for a zone change which requires an amendment to the comprehensive plan designations shall be filed in accordance with Article II of this ordinance. Certain comprehensive plan amendments will involve exceptions to the Statewide Planning Goals which shall be processed in accordance with Statewide Planning Goal 2 and related Oregon Administrative Rules (OAR's). The applicant will be required to submit any additional findings, or information related to the Goal 2 exception with the application for a zone change. Comprehensive plan amendments to prove that land is not resource land as defined by the Statewide Planning Goals shall meet the standards in Section 9.031. The Board will consider the comprehensive plan amendment simultaneously with the zone change as a single application.*

**Section 9.031. Standards for Comprehensive Plan Amendment for Nonresource Land.**

*The Board shall determine that requests for comprehensive plan amendments prove that land planned and zoned for resource use is not resource land and meets the following standards:*

1. *The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and/or Forest Land under Statewide Planning Goal 4;*

*NOTE: If the subject property is predominantly Class I-IV soils or if it predominantly consists of soils capable of producing 50 cubic feet of wood fiber per acre per year it is not considered to be nonresource land.*

2. *The subject property does not contain any natural resources defined in Statewide Planning Goal 5 which are identified in the Curry County Comprehensive Plan;*
3. *The subject property has been proven to be generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering terrain, adverse soil conditions, drainage and flooding, vegetation, location and size of the tract. The subject property shall not be considered nonresource land solely because of its size or location if it can be reasonably be put to farm or forest use in conjunction with other land.*
4. *The subject property is not considered to be nonresource land simply because it is too small to be farmed or forest managed profitably by itself. If the subject property can be sold, leased, rented or otherwise managed as part of a commercial farm, ranch or other forest land it is not considered to be nonresource land.*
5. *The subject property is not considered to be nonresource land if it has been given a special tax assessment for zoned farm use, unzoned "greenbelt" farm use or as designated forest land at any time in the past five years.*
6. *If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not materially alter the stability of the overall land use pattern of the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.*
7. *The subject property shall be at least 20 acres in area unless it is contiguous to an area that is zoned for nonresource use.*

8. *Rezoning of land that is found to be nonresource land shall be to a "rural" zone that is appropriate for the type of land and its intended use (i.e. dune land that is found to be nonfarm/nonforest land should be zoned for Conservation use).*

**Findings/Conclusion:** The subject property at 15887 Highway 101 is currently zoned RR-5 and is not resource land.

The applicable Comprehensive Plan Goals are addressed in the discussion below in relation to the subject application:

**Goal 1 – Citizen Involvement:** *To provide for citizen involvement in all phases of the planning process by developing and maintaining a program of citizen involvement.*

**Findings/Conclusion:** Public notices of the proposed changes have been sent to surrounding property owners consistent with the Zoning Ordinance. A public notice has been posted in the local newspaper to inform the public of the proposal and given a time and place for public input. A public hearing has been conducted to allow public to provide testimony. This criterion of Goal 1 is met.

**Goal 2 – Land Use Planning:** *To establish a land use plan and policy framework as a basis for all decisions and actions related to use of the land and assure an adequate factual base for such decisions, also to coordinate the county land use plan with all affected jurisdiction and agencies.*

**Findings/Conclusion:** Curry County has adopted a Comprehensive Plan and implementing ordinances and has followed those policies and procedures in this application including noticing and communicating with those affected jurisdictions and agencies. The criterion of Goal 2 is met.

**Goal 3 – Agricultural Lands:** *To preserve and maintain agricultural lands by retaining the economically viable agricultural uses within the county.*

**Findings/Conclusion:** The subject property is not zoned or used as agricultural land; therefore this goal is not relevant to the subject application.

**Goal 4 – Forest Lands:** *To conserve forest lands for forest use.*

**Findings/Conclusion:** The subject property is not zoned or used as forest lands therefore this goal is not relevant.

**Goal 5 – Natural Resources:** *To preserve open spaces and protect natural and scenic resources.*

**Findings/Conclusion:** the subject property is not open space nor does it contain natural or scenic resources. This goal is not relevant to this application.

**Goal 6 – Air, Water and Land Resource Quality:** *To maintain and improve the quality of the air, water and land resources of Curry County.*

**Findings/Conclusion:** The property is currently undeveloped; the zone change will not permit development that would be detrimental to the air, water and/or land resources of Curry County. This goal is not applicable to this application.

**Goal 7 – Natural Hazards:** *To protect life and property from natural disasters and hazards identified as potentially occurring in Curry County.*

**Findings/Conclusion:** The subject property is not in or near any identified natural hazard areas therefore this goal is not relevant to this application.

**Goal 8 – Recreation:** *To provide for the recreational needs of the citizens and visitors of the county.*

**Findings:** The proposed zone change will not have any effect on recreational needs of the citizens and visitors to Curry County. However, with a change from RR-5 to C-2 there could be Playground, Park, Library and museum uses authorized by Conditional Use Permit. These uses are not permitted in the RR-5 zone and subject to conditions, the amendment could enable these recreational uses.

**Conclusion:** The application is in keeping with the intent of Goal 8. The zone change does allow for a more expansive use of what would be considered recreational uses. However, the fact that the subject property also could be used for commercial uses does not mean that recreational facilities are not possible with a zone change. The intent of Goal 8 is met.

**Goal 9 – Economic Development:** *To diversify and improve the economy of the County.*

**Findings/Conclusion:** The proposed amendments will enable future development to develop Curry County's economic base. Commercial development on the subject site will accommodate a myriad of commercial businesses that can benefit the County's economic growth.

The applicant accurately stated that: the 1979 Curry County Comprehensive Plan (CCCP) noted that parts of the Curry County labor force are presently under-utilized with more people available for jobs than there are jobs available. This is certainly true today. In 1979 when the CCCP was written, the forest and wood products industry was the dominant single industry in the county followed by agriculture and fishing.... " These industries have weakened and other commercial opportunities must be explored to grow the County's economic base. The subject CP/ZO amendment will facilitate this much needed growth.

**Policy 4:** *Curry County recognizes that tourism is an important part of its economy and seeks future development of this industry by attracting more destination tourists to the area and extending recreational opportunities.*

**Findings:** Only limited commercial uses are permitted in the RR-5 Zone. The rezoning the property to the C-2 zone will allow service oriented tourist style facilities such as hotels and dining establishments; all of which are permitted by right. The development of these types of businesses would enable additional visitors to the area. The criterion of Goal 9, Policy 4 is met.

**Conclusion:** The zone change to C-2 conforms to this policy because the change will allow the property different kinds of business that serve tourists.

**Policy 6:** *The Curry County Comprehensive Plan designates lands suitable for commercial and industrial uses and provides zoning that is compatible for those areas.*

**Findings:** Because the subject property is within the Brookings Urban Growth Boundary, has a U.S. Highway 101 frontage, and is adjacent to other commercially zoned property, the property at 15887 Highway 101 designated for RR-5 zoning is underutilized and is not suitable for the property or its current use. There is currently commercial development on the northwesterly adjacent property. The proposed zone change will allow further commercial development and compliment the commercial character of the area. As proposed, the subject amendment is compatible with the adjacent commercial uses and meets the intent of Policy 6.

**Conclusion:** Although the County did not designate the subject property as commercial in the Comprehensive Plan, the surrounding zoning and uses indicate that it is in an area suitable for commercial use. Therefore, the applicant's request conforms to the intent of this policy.

**Goal 10 – Housing:** *To provide for the housing needs for the citizens of the county.*

**Findings:** The subject property is currently zoned RR-5 which allows for a single family home on five acres. The subject property is 9.28 acres in size and cannot be subdivided as residential property. Thus under the current zoning of the property, the existing single family home on the property is all that can be located at 15887 Highway 101. Incorporated into this staff report by reference, the Applicant letter in Attachment 1 dated November 4, 2015 further discusses the large number of undeveloped residential lots in the Harbor area and the need for economic development in the area.

While the *Brookings Urban Growth Boundary Expansion and Urban Reserve Boundary Establishment Study of 1993* and the subsequent 1995 technical memorandum titled the *Brookings Urban Growth Boundary Needs Analysis* notes a strong need for housing in the area, it does not appear that the projected economic growth required for the needed housing projected for the area has come to fruition.

**Conclusion:** The proposed change will have minimal impact on the potential housing inventory; one unit may be lost should the subject site be developed. A change in the zoning will not significantly affect the housing available in the county. The Applicant's request does not conflict with Goal 10.

**Goal 11 – Public facilities:** *To plan and develop a timely, orderly and efficient arrangement of public facilities and services as a framework for urban and rural development in the county.*

**Policy 1:** *Curry County recognizes three levels of public facilities and services existing in the county:*

- a. Rural services*
- b. Rural community services*
- c. Urban services; and has identified these levels as part of the comprehensive plan.*

**Findings:** The subject property is located in the Brookings Urban Growth boundary. Service providers have indicated future services to the subject site will be available for future commercial uses. Urban services to the site will not be altered by the proposed CP/ZO amendments. As proposed the application meets the intent of Goal 11 Policy 1.

**Policy 5:** *The Comprehensive plan effectively separates urban service levels and rural service levels with urban growth boundaries and community boundaries.*

The Applicant will meet the intent of this goal and policy by complying with CCZO Sections 3.400 to 3.443 for future development of the site with a comprehensive storm water management plan prior to development of the subject property. Additionally, the applicant will utilize services provided Coos Curry Electric Cooperative, Harbor Fire Department, Harbor Water District and Harbor Sanitary District.

**Findings:** The subject property is within the Brookings UGB and already has an urban level of service. There are no proposed changes in level of public services at this time. The applicant's intent to develop a comprehensive storm water management plan and utilize needed public services provides compliance with these policies.

**Conclusion:** The intent of Goal 11 Policy 5 has been met.

**Policy 6:** *The Comprehensive Plan designates uses appropriate to each of these service levels through zoning and subdivision ordinances that determine land use and minimum lot size.*

**Findings/Conclusion:** The levels of services available are appropriate for the uses allowed in a C-2 zone. However the Zoning Code is silent on if and how residential uses and commercial uses can co-exist while providing for quiet enjoyment of residential uses. With appropriate buffering measures between commercial and residential uses, comfortable co-existence between the proposed Fed Ex project and

the neighborhood can be accomplished with the heavy landscaping on the northeasterly portion of the property. As for the southerly portion of the site, it is the applicant's intent to provide a physical buffer between the residential uses to the east and the southeasterly portion of the subject property if the CP/ZO amendment and subsequent partition application is approved. It is anticipated that the buffer will be identified on a future partition map application. The intent of Goal 11 Policy 6 will be met.

**Policy 17:** *Curry County shall protect the function of existing and planned roadways as identified in the Transportation System Plan.*

**Findings/Conclusion:** The proposed change meets the intent of this policy subject to the conditions noted in response to Comprehensive Plan Goal 12.

**Goal 12 – Transportation** notes the County seeks: *To provide and encourage a safe, convenient and economic transportation system for the county.* Policy 2 of this goal specifies that: *All development proposals, plan amendments, and zone changes shall conform to the adopted Transportation System Plan.*

Further, Zoning Ordinance **Section 9.021(5), Standards for a Zone Change** implements Goal 12 by noting: *The Board of Commission or Board shall determine that:*

5. *Amendments to the comprehensive plan and zoning designations of the subject property which significantly affect a transportation facility (see #6, below) shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility as identified in the Transportation System Plan. This shall be accomplished by one of the following:*

a) *Limiting allowed land uses to be consistent with the planned function of the transportation facility;*

b) *Amending the Transportation System Plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or*

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

6. *A comprehensive plan or zoning designation amendment significantly affects a transportation facility if it:*

a) *Changes the functional classification of an existing or planned transportation facility;*

b) *Changes standards implementing a functional classification system;*

c) *Allows type or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*



*d) Would reduce the vehicle/capacity ratio and level of service of the facility below the minimum acceptable level identified in Transportation System Plan.*

**Discussion:** The Curry County Transportation System Plan adopted by the BOC with Ordinance 05-07 in May of 2005 did not include an analysis of Benham Lane as the current signal at that location was in the process of being installed at that time. However ODOT completed traffic counts and capacity analysis of the Transportation System Plan in 2001 for this intersection and found the intersection to be operating within acceptable standards. ODOT has reviewed the current CP/ZO amendment application and does not have a problem with future development of a commercial nature on the northeasterly end of the property where the Fed Ex project would be proposed following a land division.

However, while ODOT has reviewed the application and found it is feasible to develop the northeasterly end of the subject site, they have indicated that if and when the southerly portion of the property is developed, a Traffic Impact Study must be considered to determine if and how traffic can safely access and egress commercial development on the property's lower section. As noted by the applicant, "there is a deeded access off of Highway 101 which serves the existing house located on the subject parcel. Mr. Ron Hughes of ODOT has stated that the access driveway can be modified. Changes to access the lower portion of the site will be addressed in the Traffic Impact Study.

**Conclusion/Finding:** Should the BOC approve the CP/ZO amendment, conformance with CP Goal 12 and ZC Section 9.021(5) is required. Thus the amendment would need to be conditioned to require that the applicant develop a Traffic analysis for ODOT and County approval. The analysis would be prepared pursuant to the direction provided by ODOT in their August 27, 2015 e-mail communication with the applicant. Land division or development of the subject property could not proceed absent the required Traffic Impact Study. Subject to a condition requiring a TIS, the criterion of Goal 12 is met.

**Goal 13 – Energy:** *The conservation of energy by designating land uses which lead to the maximum conservation of all forms of energy based on sound economic principles.*

**Findings/Conclusion:** This goal is not applicable to this request.

**Goal 14 – Urbanization:** *To provide for an orderly and efficient transition from rural to urban land use in the County.*

**Policy 2:** *Curry County defines "urban uses" as those which are high intensity residential, commercial or industrial uses located inside urban growth boundaries or outside urban growth boundaries where an exception to Goal 14 has been justified.*

**Findings/Conclusion:** The subject property is within the Brookings Urban Growth Boundary. The C-2 zone allows for urban uses appropriate for this property. The Applicant's request is in accordance with the intent of this policy.

**Policy 4:** *The County will coordinate with the respective cities with regard to land use decisions affecting the urban growth areas.*

**Findings/Conclusion:** Curry County has provided proper notice to the City of Brookings of the proposed rezone and received their comments; all of which have been addressed by the applicant in **Attachment 1**.

Attachment 3  
Correspondence

**CITY OF BROOKINGS**



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MEMO

Date: December 2, 2015  
To: Curry County Planning Department  
From: Donna Colby-Hanks, Planning Manager *DC*  
Subject: County Referral CP/ZC-1503 Reynolds

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City Staff has reviewed the above referenced file requesting a change in the comprehensive plan designation from "residential" to "commercial" and a zone change from Rural Residential Five and to Heavy Commercial.

The subject property is adjacent to Hwy 101 and if rezoned to commercial would be consistent with the current development of the area with commercial uses along the highway. Conditions to buffer the adjacent residential uses from the subject property as suggested by the applicant should be applied to the approval. The applicant states in his findings that the proposal is for siting a Fed Ex facility and addresses impacts from that facility. Unless the zone change is qualified and conditions are placed on the approval, impacts from more intense uses allowed in this zone, especially traffic, are not adequately addressed.

Although qualified zone changes can be challenging, Staff makes a favorable recommendation for granting approval of a qualified zone change with conditions to address impacts on the above referenced file.

Thank you for the opportunity to comment on this matter. If you have any questions or need more information please contact me at (541) 469-1137.

addressing the acknowledged City and County comprehensive plans and related special plans such as the Transportation Systems Plan, the public facilities plan, the Goal 14 land needs analysis and the Economic Opportunities Analysis (EOA).

- Public water and sewer services must be available to the property if it is to be reclassified for urban uses.
- The potential impact of the proposed change (from residential to commercial) on the state and local transportation facilities and the surrounding residential properties will need to be evaluated. A transportation impact analysis is very likely to be warranted,

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given the nature of the proposed change and the current deficiencies at the Benham Lane/Highway 101 intersection. Early consultation with ODOT is recommended.

Please feel free to share these comments with the applicant. If you have questions or if I may be of assistance please call or respond to this message.

**Dave Perry** | South Coast Regional Representative  
Community Services Division | Coastal Services Center  
Oregon Dept. of Land Conservation and Development  
810 SW Alder Street, Suite B | Newport, OR 97365  
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514  
[dave.perry@state.or.us](mailto:dave.perry@state.or.us) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)



**Julie A. Schmelzer**  
**Director of Administration and Economic Development**

94235 Moore Street/Suite #122  
Gold Beach, OR 97444  
Ph. 541-247-3253  
schmelzerj@co.curry.or.us  
www.co.curry.or.us

December 17, 2015

Board of Commissioners  
94235 Moore St., Ste. 122  
Gold Beach, OR 97444

Re: Fed Ex Rezone Request

Dear Commissioners:

I am writing to lend my support for the rezoning of tax lot #2900 from a Residential 10 zoning district to a Heavy Commercial zone, and the accompanying Comprehensive Plan amendment required for such rezone.

I have been working with FedEx for approximately twelve months. During that time we have scoured the area from Harbor to Ophir looking for land that is appropriately zoned for Fed Ex. The reality is our county lacks industrial and heavy commercially zoned properties. With the lack of vacant industrial and commercial properties, we limit our potential for economic growth.

According to the Cost of Community Service studies<sup>i</sup>, on a whole, industrial and commercially used properties pay more in taxes than they require in services. Conversely, residential properties require more in services than they contribute in taxes. In a financially strapped community, it makes fiscal sense to create the opportunity for more industrial and commercial development. Rezoning this parcel helps create those opportunities.

The availability of warehousing and distribution facilities are a sign of a healthy economy. Increasing shipping options, and getting goods and services delivered quickly, are critical to growth. World trade was expected to rebound in 2010 with exports from developed countries predicted to increase by 7.5%.<sup>ii</sup> Economic transformation in the U.S. will require businesses to rely less on selling to fellow Americans and more on selling abroad. The emphasis will be on high-value products and services rather than on labor-intensive items.<sup>iii</sup> Having the infrastructure in place to help expand our economy is necessary.

Fed Ex is a reputable business to have here in Curry County, and it is appropriate to accommodate businesses which not only provide a public service, but help businesses expand. They have an economic development program, 'Fed Ex Know and Grow' which works with businesses to help expand their reach. It is an export education program offering export-specific educational programming. Since 2009 the company has helped over 72,500 businesses through this program<sup>v</sup>. With limited staff and resources, I as an economic development professional welcome any assistance we can get to help our businesses become more profitable.

The previous Planning Director viewed Fed Ex as a warehousing land use activity. In 1998 warehousing employment in the United States was 119,493. By 2006 the number of warehousing workers increased to 595,325. This represents a growth rate of 22.23%.<sup>v</sup> As more products are made in the home, and cottage industries encouraged, the demand for warehousing too will increase. The subject facility is predicted to employ 16 people at living wage jobs; in a community with an 8.9% poverty rate, these jobs are needed.

Aside from need, I encourage you to look closely at the zoning code and its requirements for rezoning a parcel. Article IX, Section 9.021 requires the following to be satisfied:

1. Rezoning shall conform to relevant policies of the Comprehensive Plan.
2. Rezoning shall conform to the intent of the C-2 purpose statement.
3. Rezoning shall not interfere with permitted uses on neighboring properties.
4. Rezoning will not adversely impact the orderly provision of services.
5. Rezoning shall not negatively affect the transportation system/plan.

The subject hearing is not only to change the zoning classification on the zoning map, but to change the Comprehensive Plan as well. Prior to doing so, it has to be proven that this rezone would meet the policies of the Comprehensive Plan. Goal 14 (Urbanization), item 8, specifies the urban zones must be contained within an urban growth area. The proposed is within an urban growth boundary, and therefore satisfies this plan requirement.

As for rezone requirement number 2, the purpose statement reads the district is for 'more intensive uses', and is to be applied in the urban growth boundary. The proposed land use is more intensive than what one would find in a Rural Resort Commercial or Light Commercial zone, and, is within the urban growth boundary.

Thirdly, since the area has developed in a mixed use fashion, the proposed use should not interfere, rather compliment, neighboring uses by providing a service they can use.

Rezoning will not adversely affect the provision of services either since we know that, if rezoned, the property will be annexed into the Harbor Sanitary District, which helps ensure municipal services in the unincorporated area.

Lastly, as for number 5, access to the site is not directly onto U.S. Highway 101, rather it is serviced off a side street, East Benham Lane. The Transportation System Plan (page 10) in the Comprehensive Plan predicted urbanization at this Intersection (US 101 and Benham) by foregoing traffic counts and instead installing a signal light. This light will help control traffic and meet the traffic projections made in the Comprehensive Plan. The Transportation System Plan, as incorporated in the Comprehensive Plan, requires future development to protect the function of existing and planned roadways. By accessing onto Benham, instead of US 101, the applicant meets that planning goal.

When rezoning property we should look at the best zoning classification for the property; this is considered good planning practice. This parcel is not designated farm or forest on our GIS system. Much of the surrounding land is zoned residentially, but some adjacent land is zoned Light Commercial, with Heavy Commercial 250 feet to the north (northwest, along US 101), and Rural Resort Commercial 250 feet to the south (southwest along US 101). Based on the zoning map, this does not appear to be a spot zoning, rather the next logical piece to be rezoned to a commercial classification. In addition, fewer land use conflicts will exist if the highway frontage is used for commercial use rather than residential (noise concerns, access issues, etc.)

Lastly, I refer you to the Comprehensive Economic Development Strategy (CEDS)<sup>vi</sup> for our region. Below are the top priorities, and also our weaknesses. I believe creating more Heavy Commercial possibilities can help address the needs in the CEDS plan, as well as fill some of the needs identified as weaknesses. (I have highlighted the applicable priorities and weaknesses that a C-2 zone, and Fed Ex specifically, can help address.)

Key Findings from the CEDS survey:

Top Priorities for the Region as Identified by CEDS Survey Respondents:

1. Diversifying the region's economy by sustaining and creating jobs with wages higher than each county's average wage.
2. Improve and expand physical infrastructure of rural areas to support existing demands and new economic growth
3. Increase work-related skills of the emerging, current and transitional workforce [via Fed Ex's global programming]
4. Help companies that are starting up or are already in business in our region to compete globally
5. Ensure that the strategies developed to enhance economic development in the region reinforce the Region's long-term prosperity and livability.
6. Improve multi modal transportation and telecommunications infrastructure in all areas of the region
7. Coordinate regional efforts for economic development, education, workforce development, natural resource management and other civic activities.
8. Support the region's communities which have been left out of Oregon's economic expansion and diversification
9. Improve the quality of life, including recreational, health, public safety, educational, cultural

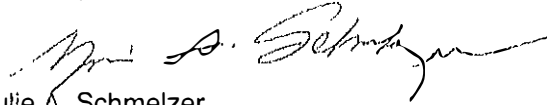
Community Challenges and Barriers to Economic Development as Identified by Survey Respondents:

1. Lack of family wage jobs
2. Lack of funds to finance projects
3. Distance to major metro markets
4. Lack of diversified employment base (beyond natural resource industries)
5. Transportation access limitations
6. Large federal land ownership – the loss of federal timber funding (leaves the counties in jeopardy with a lack of funds to support their programs including their operations and management)
7. Lack of motivated/qualified workforce
8. Lack of diversity in work force (training skills)
9. Declining timber, agriculture and fisheries industry job base
10. Vulnerability to environmental regulations, state and federal

In conclusion, I encourage you to rezone the subject parcel to C-2 so we can have more land available for heavy commercial and some limited industrial type businesses. The rezone satisfies a community need, and is within the parameters of the zoning code. It is also the next logical piece of property to be rezoned for commercial/industrial use (vs. 'hopscothching' over residential or agricultural properties).

Thank you for consideration.

Sincerely,



Julie A. Schmelzer  
Director of Administration and Economic Development

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<sup>1</sup> American Farmland Trust

<sup>2</sup> World Trade Organization

<sup>3</sup> The Economist

<sup>4</sup> Fed Ex

<sup>5</sup> The International Journal of Transportation Research

<sup>6</sup> 2014-2018 for Coos, Curry and Douglas Counties



## EXHIBIT "C" – APPLICATION 1503

### CONDITION OF APPROVAL

- 1) Applicant shall comply with the requirements of the e-mail dated August 27, 2015 from Ron Hugh of ODOT as noted below.

web: [www.cascadiageoservices.com](http://www.cascadiageoservices.com)



*This electronic communication and its attachments are intended only for the person(s) to whom it is addressed. It may contain confidential information prepared only for the addressee. If you have received this e-mail message in error, please do not retransmit, reproduce or distribute. Opinions and data included herein are intended to be used only for discussion purposes and should not be viewed as final recommendations or used in final design.*

[Quoted text hidden]

HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us>

Thu, Aug 27, 2015 at 2:34 PM

To: Wall Harder <wall@wallharder.com>, Eric Oberbeck <eric@cascadiageotechnical.com>, James Cant <jcant@fishercompany.com>

Cc: MCDONALD John <John.MCDONALD@odot.state.or.us>, WADDINGTON Jeff S <Jeff.S.WADDINGTON@odot.state.or.us>, Leroy Blodgett <leroy.blodgett@gmail.com>, WANG Wei \* Michael <Wei.WANG@odot.state.or.us>

I agree with most of the items addressed in Eric's e-mail. To my knowledge the English Village people have not exercised the indenture for the proposed parking lot, therefore there is one existing reservation for the 9-acre piece. It is a 35' unrestricted reservation located on the south end of the parcel. The other reservation is for the existing English Village and is currently being used for that development.

We agree that it is possible to indenture the existing reservation at the southern end of the existing parcel to a point common to the two new parcels for a shared access location. I don't remember saying anything about a 60' indenture. That is usually reserved for public roads or streets. Depending on what the intentions for this location are, we could possibly go to a 38+/-' width (two 12' lanes in and out and a 14' exiting left turn lane) for the new driveway. This size is normally wide enough for all anticipated traffic. We might be able to widen a little more if larger trucks are anticipated to use this driveway. If the intent is to put curb and sidewalks into the sites then perhaps an additional adjustment can be made. The reservation is typically for vehicular traffic not for pedestrians, bicycles, or utilities.

We have to do some preliminary traffic calculations to finalize any volume restrictions. There is a huge change in traffic numbers for different types of use. As an example the volumes go from approximately 100 ADT (Average Daily Traffic) to 850 ADT for different types of markets and 127 ADT to 716 ADT for different restaurants. These numbers are per one thousand gross square feet of the buildings. As you can see a lot is dependent on the type and size you would like to develop. Also as an example, a truck terminal generally generates about 10 trips per day per

thousand square feet. You probably have more specific numbers for a Fed Ex facility, but the point is that this type of facility is far less than the other uses. We need more information from you before we can develop a not to exceed number. Our intent is to work with you toward what you would like to pursue. The location of the approach on the highway is also dependent on the type and volume of the traffic entering and exiting this location. We want the approach located out of the influence area of the intersection or existing approaches to minimize the conflicts or overlaps among all locations. This gives the travelling public an opportunity to see any vehicles entering or exiting the locations and to respond to any potential emergency.

If your intent is to develop the south site for a more intense use, then a Traffic Impact Analysis (TIA) will be required which should identify the impacts to the highway and any proposed improvements to alleviate those impacts. I can't say for certain what those impacts are without the analysis. You would need to hire a traffic engineer licensed in Oregon and we would work with your traffic consultant on what information is necessary to approve the approach.

Jeff, could you confirm the information on the reservations.

## H. Ronald Hughes, P.E.

Region 3 Access Management Engineer  
3500 NW Stewart Parkway  
Roseburg, OR 97470  
(T) 541.957.3696  
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E-mail: Ronald.H.Hughes@odot.state.or.us

**From:** Walt Harder [mailto:walt@waltharder.com]  
**Sent:** Thursday, August 27, 2015 1:12 PM  
**To:** Eric Oberbeck; James Cant  
**Cc:** HUGHES Ronald H \* Ron; MCDONALD John; WASHINGTON Jeff S; Leroy Bddgett  
**Subject:** Re: 15887 Hwy 101, Brookings, OR

(Quoted text hidden)

HUGHES Ronald H \* Ron <Ronald.H.HUGHES@odot.state.or.us> Thu, Aug 27, 2015 at 2:36 PM  
To: Eric Oberbeck <eric@cascadiagcotechnical.com>, MCDONALD John <John.MCDONALD@odot.state.or.us>, WASHINGTON Jeff S



**BOARD OF COMMISSIONERS  
STAFF REPORT**

**DATE:** January 20, 2016

**SUBJECT:** Board of Commission action on Ordinance 16-\_\_\_ to correct Scrivener's Errors in Ordinance 15-07.

**TO:** Curry County Board of Commissioners

**FROM:** Carolyn Johnson, Planning Director

**RECOMMENDATION:** Adopt Ordinance 16-\_\_\_ correcting Scrivener's errors to Ordinance 15-07.

**EXECUTIVE SUMMARY:** On January 6, 2016, the Board adopted Ordinance No. 15-07 changing the Curry County Comprehensive Plan designation from "Residential" to "Commercial" with a concurrent zone change from Rural Residential-5 acres (R-5) to Heavy Commercial (C-2). Page 2 of Ordinance 15-07 contains scrivener's errors which should be corrected, but which do not change the substantive provisions of that ordinance. Ordinance 15-07 (Attachment 2) was recorded with these errors, all of which are outlined in Ordinance 16-\_\_\_ noting the needed corrections in Section III.

**Attachments:**

1. Ordinance 16-\_\_\_ correcting Scriveners errors to Ordinance 15-07.
2. Ordinance 15-07 (recorded) adopted January 6, 2016

**ATTACHMENT 1**  
**Ordinance 16-\_\_\_ correcting**  
**Scrivener's errors to Ordinance 15-07**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Ordinance )  
Correcting Scrivener's Errors ) ORDINANCE 16-\_\_  
In Ordinance No. 15-07 )

The Board of Commissioners for the County of Curry ordains as follows:

Section 1     TITLE

This ordinance shall be known as Ordinance No. 16-\_\_, an ordinance amendment to Ordinance No. 15-07 in the Curry County Code.

Section II     FINDINGS

- A. On January 6, 2016, the Board of Curry County Commissioners adopted Ordinance No. 15-07, an Ordinance changing the Curry County Comprehensive Plan designation from "Residential" to "Commercial" with a concurrent zone change from Rural Residential-5 acres (R-5) to Heavy Commercial (C-2).
- B. Page 2 of Ordinance 15-07 contains scrivener's errors which should be corrected, but which do not change the substantive provisions of that ordinance.
- C. Consistent with ORS 197 and 215, this ordinance shall be effective upon its passage.

Section III     CORRECTION OF SCRIVENER'S ERRORS

The following scrivener's errors are corrected in Ordinance 15-07:

- (1) The date of approval of the ordinance is corrected to read "Dated this 6<sup>th</sup> day of January, 2016" [instead of "Dated this 17<sup>th</sup> day of December, 2015"]
- (2) The line indicating the Recording Secretary is blank, it is corrected to include the signature of the Recording Secretary.
- (3) The effective date is noted correctly listed as "upon adoption" in Section 2; on Page 2 below "Second Reading" it is incorrectly listed as April 15, 2016. The correct date is January 6, 2016.

Adopted this 20th day of January, 2016 by the Board of Curry County Commissioners:

Thomas Huxley, Chair

Susan Brown, Vice Chair

David Brock Smith, Commissioner

Recording Secretary:

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First Reading: January 20, 2016  
Second Reading: NA  
Effective Date: January 20, 2016

(Pursuant to ORS Chapters 197 and 215)

Approved as to Form:

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Curry County Legal Counsel

**Attachment 2**  
**Ordinance 15-07 adopted January 6, 2016**