

the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize the “public facility” use of London Grange Hall No. 937 which was established on the subject property in early 1950s and amend the zoning designation to conform to the use.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 360-1, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The subject property is enveloped by Rural Residential (RR5) lands on all four exposures. In addition to the surrounding residential uses, the right-of-ways of London Road to the east and Shoestring Road to the north and west separate the facility from Forest Land in those two directions. The closest EFU lands are located approximately 300 feet to the west and separated from the subject property by Rural Residential lands. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 and F2 forest lands 500 feet to the northeast and east or the EFU lands to the west.

The grange hall has been apart of the agrarian society in the London area for 50 years without any unknown conflicts or impacts on nearby resource lands.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 360-1 includes 32 Rural Residential parcels accessed by the right-of-ways of London Road and Shoestring Road and developed with 33 residences. The London Church is situated to the northeast of the intersection of the two roads and has served the rural citizens for over 100 years.

The London Grange No. 937 facility has been providing a service in southern Lane County for five decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 360-1 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

- A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The development of the public facility use has not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current use or new use will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.294 (RPF).

- (2) Protect and diversify the economy of the County.*

The London Grange provides a source of information to farmers and horticulturists in the area. Re-designation of the subject properties will allow diversification of the current use in compliance with the required permit processes, criteria and standards.

- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The facility is well located for distribution of services to their customers.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 2401 will acknowledge the existing public facility on the subject property. The current use of the facility is provided with potable water from an onsite well and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

- d. Agricultural Lands, Policy # 8: *"Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing public service on the subject property has co-existed since the early-1950s with the agricultural and forest product industries in the surrounding area. Grange halls commonly occur adjacent to resource lands and in some instances are essential to the rural residents for distribution of information and a sense of "community". Any expansion or intensification of the London Grange facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

- e. Flora and Fauna, Policies 1 and 10 *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on*

wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Aulanf NE3 quad of the National Wetlands Inventory. Past development on the subject property in the 1950s has significantly altered the natural flora communities and habitat on the four-tenths of an acre. As a result of past alterations, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is 0.41 of-an-acre in size and abuts a public road. Surrounding lands are residentially developed. Nearby forest and agricultural lands are buffered from the facility by road right-of-ways or nonresource parcels. None of the 32 parcels designated as RR5 properties in the D&C exception area 360-1 have been managed for the production of crops, livestock or timber products for the past twenty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with 32 residences, a church and the grange hall. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The grange hall on the subject property is within the unnumbered “A” zone, 100-year flood hazard area per Flood Insurance Rate Map Panel 2375F of 2975 (6-2-99).

b. Not Contrary to the Public Interest

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use

strongly suggests that there is a need for the public facility in this area. Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. Lane Code 16.294

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and existing use on tax lot 2401 are consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited and has an onsite domestic water source.

The subject property is small in size (0.41 acre) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 22-03-30.1, tax lot 2401 (0.41 of-an-acre) from Rural Residential (RR5) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 2 of Ordinance No. PA 1226, amending the Official Plan Map No. 360 designation for tax lot 2401 of Assessors Map TRS 22-03-30.1, from Rural (R) to Public Facility (PF); and
2. Approval of PRZC Control No. 2 of Ordinance No. PA 1226, amending the Official Zoning Map No. 360 designation for tax lot 2401 of Assessors Map TRS 22-03-30.1, from Rural Residential (RR5) to Rural Public Facility (RPF).

VII. EXHIBITS

- A. Plan Map, Plot No. 360 with proposed plan change depicted.
- B. Zoning Map, Plot No. 360 with proposed zone change depicted.
- C. Lane County Assessor's Map TRS 22-03-30.1.

FOR ASSESSMENT
AND TAXATION
ONLY

NW 1/4 SEC. 30 T.22S.R.3W.W.M.

LANE COUNTY

SCALE 1" = 200'

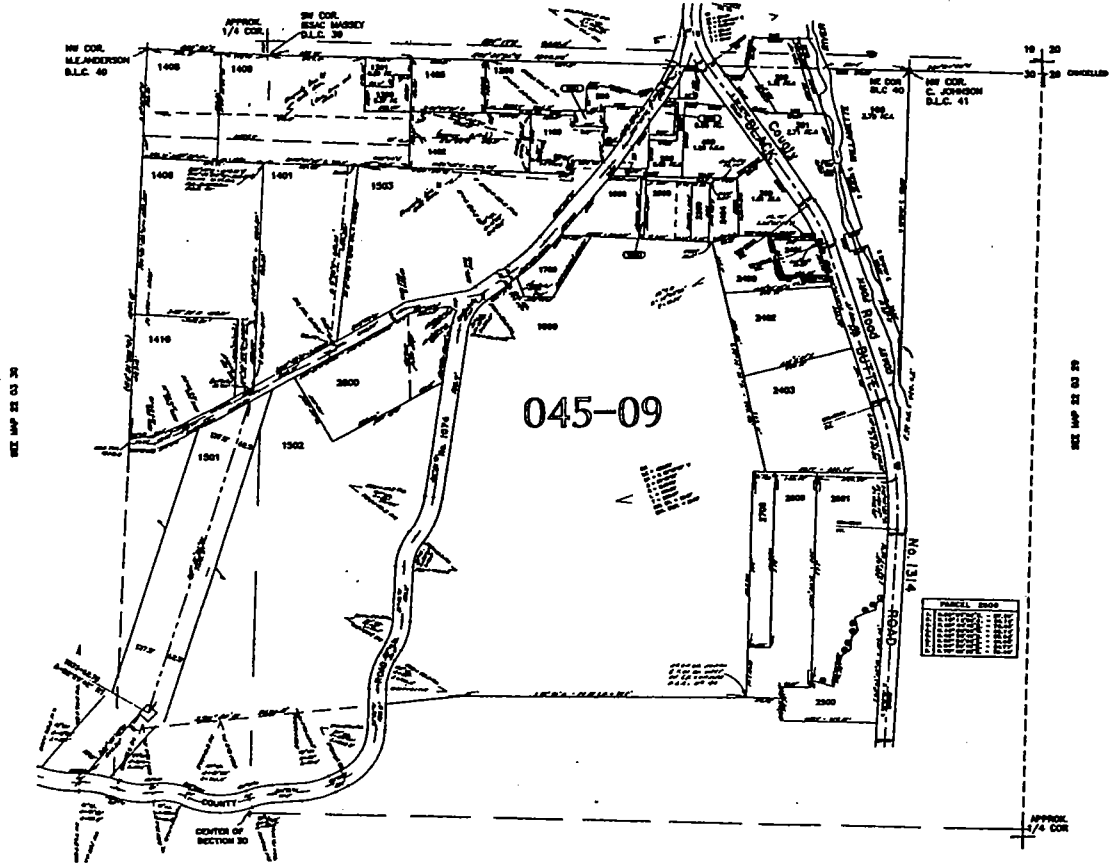
SEE MAP 22 03 10

THIS MAP REPLACES 2203010.180M

22 03 30 10

NO.	DESCRIPTION	ACRES
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C.A.D. SYS.



SEE MAP 22 03 30

22 03 30 10

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 282-1

**Plan Amendment and Zone Change for
Tax Lot 800 of Assessor's Map 16-04-20**

Tax lot	Acreage	Action	Zoning Designation
800	1.45	Retained as	Rural Residential (RR5)
	0.28	Rezoned to	Rural Industrial (RI)
	<hr/>		
	1.73 total acres		

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*

OAR 660-22-030(6)-(8) - *Planning and Zoning of Unincorporated Communities*

Lane County Rural Comprehensive Plan Policies

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.292 - *Rural Industrial Zone*

Lane Code 16.290 - *Rural Residential Zone*

Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of the right-of-way of Highway 99, approximately 1100 feet south of Milliron Road, and within the Developed & Committed Exception Area No. 282-1. It can be identified as tax lot 800 of Lane County Assessor's map 16-04-20 and is 1.73 acres in size.
2. The subject property is developed with both residential and industrial uses. There are two residences on the subject property.

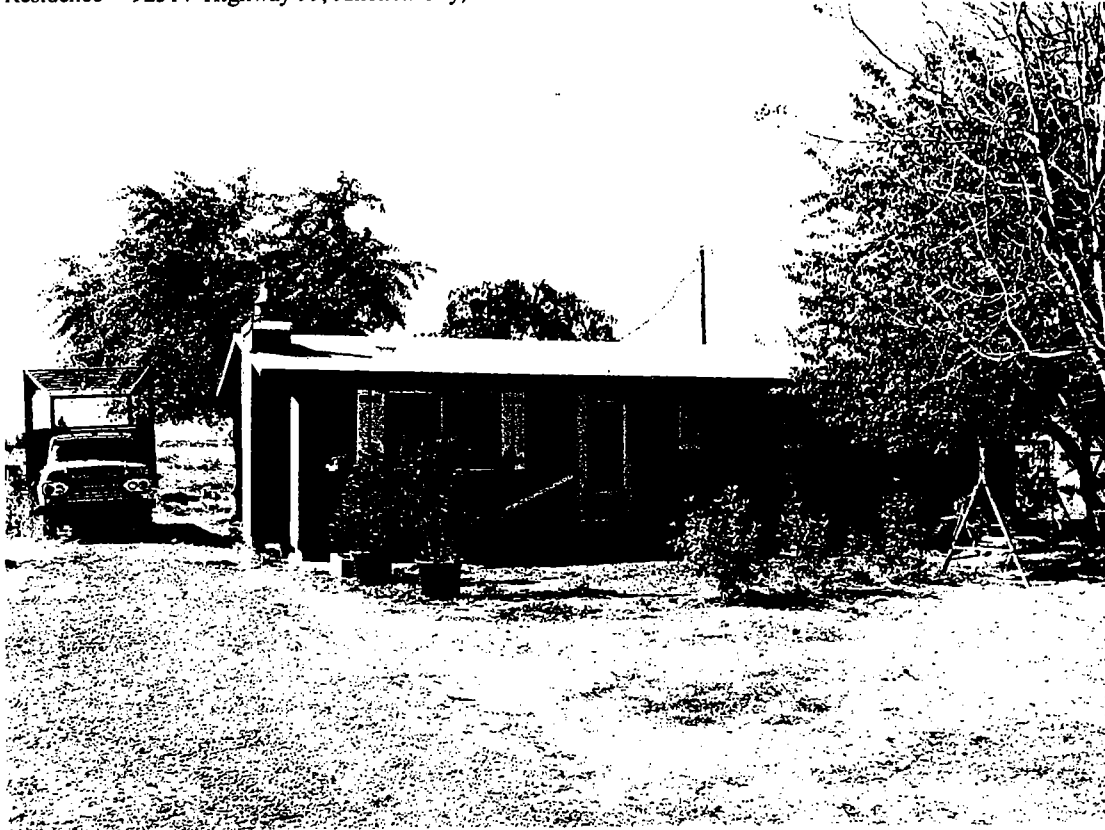
The first residence on the subject property was constructed in 1940 (1,005 sq. ft.) and has an assigned rural address of 92308 Highway 99, Junction City, OR 97448.

Residence - 92308 Highway 99, Junction City



The second residence on the subject property was constructed in 1973 (1,008 sq. ft.) and has an assigned rural address of 92314 Highway 99, Junction City, OR 97448.

Residence -- 92314 Highway 99, Junction City, OR 97448



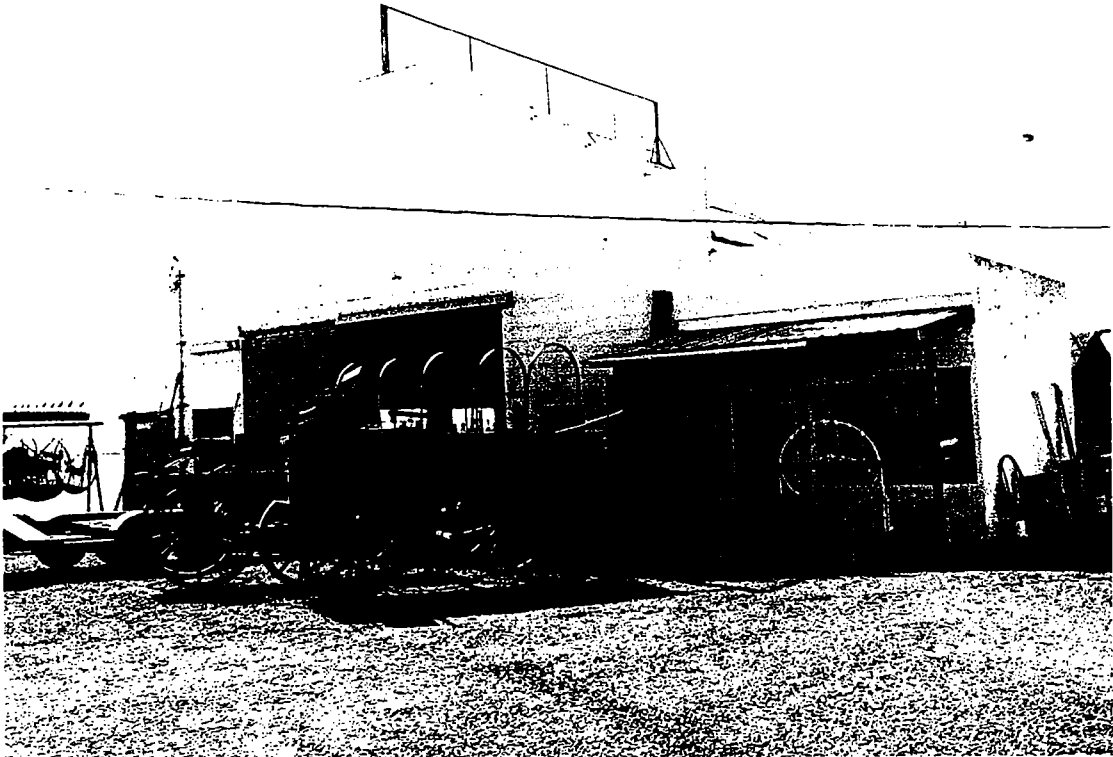
Both of the residences have access via a single driveway from Highway 99 and are served by the same two access points within the right-of-way of the highway.

All of the development on the subject property is located in the east half of the acreage. The western half of the subject property is an open field.

The third structure on the subject property was constructed in 1951 and has been utilized for commercial and industrial uses for the past 50 years. It is a 40' x 52' metal smith shop and a 12' x 16' gallery known as the Western Art Gallery. The owner of the gallery creates large metal sculptures and artwork within the metal shop which are displayed out front and within the gallery. Sculptures and functional pieces are sold in the gallery. The majority of the income is from custom orders fabricated out of iron or steel. The art work has a distinct western motif. An accessory structure to the industrial use is located to the west of the shop. It is a 24' x 24' building used for storage. Some outside area is used for storage further to the west and south.

3. The subject property is currently zoned for Rural Residential use (RR-5/RCP). Prior to 1984 the property was designated AGT-5 (Agriculture, Grazing and Timber with a 5-acre minimum division standard).

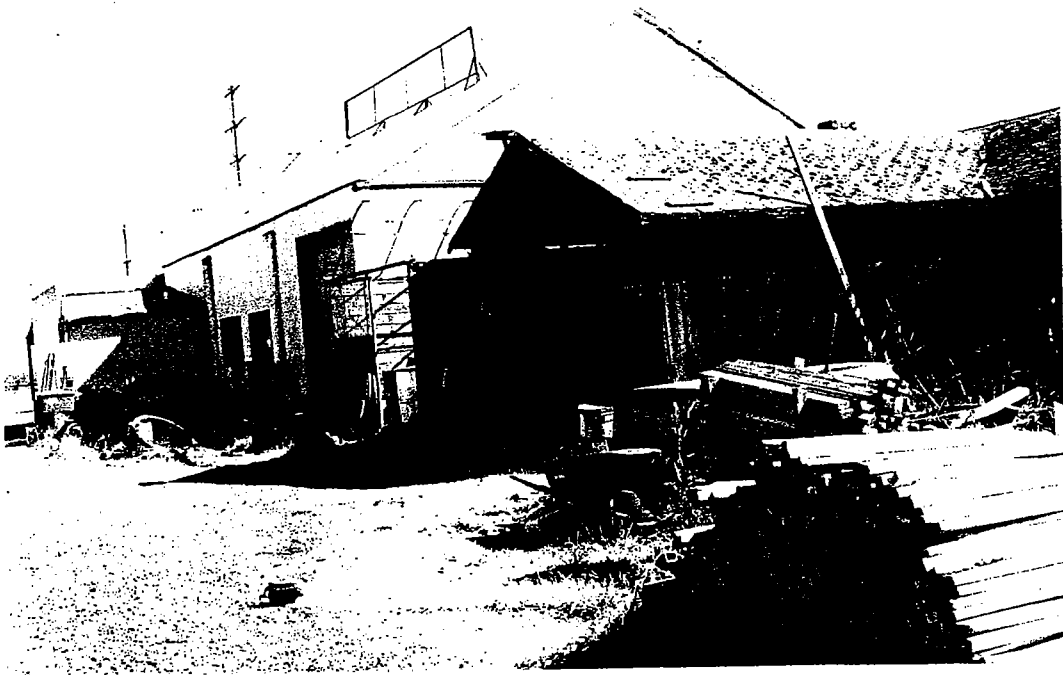
The Western Art Gallery – 92308 Highway 99, Junction City, OR 97448



Above: Gallery and access driveway.



Above: Gallery sign and display of sculptures. Below: 24' x 24' storage building and outside storage area.



4. The property owner is proposing to retain the current Rural Residential (RR5, LC 16.290) zoning designation on 1.45 acres of the 1.73-acre subject property. The 0.28 of-an-acre portion in the southwest corner of the subject property with the existing industrial development and uses is proposed for rezoning to Rural Industrial (RI, LC 16.292). The 0.28 of-an-acre can be described as an area approximately 70 feet from south to north and 175 feet from east to west. It can further be described as:

Beginning at the southeast corner of the subject property where it meets the public right-of-way of Highway 99, then proceeding north along the right-of-way 70 feet; then proceeding west on a line parallel to the southern property line for a distance of 175 feet; then proceeding south approximately 70 feet to the southern property line; and then east along the southern property line approximately 175 feet to the point of beginning.

The above description is based on the intent to include the industrial structures and outside storage areas, parking area, the southern access point and half of the northern access point along Highway 99 in the description. The "70-foot" distance defining the eastern line of the Rural Industrial zoning boundary was calculated to include 10 feet of open space to the north of the Western Art Gallery building to provide a 10-foot setback from the northeast corner of the 12' x 16' "gallery", being the northern-most wall connected to the 40' x 52' metalworking shop. This "setback" includes the southern two-thirds of the east to west, graveled access driveway. The "175-foot" distances defining the northern and southern zoning boundary lines of the Rural Industrial (RI) zone are intended to extend down the driveway and encompass the 24'x24' storage building and the outside storage area further to the south. The northwest corner of the Rural Industrial designated area is at a point south and east of the residence in that location.

The 1940 residence in the northeastern corner of the subject property and the 1973 residence further to the west are intended to remain in the Rural Residential RR5) zoning designation.

If at a later time, it is discovered by a more accurate land survey that one or more of these points and distances does not include the intended structures, development, setbacks and uses, the survey shall be executed to include the described intent and the RI zoning designation shall comply with the amended survey boundaries.

Refer to Exhibit "C": Diagram of Rural Industrial Zone on tax lot 800, TRS 16-04-20. Exhibit "C" illustrates the proposed Rural Industrial boundaries on a 2004 aerial photograph and in more detail on the diagram, depicts the two residences and the industrial structures in relation to the two zoning designations.

5. The request for the change of zone is to bring the existing industrial uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code 16.292. The use of a portion of the subject property in connection with the industrial manufacturing and commercial sales activities is inconsistent with the Rural Residential Zone (RR). The industrial uses and sales are consistent with the Rural Industrial (RI) zone and Lane Code 16.292(2)(a), 16.292(3)(b) and 16.292(3)(e):

Lane Code 16.292(2) Permitted Uses and development.

(a) Maintenance, repair and replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere in LC 16.292.

Lane Code 16.292(3) Uses and Development Subject to Approval by the Director.

(b) Small-scale, low impact manufacturing, assembling, processing, packaging, storage, wholesale distribution, testing, or repairing that does not include radioactive materials or hazardous waste byproducts in the manufacturing process and they may occur outside a building or in one or more buildings containing not more than:

(iii) 35,000 square feet of floor area in any one of combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

Lane Code 16.292(2) Uses and Development Subject to Approval by the Director.

(e) Associated sale and administrative offices for the uses permitted by LC 16.292(3)(a) through (d) above. Offices that are for the uses permitted by LC 16.292(3)(b) above shall comply with the floor area requirements of LC 16.292(3)(b)(i) through (iii) above.

The use complies with the Purpose statement of LC 16.292(1)(b) Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continue operation of existing industries; . . .

6. There is no record of any historical compatibility issues occurring between the existing industrial uses or ancillary sales operation on the subject property and its neighbors. Nor is there any record of complaints from any surrounding property owners concerning the commercial or industrial activities associated with the Western Art Gallery regarding compatibility issues or conflicts.
7. The subject property does not lie within an area identified as a “water quantity limited” area in Lane Manual 13.010.
8. The subject property receives the following public services: Junction City School District No. 69 (schools); Emerald People’s Utility District (electrical power); Lane Rural Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There are no National Wetland Inventory delineated wetlands on the subject property per NWI map Junction City 3.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize existing industrial uses on the subject property in conjunction with ancillary sales that have been integrated into the surrounding rural area since 1953.

Industrial and commercial uses to the north with Exception Area 282-1 include:

- DL Truck Parts (auto and truck salvage and parts dealership);
- Eugene Livestock (livestock auction and stock yards);
- Lane Truck Body (truck salvage and parts dealership);
- Midway Auto Wreckers (auto salvage and parts dealership);
- Meadow View Storage (mini-storage units – personal & household).

The subject property is directly west of the urban growth boundary of Junction City that is aligned on the eastern right-of-way of Highway 99.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located outside the urban growth boundary of the Junction City to the east. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the existing enterprise on the subject property which is industrial and has existed on the property for 30+ years.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

There are agricultural lands (EFU, E40) located adjacent to the southern and western boundary of the subject property. The land to the west is open pasture with parts of it utilized in conjunction with the feedlot and livestock auction business two tax lots north of the subject property. The lands to the south are cultivated. The next closest EFU lands are located 2,2500 feet to the east on the east boundary of the Junction City UGB.

The EFU land to the west is buffered from the industrial use and sale of the art work to the public by an undeveloped field on the western two-thirds of the subject property. The separation between the uses on the subject property and the adjacent EFU property is approximately 450 feet. There are no forest lands (F1 or F1) adjacent to the subject property.

During the past 30 years, the Western Art Gallery has operated as part of the fabric of the agrarian culture in the vicinity of Junction City. Its role has been complimentary and beneficial to the agricultural interests in the area. No activities associated with the Western Art Gallery have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The creation of western sculpture is industrial in nature and important art work to the surrounding rural and urban areas. The structures and uses of the subject property were established during the 1941 to 1971 period and have been compatible with the adjacent properties and nearby resources use.

This proposed zoning change, as it can be applied to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 282-1 of Lane County. It is proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural Industrial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure..

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property is relatively flat with no identified hazards due to slope, grade or terrain features. Development has been orderly and the structures predate land use regulations. All of the structures are lawful and could be replaced in the event of a calamity. The existing industrial use is provided for in the proposed zoning designation. The existing metal smith work and the Western Art Gallery have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.292 (RI).

(2) *Protect and diversify the economy of the County.*

Re-designation of 0.28 of-an-acre of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

There is no evidence in the record that the residential use of the subject property since 1941 or the industrial and commercial uses since 1953 have diminished the ability of nearby agricultural lands to be managed in an efficient manner.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of a portion of the subject property will acknowledge the existing industrial use and provide an opportunity for economic growth on the subject property. The current residential and industrial uses are served by on-site well and subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures and uses.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.292(4)(i) *“The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site’s ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.”*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

- d. Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

The existing industrial and residential uses on the subject property have co-existed since 1953 with the agricultural product industries in the surrounding area. Any expansion or intensification of the uses would require compliance with Lane Code 16.292(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

- e. Flora and Fauna, Policies 1 and 10: "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."

RCP inventoried "significant species" have not been identified on the subject property. Therefore as a result of past practices, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

- a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

- (7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential, commercial and industrial uses extending 1,300 feet from Milliron Road, south to and including the subject property. The existing uses have been a part of the rural cultural for decades and utilize a rural level of facilities. Recognizing the Western At Gallery for what it has been for 30 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

- (11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject property is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 615 of 2975 (6-2-99). There are no other natural hazards identified on the property.

b. Not Contrary to the Public Interest

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a continued acceptance and patronage for the Western Art Gallery services in this area.

c. Lane Code 16.292

Lane Code 16.292(1) states *Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are to allow industrial uses and development that are consistent with Goal 14 that include areas for small scale industrial uses and for industries that rely on a rural location in order to process rural resources; to allow for the continue operation of existing industries; . . .*

The proposed rezoning and uses on subject property are consistent with these purpose statements.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited.

The subject property utilizes an onsite well.

The subject property is small in size (1.78 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.292(4)(i).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for 0.28 of-an-acre of TRS 16-04-20, tax lot 800 (1.73 acres) from Rural (R) to Industrial (I), and Rural Residential (RR5) to Rural Industrial (RI), respectively, have been met.

IV. RECOMMENDATIONS

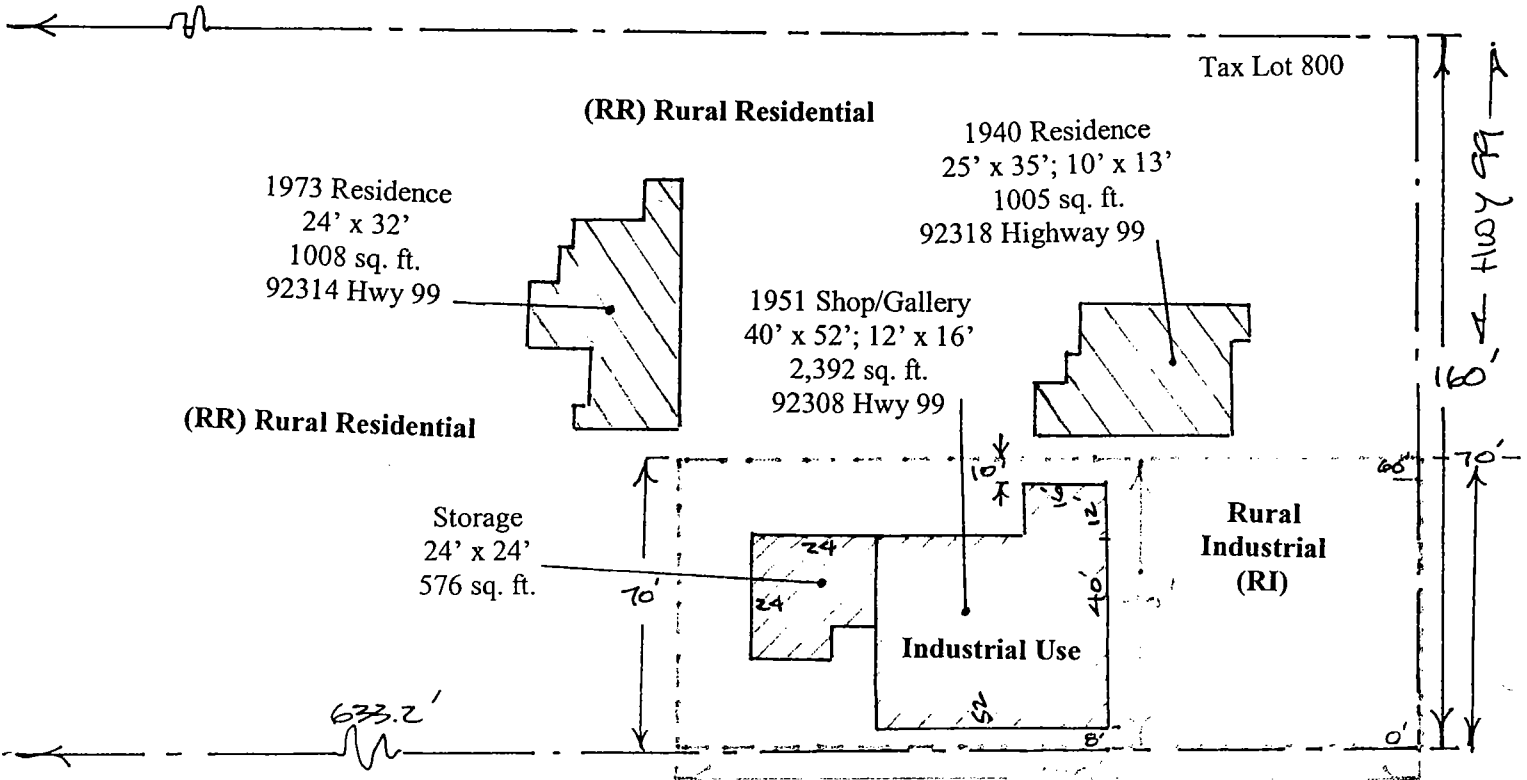
1. Approval of PRZC Control No. 3 of Ordinance No. PA 1226, amending the Official Plan Map No. 282 for 0.28 of-an-acre of tax lot 800 of Assessors Map TRS 16-04-20, from Rural (R) to Industrial (I); and

2. Approval of PRZC Control No. 3 of Ordinance No. PA 1226, amending the Official Zoning Map No. 282 designations for 0.28 of-an-acre of tax lot 800 of Assessors Map TRS 16-04-20, from Rural Residential (RR5) to Rural Industrial (RI).

V. EXHIBITS

- A. Plan Map No. 282 with proposed plan change depicted.
 - B. Zoning Map Plot No. 282 with proposed zone change depicted.
 - C. Diagram of Rural Industrial Zone on tax lot 800, TRS 16-04-20:
 - Excerpt from 2004 aerial photograph;
 - Diagram depicting existing structures and proposed zoning boundaries.
 - D. Lane County Assessor's Map TRS 16-04-20
-
-

2004 Aerial Photograph



FOR ASSESSMENT
AND TAXATION
ONLY

Exhibit D - Lane County Assessor's Map TRS 16-04-20

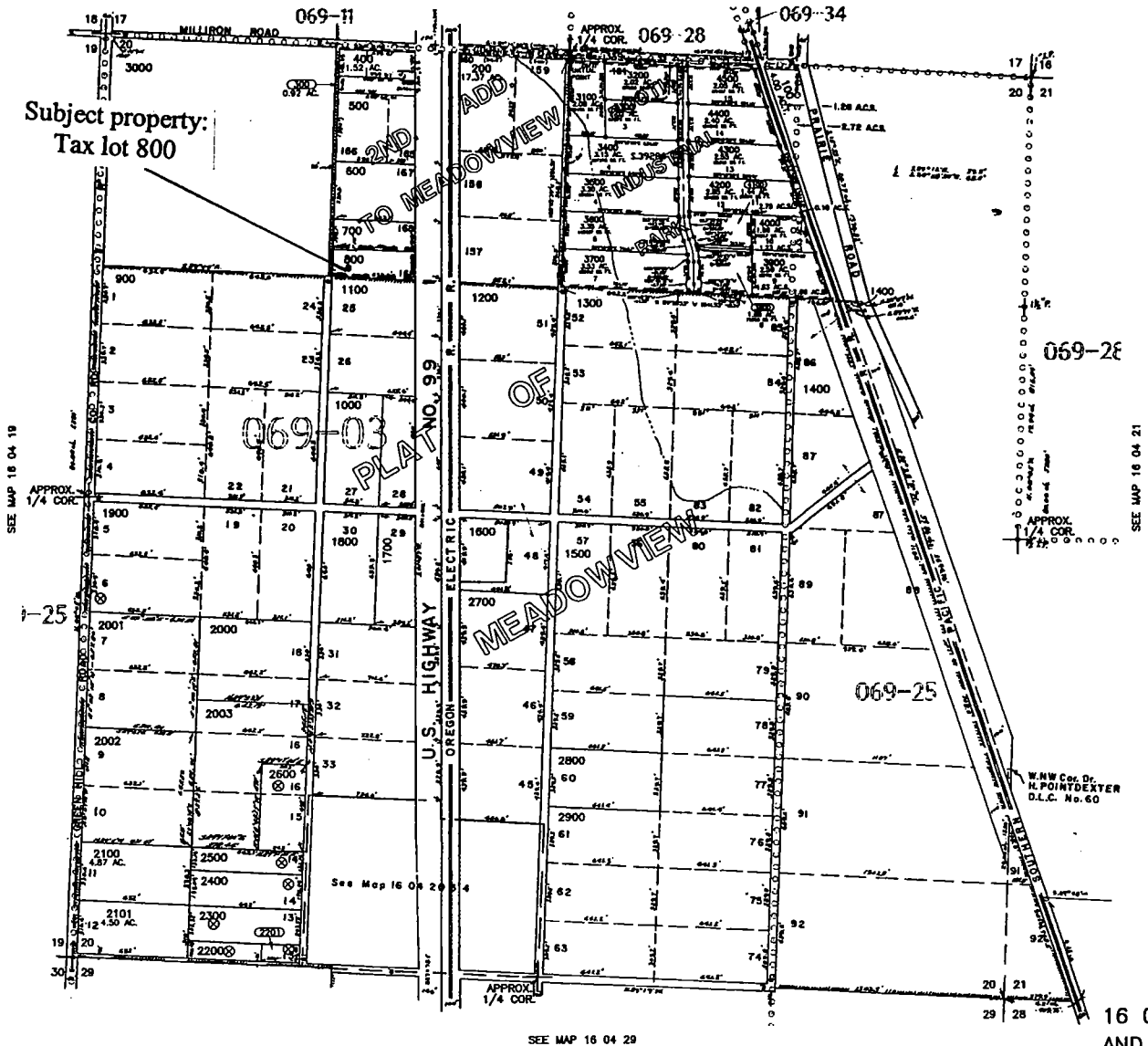
SECTION 20 T.16S. R.4W. W.M.
LANE COUNTY

SCALE 1" = 400'

16 04 20
AND INDEX
NAD 83/91

DATE	REVISION	BY

SEE MAP 16 04 17



16 04 20
AND INDEX

Exhibit No. C-4

PRZC Control No. 4

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 388-R2

**Plan Amendment and Zone Change for
Tax Lot 402 of Assessor's Map 20-03-21**

Tax lot	Acreage	From	To
402	1.26	Rural Residential (RR5)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*

OAR 660-22-030(6)-(8) - *Planning and Zoning of Unincorporated Communities*

Lane County Rural Comprehensive Plan Policies

Goal Two, Policy 27 Conformity Determination Amendment

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.291 - *Rural Commercial Zone*

Lane Code 16.290 - *Rural Residential Zone*

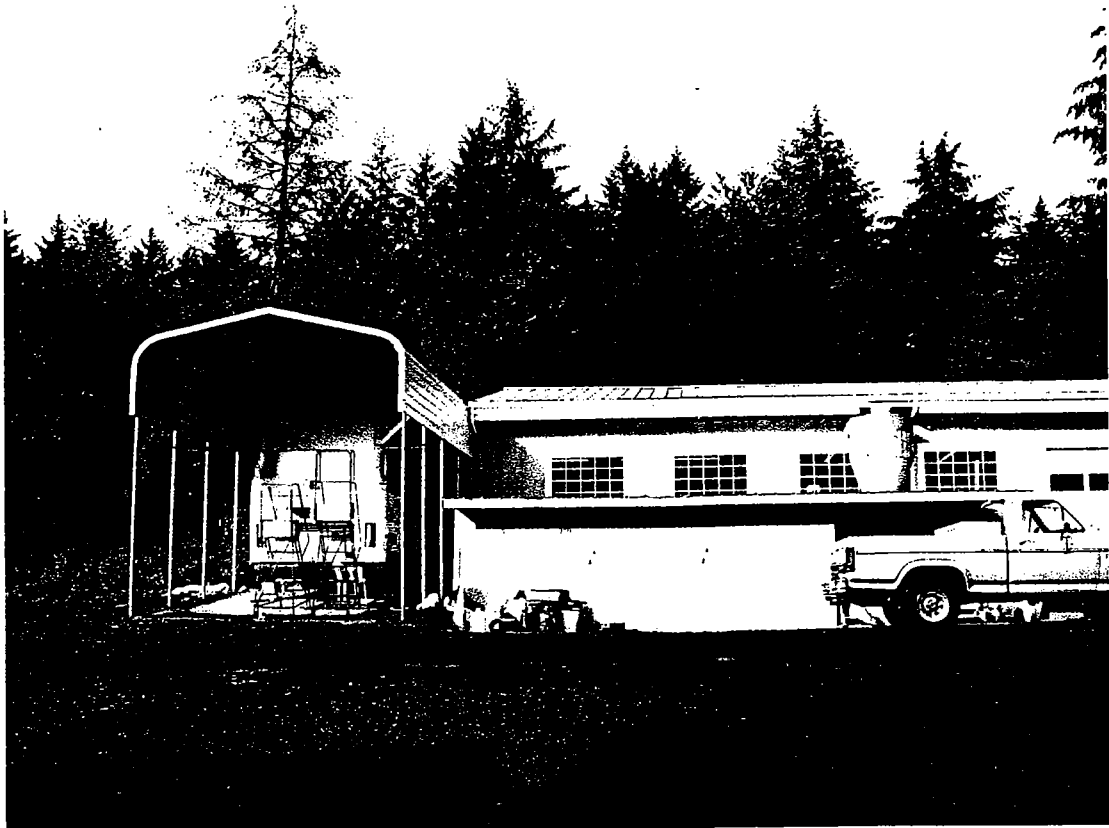
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

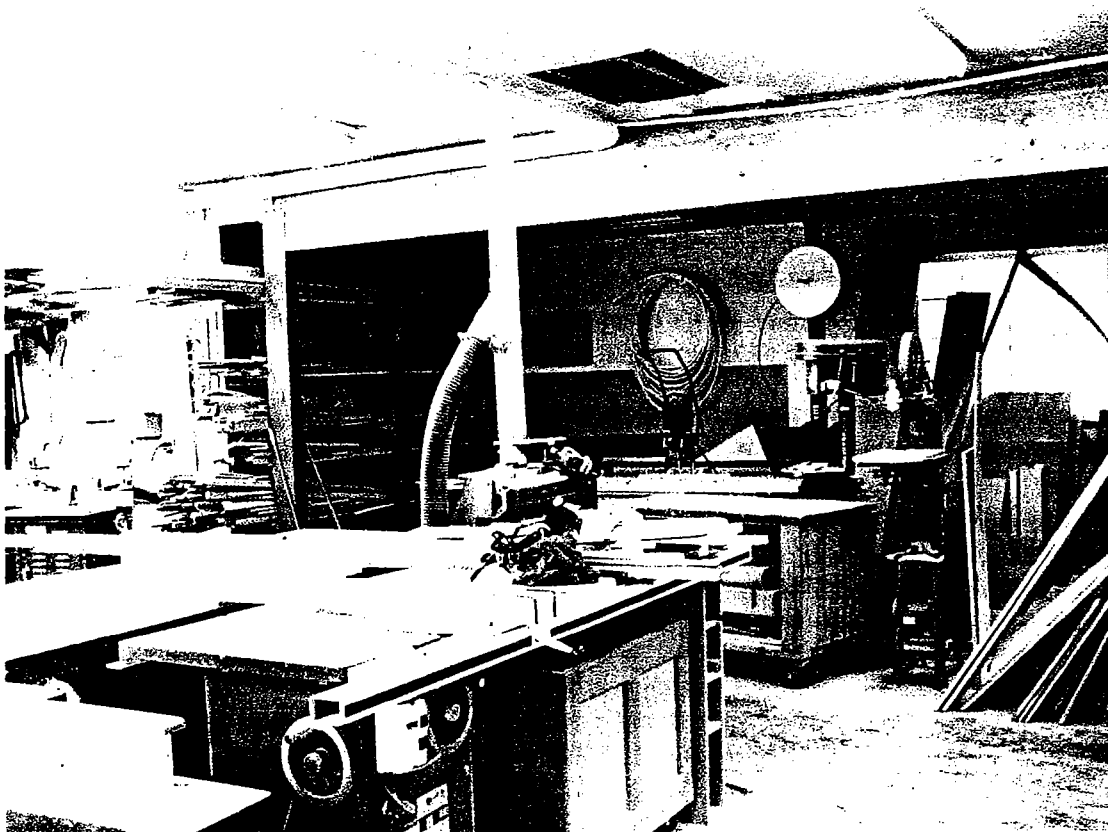
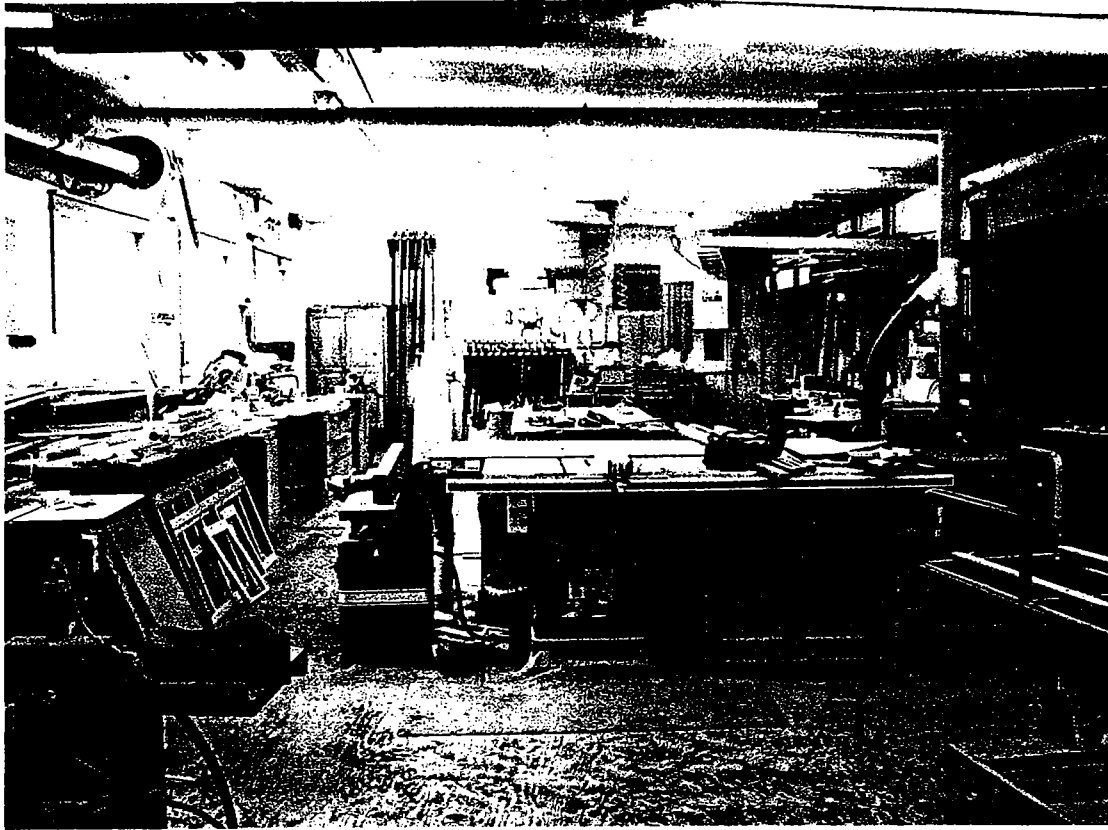
1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99 and approximately 3,000 feet north of the intersection of Bennett Creek Road (River Road) and the urban growth boundary of Cottage Grove. It is within the Developed & Committed Exception Area No. 388-R2. It can be identified as tax lot 402 of Assessor's map 20-03-21, with a rural address of 79370 Highway 99, Cottage Grove, OR 97424-9510, 1.26 acres in size.
2. The subject property, tax lot 402, is developed with a single-family dwelling assessed in 1967. At the time of the assessment, two other buildings were identified as accessory structures connected to the operation of a "cabinet shop". The buildings were 20' x 49' "shop" (980 sq. ft.) and 25' x 36' "storage shed" (900 sq. ft.). The "shop" which has been occupied by several cabinet makers in years past beginning with James Davis and currently Jerry Maddux, Maddux Fine Cabinetry.
3. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and the commercial use of the property was not acknowledged.
4. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the commercial activities is inconsistent with the Rural Residential Zone (RR). Both residential and commercial uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(f) or (g) and Lane Code 16.291(3)(c), respectively.
5. The existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(3)(c) Retail trade of services, including: personal, finance, insurance, banking, real estate, professional, and the construction trades including but not limited to general contracting, carpentry, cabinetmaking, electrical, plumbing and landscaping.*

The use complies with the *Purpose* statement of LC 16.291(1)(b) *Purpose: The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .*

Composite of two photos below: "shop" to the left, "office" in the center and "garage/storage" to the right.



Interior of Maddux Fine Cabinetry shop



6. There is no record of any historical compatibility issues occurring between the existing residential or commercial uses on the subject properties and their neighbors since the residence and business were established in the 1960s.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. Such an area exists 3,000 feet to the south in exception area No. 388-R3.
8. The subject property receives the following public services: South Lane School District #45 (schools); Emerald People's Utility District (electrical power); South Lane County Fire & Rescue Department (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Cottage Grove SE1.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

- (a) *Uses which are the same as the existing types of land use on the exception site; or*

The zone change requested by this application is intended to apply a zoning designation in conformity with the existing and anticipated commercial uses on the subject property in conjunction with the existing residential use that have been integrated into the surrounding rural area for 40 years.

- (b) *Which meet the following requirements:*

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located 3,000 feet north of the urban growth boundary of the City of Cottage Grove. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for the commercial uses that have existed on the subject property for almost 40 years (1965).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

There are (F2) Impacted Forest Lands located adjacent to and west of the subject property. The closest EFU lands are located approximately 2,000 feet to the northwest. Rural Residential (RR5) properties abut to the east, south and to the north along Highway 99. The RR5 lands were designated in 1984 within Developed and Committed Exception Area No. 388-2. The existing commercial and residential uses on the subject property were present at the time and no intensification has occurred since then. No new impacts or increased commitment to nonresource uses has been identified on the F2 lands to the west since 1984.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing cabinetry shop is commercial in nature and offered to the public from other businesses in the surrounding rural and urban area. The commercial use of the subject property has been compatible with the resource use of the adjacent forest lands since 1965.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

Plan Conformity

The subject property is located in a "developed and committed" area of Lane County, 3,000 feet north of the urban growth boundary of the City of Cottage Grove. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

- A. Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:**
 - 1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;**

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services either suffered or enjoyed by the Community. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject property is defined, in part, by the operation of commercial and residential uses on the subject property and residential uses to the north, east and south within D&C Area No. 388-2. The continuation of the uses on the subject property would provide services that are intended for the benefit of the citizens in the area. The existing uses on the applicant's properties have been serving residents of Cottage Grove and the rural areas for four decades and as such are part of the social and economic fabric of the area.

There is no evidence in the record for one to conclude that the current use has or will significantly affect surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the site and established uses.

While the impacts from the uses appear to be consistent with the livability and appropriate development of the surrounding area and the community-at-large, other uses allowable within the Rural Commercial Zone (i.e. restaurants, bars, night clubs, taverns or brew pubs, bus passenger terminals, and commercial kennel) may not be. The applicant has not done a compatibility analysis of these uses. Therefore, the rezoning request can be approved but the establishment of any new commercial use on the subject property shall require Planning Director approval of a special use permit under the provisions of LC 16.291(3), and the site review criteria of Lane Code 16.291(4) shall apply.

2. **Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.**

The subject property is located within a mixed residential and commercial node of uses in D&C Area No. 388-2 and 3,000 feet north of intensive Rural Industrial uses in D&C Area 388-3 and the UGB of Cottage Grove. To the south along Highway 99 and south of River Road inside the UGB, the development includes commercially and industrially zoned properties including auto storage and impound yard, a heavy equipment repair and sales operation, a logging equipment sales store, a lumber yard and two mini-storage businesses. The subject property is within a corridor of commercial and residential uses influenced by the urban population of Cottage Grove.

B. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. The proposed rezoning will not change the type or intensity of the existing use of the subject property and therefore will not alter the use or availability of groundwater, which is currently provided by a well on the subject property.

C. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

D. Agricultural Lands, Policy # 8: “Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.”

The closest agricultural zoned properties (EFU) are 2,000 feet northwest of the subject property.

E. Flora and Fauna, Policies 1 and 10 “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

Significant, specific species wildlife habitat and other natural areas have not been identified on the subject property. The Coast Fork Willamette River to the east of Highway 99, is a Class I stream designated for protection in the RCP and identified as a Type F stream by Oregon Department of Forestry. The setback standard for RC lands to protect the riparian corridor in LC 16.291 and 16.253 is 50 feet. The proposed rezoning will not change the existing use of the subject property and therefore will not pose a risk of significantly altering the natural system in the area. The proposed rezoning is in compliance with these Plan Policies.

Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

A. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

- (1) Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The subject property is small and adjacent to Highway 99. The existing commercial use has served to meet the needs of both private interests in the City of Cottage Grove and surrounding rural area since 1964-65 (forty years).

- (2) Protect and diversify the economy of Lane County.**

The proposed use addresses the need for personal and professional services for the rural citizens of Lane County and residents of nearby Cottage Grove.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject property is located within Exception Area #388-2 and is currently zoned Rural Residential (RR5). The 1.26-acre property has been developed with three structures, septic system and well, and is too impacted for production of resource products.

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed change occurs in an exception area with nearby UGB and rural properties already intensely developed with residential, commercial and industrial uses. The existing uses are rural uses that utilize a rural level of services.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

Development on the subject property is not in a flood hazard area and there are no known natural hazards on the land.

B. Not Contrary to the Public Interest

The “public interest” has not been defined, as such, but for the purposes of this decision it will be assumed that if the proposed use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use under the applicant’s ownership strongly suggests that it is a compatible commercial service in this area.

C. Lane Code 16.291

Lane Code 16.291(1) notes that the purpose of the Rural Commercial Zone is to provide goods and services needed by rural residents and to provide services and facilities for tourists and travelers. The use existing on the subject property are consistent with these two purposes.

D. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d). The subject property is not located in an area identified as being water quantity limited and pumping records suggest that availability of water from the applicant’s wells is not a concern. The subject property is 1.26 acre in size and any future partitioning is unlikely and would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

III. Conclusion

The applicant has shown by a preponderance of evidence that the criteria and standards applicable to this rezoning request have been met.

IV. Recommendation

That the Jerry Maddux application PRZC Control No. 4 of Ordinance No. 1226 for the plan designation of tax lot 402, Assessors Map 20-03-21, from Rural (R) to Commercial (C), be approved.

That the Jerry Maddux application PRZC Control No. 4 of Ordinance No. 1226 for the rezoning of tax lot 402, Assessors Map 20-03-21, from Rural Residential (RR5) to Rural Commercial (RC), be approved.

V. Exhibits

- A. Plan Map, Plot # 388
- B. Zoning Map, Plot # 388
- C. Assessor's Map 20-03-21
- D. Enlargement of Assessor's Map 20-03-21 depicting subject property.

FOR ASSESSMENT
AND TAXATION
ONLY

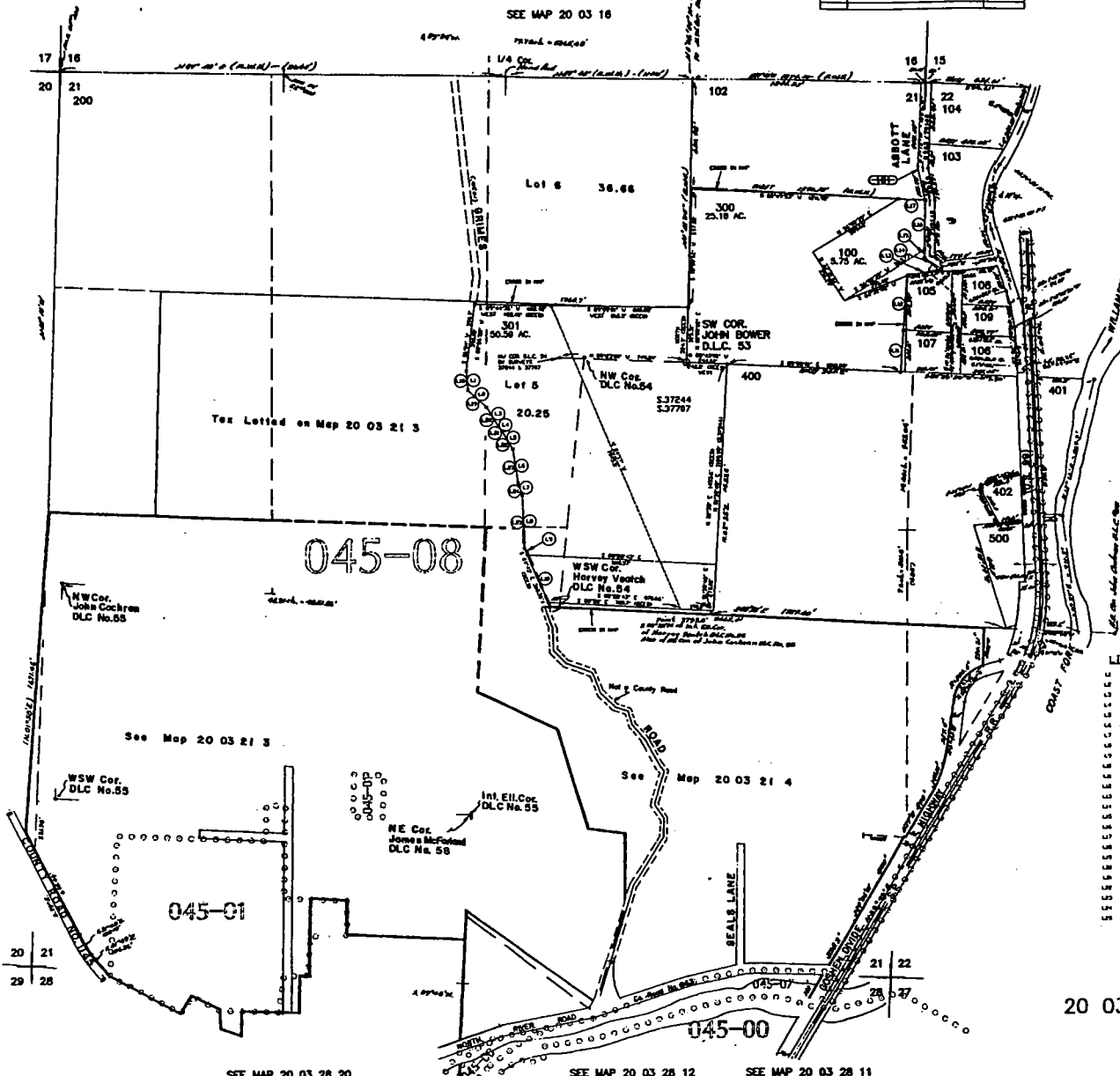
SEC.21 T.20S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'

LINE	NUMBER	DESCRIPTION
1	100	100' WIDE HIGHWAY
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100	199	100' WIDE HIGHWAY
101	200	100' WIDE HIGHWAY

CANCELLED

SEE MAP 20 03 20

SEE MAP 20 03 21



LINE TABLE

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L2	101	100' WIDE HIGHWAY
L3	102	100' WIDE HIGHWAY
L4	103	100' WIDE HIGHWAY
L5	104	100' WIDE HIGHWAY
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L7	106	100' WIDE HIGHWAY
L8	107	100' WIDE HIGHWAY
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L67	166	100' WIDE HIGHWAY
L68	167	100' WIDE HIGHWAY
L69	168	100' WIDE HIGHWAY
L70	169	100' WIDE HIGHWAY
L71	170	100' WIDE HIGHWAY
L72	171	100' WIDE HIGHWAY
L73	172	100' WIDE HIGHWAY
L74	173	100' WIDE HIGHWAY
L75	174	100' WIDE HIGHWAY
L76	175	100' WIDE HIGHWAY
L77	176	100' WIDE HIGHWAY
L78	177	100' WIDE HIGHWAY
L79	178	100' WIDE HIGHWAY
L80	179	100' WIDE HIGHWAY
L81	180	100' WIDE HIGHWAY
L82	181	100' WIDE HIGHWAY
L83	182	100' WIDE HIGHWAY
L84	183	100' WIDE HIGHWAY
L85	184	100' WIDE HIGHWAY
L86	185	100' WIDE HIGHWAY
L87	186	100' WIDE HIGHWAY
L88	187	100' WIDE HIGHWAY
L89	188	100' WIDE HIGHWAY
L90	189	100' WIDE HIGHWAY
L91	190	100' WIDE HIGHWAY
L92	191	100' WIDE HIGHWAY
L93	192	100' WIDE HIGHWAY
L94	193	100' WIDE HIGHWAY
L95	194	100' WIDE HIGHWAY
L96	195	100' WIDE HIGHWAY
L97	196	100' WIDE HIGHWAY
L98	197	100' WIDE HIGHWAY
L99	198	100' WIDE HIGHWAY
L100	199	100' WIDE HIGHWAY
L101	200	100' WIDE HIGHWAY

D. Enlargement of Assessor's Map 20-03-21 depicting subject property.

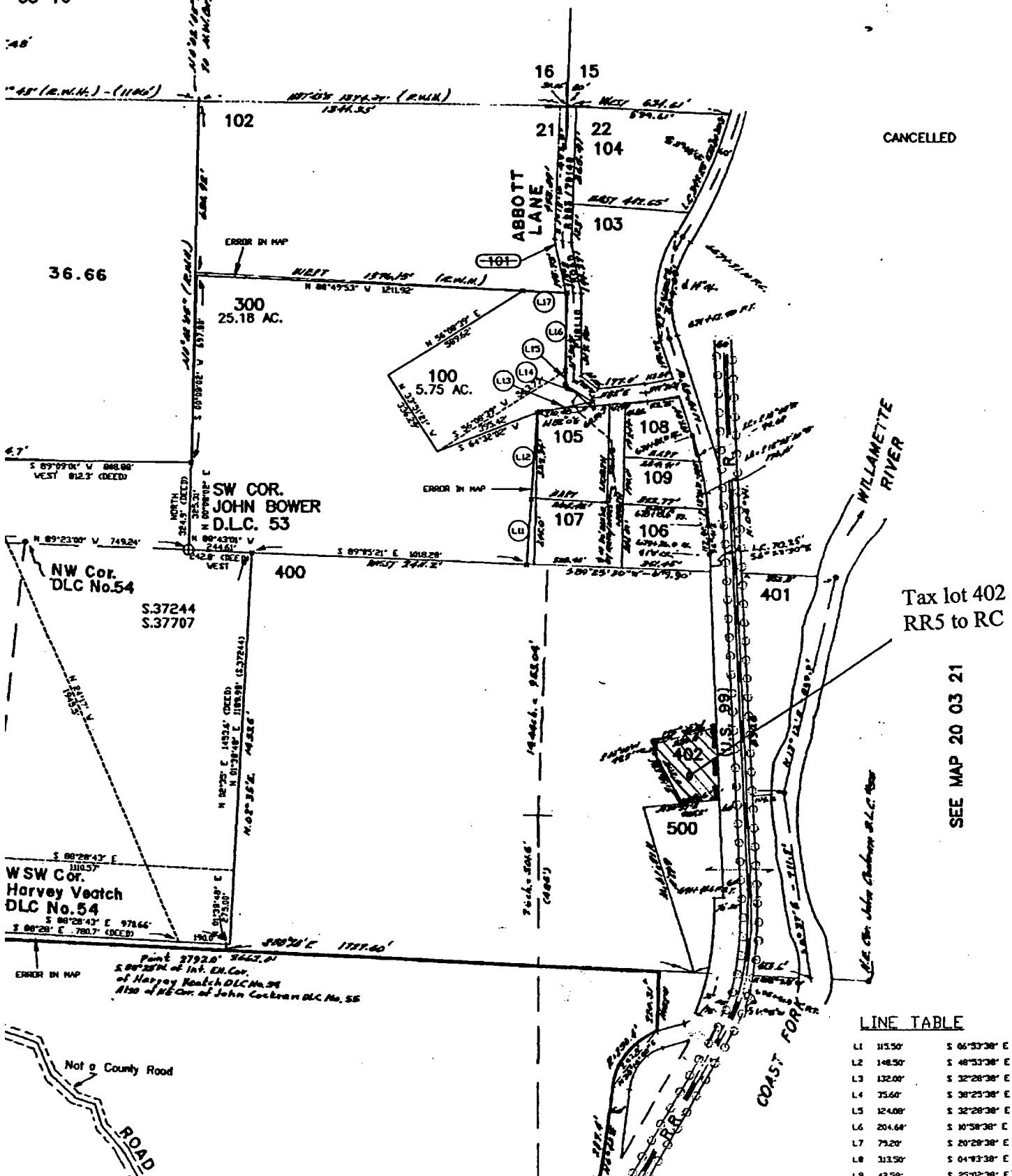
V.M.

20 03 21

NAD 83/91

DATE	REVISION	EMPLOYEE
7/03/03	IMAGE RECTIFIED	LCAT109
6/18/04	UPGRADE TCA TO 1999 STATUS	LCAT115
12/21/04	LLA'S TO T.L.'S 100 & 300 (REV T.L. 301)	LCAT479

03 16
:48'



CANCELLED

Tax lot 402
RR5 to RC

SEE MAP 20 03 21

LINE TABLE

L1	115.50'	S 06°53'38" E
L2	148.50'	S 48°53'38" E
L3	132.00'	S 32°28'38" E
L4	75.60'	S 38°25'38" E
L5	124.08'	S 32°28'38" E
L6	204.64'	S 10°58'38" E
L7	79.20'	S 20°28'38" E
L8	113.50'	S 04°43'38" E
L9	42.59'	S 25°02'38" E

Exhibit No. C-5

PRZC Control No. 5

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 402-1

**Plan Amendment and Zone Change for
Tax Lot 1500 of Assessor's Map 20-03-03**

Tax lot	Acreage	From	To
1500	3.73	Rural Residential (RR5)	Rural Commercial (RC)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) - *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99, south of Mill Road, and within the Developed & Committed Exception Area No. 402-1. It can be identified as tax lot 1500 of Assessor's map 20-03-03, with a rural address of 80886 Highway 99, Creswell, OR 97426-9337, 3.73 acres in size.
2. The subject property is developed with both residential and commercial uses.

Residential structures include a 1997 Marlette manufactured home, 27' x 56' (SN H013849AB, X246317) authorized by S.I. 97-288 and BP 3051.97 and placed in 1997. The residence has access from Highway 99.

Commercial development includes the Wagon Wheel Feed and Grain established in 1973-74 with two structures and several storage areas committed to the use. The two structures have access from Mill Road and include a 60' by 70' equipment storage and sales building (4,200 sq. ft. per) built in 1974 and a 50' x 108' feed and seed storage building (5,400 sq. ft. per LC 354-82) built in 1982. Sales from the indoor structures on the property include tack, livestock medications, farming and ranch equipment, feed, grain, hay, and agricultural supplies. Sales from the outdoor areas include fencing and livestock enclosure equipment as well as horse trailers. The exterior space dedicated to the business is approximately 5,000 sq. ft. for fencing and gate materials, 2,000 sq. ft. for trailers and larger ranch equipment such as water troughs, and 3,000 for deliveries and customer parking. In all, approximately 19,600 square feet of the property is committed to the feed and grain commercial use.

3. The subject property is a legal lot validated by legal lot verification PA 2605-97 per warranty deed as recorded in Lane County Deeds and Records on April 3, 1972, Reel 590-R, Instrument No. 3923.
4. The subject property is currently zoned for Rural Residential use (RR-5/RCP). Prior to 1984 the property was designated GR-10 (General Rural).
5. The legal owners of the subject property and operators of the Wagon Wheel Feed and Grain anticipate replacement of some of the above mentioned structures, enlargement of some, and development of the range and farm fencing and enclosure business and sale of horse trailers as associated activities but as separate commercial uses on the property.
6. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the property in connection with the commercial activities is inconsistent with the Rural Residential Zone

(RR). Both residential and commercial uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(g) and Lane Code 16.291(3)(a) and (b), respectively.

The existing residential use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code 16.291(2)*:

(g) A single family dwelling or manufactured dwelling in conjunction with an existing commercial use provided there is no other dwelling or single family living quarters on the same lot of parcel.

The existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(3)*:

(a) Retail trade of product, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment; and

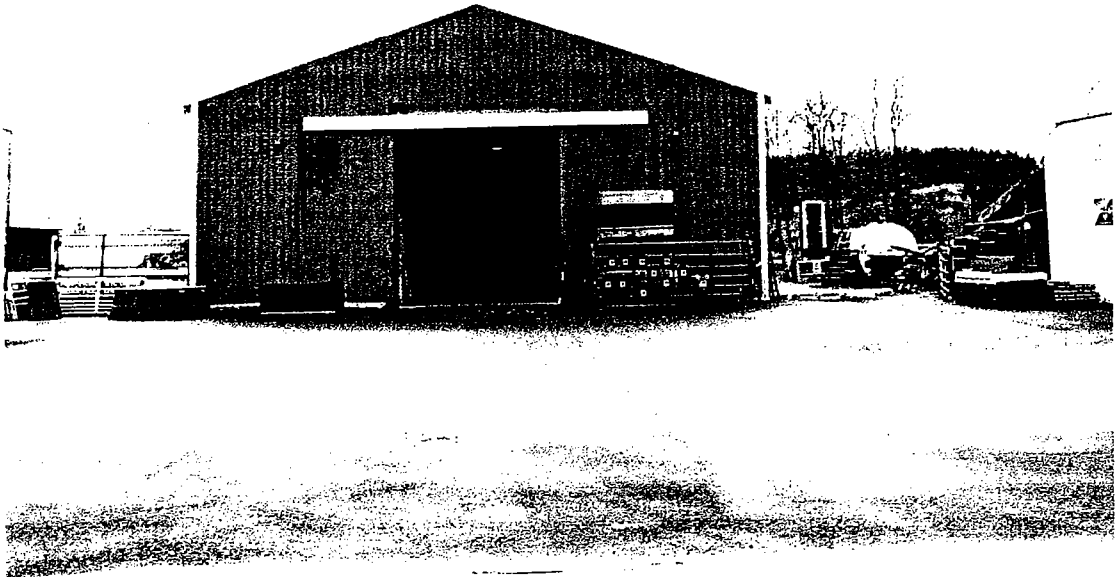
(b) Retail trade of hay, grain or goods for animal consumption or care.

The use complies with the *Purpose* statement of *LC 16.291(1)(b) Purpose*:

The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .

The change of zone would allow the applicants, William and Eloise Simon, to continue with the existing Wagon Wheel Feed and Grain and proceed with the anticipated development of the subject property.

7. There is no record of any historical compatibility issues occurring between the existing commercial use on the subject property and its neighbors since the business was established circa 1973-74. Nor is there any record of complaints from any surrounding property owners concerning the commercial activities or the current use Wagon Wheel Feed and Grain regarding compatibility issues or conflicts.
8. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010.
9. The subject properties receives the following public services: Creswell School District No. 40J (schools); Emerald People's Utility District (electrical power); South Lane Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
10. There is a stream-related wetland (PEMIY) on the subject property per NWI map Cottage Grove SE 1, approximately 300 feet northwest of the existing development. The steam crosses the property on a northeast to southwest diagonal and there are no known impacts from the commercial uses on the delineated wetland.



4
D&C 402-1
Wagon Wheel Feed & Grain



II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize existing commercial uses on the subject property in conjunction with the existing caretaker residential use that are integrated into the surrounding rural area.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located outside the urban growth boundary of the City of Creswell to the north and City of Cottage Grove to the south. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject property which are commercial and have existed on the property for 30+ years (1973-2005).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

- There are agricultural lands (EFU) located adjacent to the western boundary of the subject property. The next closest EFU lands are located 700 feet to the northeast on the east side of Highway 99. The EFU land to the west is buffered from the commercial use on the subject property by the intervening stream and wetland that traverses across the western half of the subject property parallel to the common property line. The separation between the commercial uses on the subject property and the adjacent EFU property is approximately 300 feet
- The land to the north across Mill Road is designated Rural Residential (RR5). Lands to the south are zoned Rural Residential (RR5). Lands to the east across Highway 99 are zoned Rural Residential (RR5).
- There are no forest lands (F1 or F1) adjacent to the subject property. Lands further beyond the EFU lands to the west discussed above are designated Impacted Forest Land (F2).

During the past 30 years, the Wagon Wheel has operated as part of the fabric of the agrarian culture in the southern Willamette Valley. Its role has been complimentary and beneficial to the agricultural resource base in the area. No activities associated with the Wagon Wheel have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use in the trade of equestrian, animal husbandry and farm supplies and products is commercial in nature and an important and essential service to the surrounding rural area. The commercial use of the subject property is compatible with the adjacent properties and nearby resources use.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 402-1 of Lane County. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

- A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure..*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property (tax lot 1500 of TRS Map 20-03-03) is relatively flat with no identified hazards due to slope, grade or terrain features. Development has been orderly and through application of land use regulations providing for the current uses. The resulting commercial uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.291 (RC).

- (2) Protect and diversify the economy of the County.*

Re-designation of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The role of the existing commercial use on the subject property in the Southern Willamette Valley agricultural community is to enhance the productivity and provide services required by the husbandry and farming clientele.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 1500 will acknowledge the existing commercial use and provide an opportunity for growth on the subject property. The current residential and commercial uses are served by on-site well and sand filter subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

The existing commercial and residential use on the subject property has co-existed since 1973-74 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located 700 feet to the northeast across Highway 99. Feed, seed and grain stores commonly occur adjacent to resource lands and in some instances are essential to the distribution of veterinarian services and vital supplies. Any expansion or intensification of the business would require compliance with Lane Code 16.291(4) siting

standards and although the standards do not directly address this policy, new uses are intended to be “compatible with the surrounding vicinity” and to “minimize any adverse effect on existing or contemplated abutting land use”.

- e. *Flora and Fauna, Policies 1 and 10* “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

RCP inventoried “significant species” have not been identified on the subject property. There is a delineated wetlands identified on the Cottage Grove SE1 quad of the National Wetlands Inventory that traverses the western half of the subject property from northeast to southwest. No known impacts have occurred from the existing uses on the wetland area. The current development is approximately 300 feet from the stream wetland corridor. Therefore as a result of past practices, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

- a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

- (7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential and industrial uses. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the Wagon Wheel Feed and Grain for what it has been for 30 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

- (11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject property (tax lot 1500) is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2085 of 2975 (6-2-99). There are no other natural hazards identified on the property.

- b. Not Contrary to the Public Interest

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the commercial services in this area.

c. Lane Code 16.294 and 16.292

Lane Code 16.291(1) states that one of the purposes of the Rural Commercial Zone is . . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by the rural residents or by persons traveling through the rural area. . .

The proposed rezoning and uses on tax lot 1500 are consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is not located in an area identified as being water quantity limited.

The subject property utilizes an onsite well.

The subject property is small in size (3.73 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.291(4)(j).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 20-03-03, tax lot 1500 (3.73 acres) from Rural (R) to Commercial (C), and Rural Residential (RR5) to Rural Commercial (RC), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 5 of Ordinance No. PA 1226, amending the Official Plan Map No. 402 for tax lot 1500 of Assessors Map TRS 20-03-03, from Rural (R) to Commercial (C); and
2. Approval of PRZC Control No. 5 of Ordinance No. PA 1226, amending the Official Zoning Map No. 402 designations for tax lot 1500 of Assessors Map TRS 20-03-03, from Rural Residential (RR5) to Rural Commercial (RC).

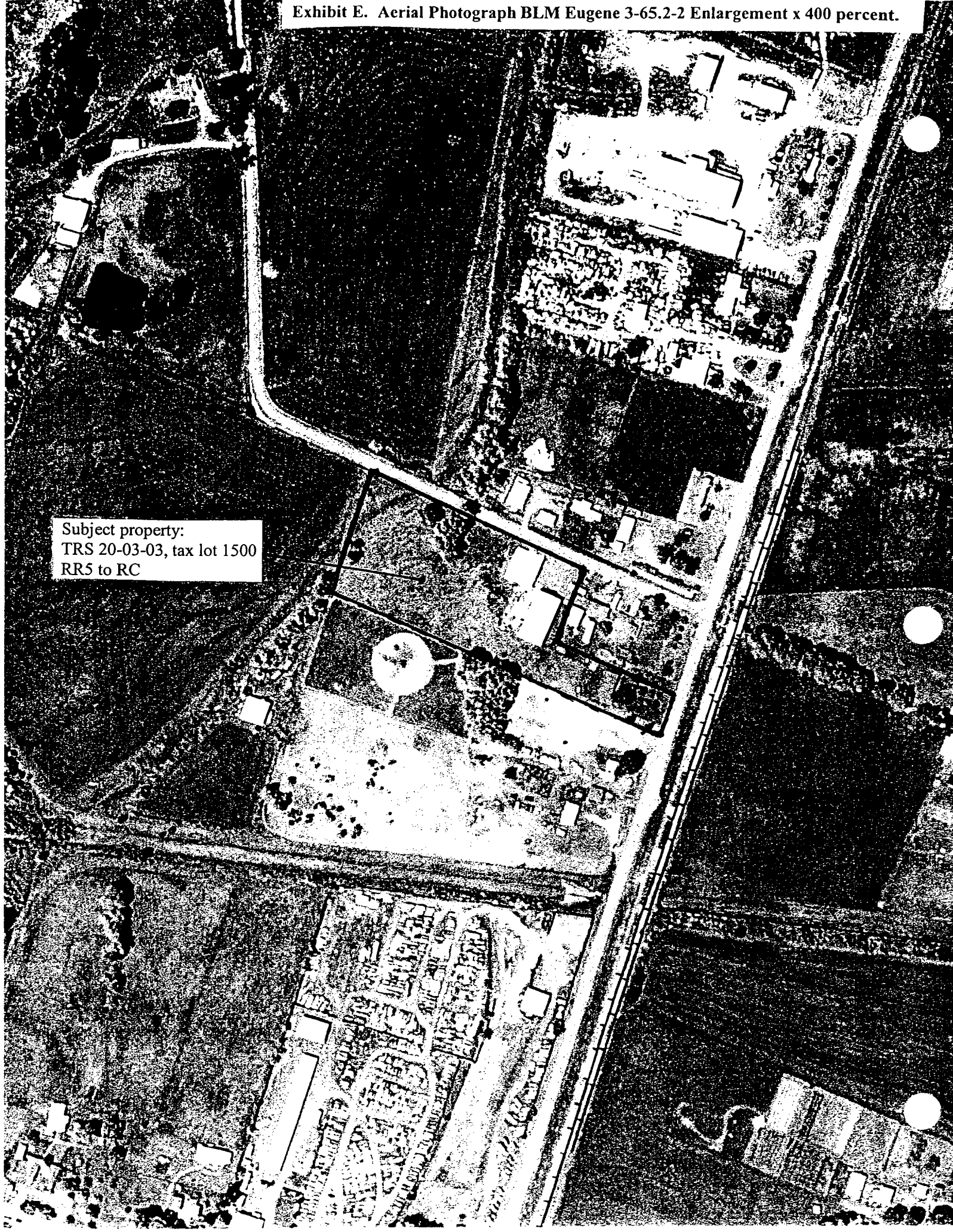
V. EXHIBITS

- A. Plan Map No. 402 with proposed plan change depicted.
- B. Zoning Map Plot No. 402 with proposed zone change depicted.

- C. Lane County Assessor's Maps TRS 20-03-03
 - D. Aerial Photograph BLM Eugene 3-65.2-2 (5-18-2000).
 - E. Aerial Photograph BLM Eugene 3-65.2-2 Enlargement x 400 percent.
-
-



Subject property:
TRS 20-03-03, tax lot 1500
RR5 to RC



Lane County -/- Coast Fork and Middle Fork Willamette Watersheds
Legislative Rezoning Project

Rural Community of Saginaw
Developed & Committed Exception Area No. 403-1

Plan Amendments and Zone Changes for:

Tax lots 902 of Assessor's Map TRS 20-03-15
and
Tax lots 700 and 900 of Assessor's Map TRS 20-03-15.2.3

TRS - Tax lot	Acres	From/Action	To
20-03-15,	902 3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C)
20-03-15.2.3,	700 *	Rural Residential (RR5/C)	Rural Commercial (RC/C)
		*portion of tax lot 700 = 90 ft. (N-S) x 60 ft. (E-W) @ 5,400 sq. ft.	
	700 0.52	Rural Commercial (RC/H/C)	Remove "Historical" (/H) suffix.
20-03-15.2.3,	900 0.65	Rural Commercial (RC/C)	Add "Historical" (/H) suffix. Rural Commercial (RC/H/C)

Table of Contents	2
<u>Statement of Criteria</u>	2
<u>I. Background</u>	3
<u>II. General Findings of Fact</u>	3
<u>III. Three Subject Parcels - Specific Findings of Fact</u>	7
TRS 20-03-15 tax lot 902 3.82 acres	7
TRS 20-03-15.2.3 tax lot 700 0.52 acre	9
TRS 20-03-15.2.3 tax lot 900 0.65 acre	11
<u>IV. Justification for the Conclusions and Recommendations</u>	13
- Applicable to all three subject properties.	
A. Statewide Planning Goals	13
B. OAR 660-022-0030(6), (7), (8) -- Unincorporated Community Rule	15
C. Plan Conformity	16
D. Zone Conformity	19
<u>V. Conclusions</u>	21
<u>VI. Recommendations</u>	21
<u>VII. Exhibits</u>	22

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive General Plan Policy - Goal Two - Policy 27
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.294 - *Rural Public Facility Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.291 – *Rural Commercial Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

Pursuant to Lane County Rural Comprehensive Plan, General Plan Policies – Goal Two (Policy 10), Saginaw was designated as an “unincorporated rural community” by the Board of County Commissioners on June 15, 2005.

These proposed amendments to the Official Plan Map and Zoning Map Plot # 403 would:

- rezone one property (TRS 20-03-15, tax lot 902) and 3.82 acres to Rural Public Facility (RPF/C);
- rezone a portion of one property (TRS 20-03-15.2.3, tax lot 700) and 0.12 of an acre (5400 square feet) to Rural Commercial (RC/C);
- remove the “Historical” (/H) suffix from TRS 20-03-15.2.3, tax lot 700; and
- add the “Historical” (/H) suffix to TRS 20-03-15.2.3, tax lot 900.

II. GENERAL FINDINGS OF FACT

Rural Community of Saginaw

Exception Area Plot # 403, Area 1

TRS: 20-03-15; 20-03-15.2.3.

1. Located four miles south of Creswell on Highway 99 and one mile north of Cottage Grove, Saginaw is a small rural community that was established in the 1880’s when the J. I. Jones Lumber Company opened a lumber mill east of Highway 99 and west of the Coast Fork of the Willamette River. The mill was purchased by the Booth-Kelly Lumber Company in the 1890’s and rebuilt. The “Booth-Kelly Lumber Company Store” was constructed circa 1900-1910 west of Highway 99 and exists today as the Saginaw Market. The market is listed in the Oregon State Historical Preservation Office registry as a historical building on Map P-52.
2. Residential development originated from the Plat of Saginaw filed in 1897 with the Lane County Clerk in Book 2, Page 26. The “community” of Saginaw was acknowledged by LCDC in 1989 to consist of 127.58 acres divided into 21 parcels with an average parcel size of 6.07 acres. Saginaw consisted of 1.6 acres of commercial lands, 74 acres of industrial lands, and 29 acres of rural residential with 35 residences. Seventy-two percent of the “community” (D&C Area No. 403-1) was zoned commercial or industrial lands.

A Land Management Division analysis in 1998 (Mann-Hoglund) found that there were 32 residences within the 1984 adopted community boundaries and one parcel had

potential for future residential development. All residential lands are designated as Rural Residential (RR5) with a five-acre minimum division standard.

The Mann-Hoglund analysis also found that within D&C Exception Area 403-2 to the east across the Coast Fork Willamette River, 32 parcels were developed with residences and five parcels had potential for future residential development. All residential lands are designated as Rural Residential (RR5) with a five-acre minimum division standard and ten new parcels could be created at the minimum density.

3. The adopted boundaries of Saginaw include two commercial uses: the Saginaw Market that includes a limited grocery store and U. S. Post Office, and the Mitchell Mercantile, a small convenience store situated approximately 150 feet to the north.
4. The former Booth Kelley lumber mill site east of Highway 99 and north of Saginaw Road East has been rebuilt, expanded and operated by several timber companies during the past 100 years and is currently operated by Weyerhaeuser Company. The Bohemia lumber mill site located south of Saginaw Road East and west of the Coast Fork Willamette River was closed in 1988. It consists of a 45.52-acre, underutilized facility with 165,000 square feet of structures and was recently purchased by new owners. These two parcels represent the combined 74 acres of Rural Industrial land in the community.
5. Although not included in the community boundaries in 1984 and 1989, the public facilities most commonly associated with a community are located east of the Coast Fork Willamette River and aligned along Saginaw Road East and Delight Valley School Road in Developed & Committed Exception Area 403-2.

Public uses in D&C Plot 403-2 include:

- Delight Valley Elementary School (K-5)
- Delight Valley Church of Christ (1981 – CUP 81-289)
- Cottage Grove-South Lane Fire District – Saginaw Substation (2000).

6. In addition to the above three uses, D&C Exception Area 403-2 also includes 37 parcels in a Rural Residential RR5 designation. The total of 40 parcels envelope 120.02 acres with an average parcel size of 3.0 acres. Refer to Exhibit “F”.
7. Services are provided to the rural community of Saginaw (Levy code 45-08) by:
 - Electricity: Emerald Peoples Utility District
 - Fire/Ambulance: Cottage Grove – South Lane Fire Protection District
 - School: South Lane School District #45J
Lane Community College
Lane Education Service District
 - Police: Lane County Sheriff
Oregon State Police
8. All development is supported by individual onsite water and subsurface disposal systems.
9. For the reasons mentioned above, Saginaw complies with the OAR 660-22-010(7) definition of an unincorporated rural community.
10. The request for the two site specific changes of zone designations is to bring the current and proposed uses of the three properties into conformity with the economical, cultural and public safety aspirations of the community-at-large, and the existing uses on one

publicly-owned and two privately-owned properties into conformity with appropriate zoning designations.

11. The existing uses on the two subject properties (TRS 20-03-15.2.3, tax lots 700 and 900) are conditionally allowed in the Lane Code 16.291 Rural Commercial zone:

Lane Code 16.291(3)(a) Retail trade of products, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment.

The *Purpose* section of LC 16.291(1) states:

(1) Purpose: The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development for the retail trade of products or services needed by rural citizens or by persons traveling through the rural area . . .

13. The re-designation of one subject property (TRS 20-03-15, tax lot 902) for development of the fire station is provided for in Lane Code 16.294 Rural Public Facility zone:

Lane Code 16.294(1)(b) states that one of the *Purposes* of the Rural Public Facility Zone is: *To provide land for public and semi public uses and development that serve rural residents and people traveling through the area and that are by nature intensive and or unusual uses not normally associated with other zones.*

Lane Code 16.294(3)(o) allows as a conditional use: *The governmental services, such as: post office, fire station and sheriff or police station. Such uses must be located inside an unincorporated community.*

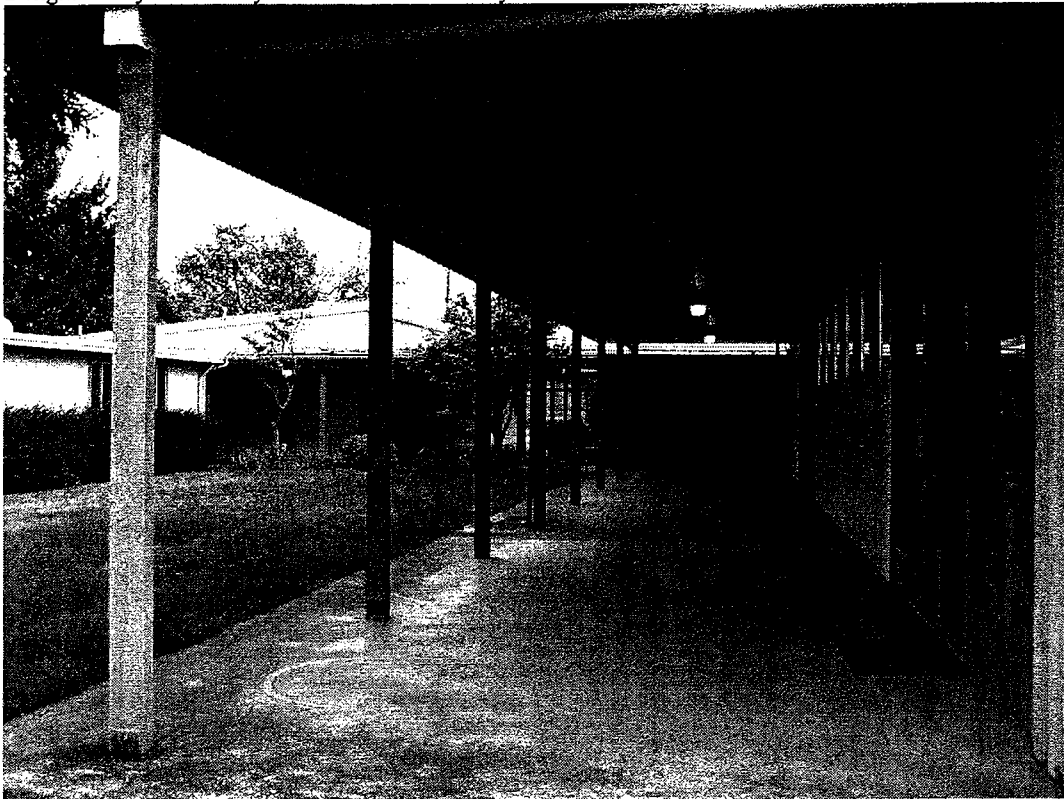
The subject property is 3.82 acres in size and currently in a D&C Area No. 403-2. The fire station use is on property owned by and adjacent to the South Lane School District #45J facility – Delight Valley Elementary School. The fire station and school are not within the 1984 rural community boundaries of Saginaw.

14. The 1984 designation of the eastern community boundary for Saginaw was drawn along the west bank of the Cost Fork Willamette River. It included the industrial mill sites and the two small commercial stores and approximately 32 residential properties. The designated boundary did not include the residential core of the community east of the river consisting of approximately 114 residential properties, the community church or the Delight Valley Elementary School. It also did not include the property that would eventually become the Saginaw fire station in 2000. Thus, 78% of the residential uses and all of the public facilities normally associated with rural communities were omitted from the designation.

Delight Valley Elementary School – TRS 20-03-15, tax lot 1000



Delight Valley Elementary School -- interior court yard





III. THREE SUBJECT PARCELS - SPECIFIC FINDINGS OF FACT

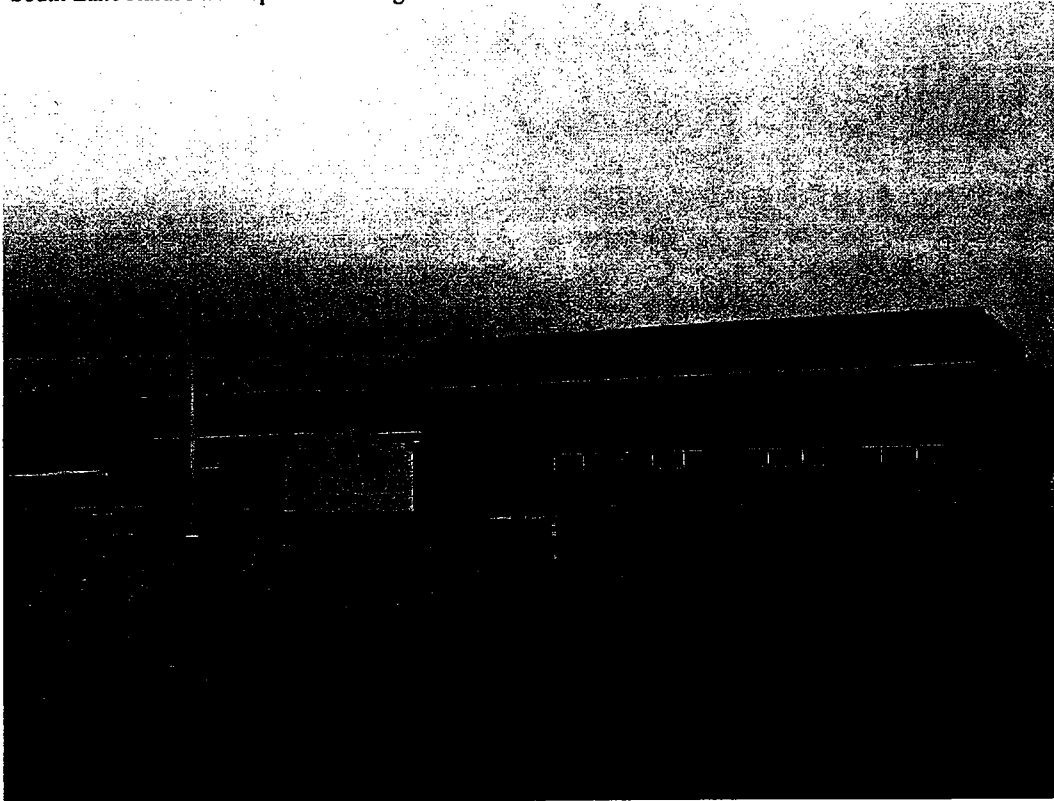
TRS 20-03-15, tax lot 902, 3.82 acres.

Property Owner: South Lane School District #45J

Proposed change in zoning designation from Rural Residential (RR5-C) to Rural Public Facility (RPF-C).

Findings of Fact

1. The property subject to this amendment, hereinafter referred to as the "subject property," can be identified as tax lot 902, TRS 20-03-15.2.3. The subject property is a rectangle shaped parcel, 3.82 acres in size with direct access to Delight Valley School Road along its eastern boundary. Tax lot 1000 to the south is also owned by the South Lane School District and developed with the Delight Valley Elementary School. The subject property is developed with the South Lane Rural Fire Department – Saginaw Substation.



2. When Saginaw was designated as a “community” in the Rural Comprehensive Plan in 1984, the subject property was vacant.
3. The property owner, South Lane School District #45 and the leasee/operator, South Lane RFD, are requesting a zone change for the subject property to Rural Public Facility (RFP-C), that would provide the parties with the option to continue operating the existing facility as an “rural public facility” as well as a possible expansion area for the adjacent elementary school as provided for in Lane Code 16.294(3)(f) and (o):

(3)(f) Educational facilities and services such as: primary and secondary education; colleges and professional schools; special training schools such as those for: vocations, trades, arts, music, dancing, driving, gymnastics and correspondence. Such uses must be located inside an unincorporated community; and

(3)(o) Governmental services, such as : post office, fire station, and sheriff or police station. Such uses must be located inside an unincorporated community.

4. The subject property is not within an area identified as a “water quantity limited” area in Lane Manual 13.010. The fire station on the subject property and the school to the south have onsite wells and a storage tank that is adequate for the facilities’ needs.
5. There are no apparent wetlands on the subject property, per NWI map Cottage Grove SE1.

6. All of the soils present on the subject property are Chehalis Silty Clay Loam (26), with no Douglas fir site index or fiber productivity rating, and is listed as agricultural capability class 2, which is considered high value in Lane County's inventory.
7. The subject property is in the interior of developed & committed exception area No. 403-2 that is east of and contiguous with the rural community of Saginaw. It is separated from the management practices of nearby farm or forest operations on four sides: Between Highway 99 to the west and the subject property, there are Rural Residential (RR5) and Rural Industrial (RI) lands. To the east beyond Delight Valley School Road, there are Rural Residential (RR5) lands that abut Interstate 5. To the north and southwest are zoned Rural Residential (RR5). Lands to the south are zoned Rural Public Facility (RPF) and Rural Residential (RR5)

Conclusion

The designation of Public Facility on the Plan Diagram and Rural Public Facility (RPF/C) on the zoning diagram of Plot No. 403-2 is justified by the above findings of fact. Refer to Exhibit "C".

TRS 20-03-15.2.3, tax lot 700 (northern portion 60 ft. x 90 ft. = 5,400 sq. ft.)

Property Owner: Kenneth Mitchell

Proposed change in zoning designation from Rural Residential (RR5/C) to Rural Commercial (RC/C); and

TRS 20-03-15.2.3, tax lot 700 (southern portion 150 ft. x 150 ft. = 22,500 sq. ft.)

Property Owner: Kenneth Mitchell

Removal of "historical designation" suffix (/H).

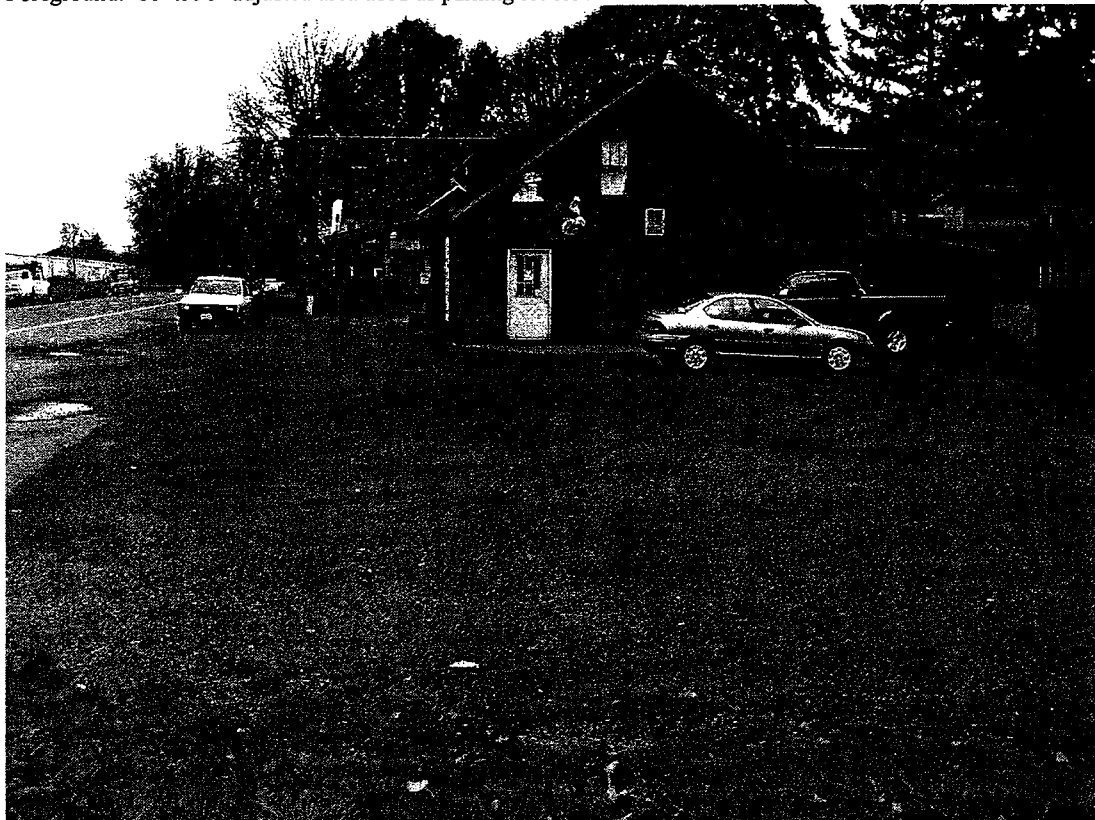
Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Highway 99, and within the unincorporated rural community of Saginaw (Plot No. 403-1). It can be identified as tax lot 700, of Assessor's map TRS 20-03-15.2.3. The subject property is "L"-shaped property and approximately 0.52 of an acre in size. The parcel's configuration includes approximately 190 feet of frontage along Highway 99. The property is developed with the Mitchell's Mercantile also known locally as Small Mart.
2. The subject property has an assigned rural address of 79926 Old Highway 99, Cottage Grove, OR 97472, 0.52 of an acre in size, and is situated at the intersection of Highway 99 and Saginaw Road East and west of the Southern Pacific railroad right-of-way that has been the center of the rural community since the establishment of the lumber mills along the railroad tracks at the turn of the century. The property is separated from the management practices of nearby farm or forest operations to the north, west and south by Rural Residential (RR5/C) and Rural Industrial (RI/C) zoning to the east.
3. On April 23, 1996, the property owner, Kenneth Mitchell recorded a property line adjustment in the Lane County Surveyors Office as CS File No. 33541. The adjustment amended 60 linear feet of the northern property line of the subject property with the property to the north, tax lot 600 of TRS 20-03-15.2.3. The common boundary was moved 90 feet to the north adding an area 60 feet x 90 feet (5,400 sq. ft.) to the subject property. Refer to Exhibits "D" and "D-1"

Mitchell's Mercantile (Small Mart) TRS 20-03-15.2.3, tax lot 700



Foreground: 60' x 90' adjusted area used as parking lot for Mitchell's Mercantile (Small Mart).



The purpose for the adjustment was to provide off-street parking area for the retail uses of the Mitchell's Mercantile. The adjusted area has been utilized by the owner as a gravel parking lot since that time.

4. Rezoning the 60-foot by 90-foot adjusted area of the subject property to Rural Commercial (RC/C) will allow the property owner the right to continue the existing use of the land and an opportunity to expand or diversify commercial uses or services provided for in Lane Code 16.291.
5. The subject property is not within an area identified as a "water quantity limited" area in Lane Manual 13.010.
6. There is no apparent wetland on the subject property, per NWI map Cottage Grove SE1.
7. The soil present on the subject property is Nekia Silty Clay Loam (89C and 89E), with a Douglas fir site index of 113, a fiber productivity of 160 cubic feet per acre per year, and is listed as agricultural capability class 3 and considered high value in Lane County's inventory. The Nekia 89C soils (2-12 % slopes) make up 37% of the property and are developed with the market structure and parking lot.
8. In 1984, the original metes and bounds of the subject property (150' x 150') was also designated as a "historical" site and given a "/H" suffix in error. The actual location of the historical designation should have been placed on a commercial property approximately 100 feet to the south. The subject property does not include any sites or buildings identified in the Oregon State Historical Preservation Office records and the suffix should be removed..

Conclusions

1. The designation of Commercial on the Plan Diagram and Rural Commercial (RC/C) for the 1996 adjusted area 60' x 90' on the zoning diagram of Plot No. 403-2 is justified by the above findings of fact. The amended designation will conform to the existing lawful uses of the 5,400 sq. ft. area.
2. The removal of the "historical" designation suffix (/H) from the subject property is justified.

TRS 20-03-15.2.3, tax lot 900, 0.62 of an acre.

Property Owner: Scott L. Rhodes

Addition of "historical" suffix (/H) to the zoning designation Rural Commercial (RC/H/C).

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of and adjacent to the right-of-way of Old Highway 99 and approximately 100 feet south of the intersection with Saginaw Road East. It can be identified as tax lot 900, of Assessor's map TRS 20-03-15.2.3. The subject property is rectangular in shape (190 feet E-W and 150 feet N-S) and 0.65 of an acre in size. The parcel's configuration includes 150 feet of frontage along Old Highway 99 to the east. It is developed with the Saginaw Market. Refer to Exhibit "E".



2. When Saginaw was designated as a “community” in the Rural Comprehensive Plan in 1984, the Saginaw Market was designated as Rural Commercial in keeping with its commercial use. The “market” was constructed circa 1900-1910 and originally known as the Booth-Kelly Lumber Company Store. The original two-story, wood frame structure with a gable roof and false front has had two porches added and some additional alterations.
3. The Saginaw Market building was listed as an historical building in 1976 by the Oregon State Historic Preservation Office on Map No. 52.
4. In 1984, the historical suffix (/H) for this building and tax lot was inadvertently applied to a commercial property, tax lot 700, 100 feet to the north. This misplaced designation has been addressed previously in this report. Refer to TRS 20-03-15.2.3, tax lot 700 subsection above.
5. Adding the “/H” designation suffix to the subject property will bring the historical designation into conformance with the State of Oregon designation and Lane Manual Chapter 11.300(2) Significant (1C) Sites inventory.

Conclusion

Adding the historical suffix (/H) to the subject property is justified by Findings of Fact 1.-5., above. The amendment to the zoning designation will comply with subject property’s 1984 listing in Lane Manual 11.300(2) as a component adopted in the Rural Comprehensive Plan.

IV. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistent with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The plan amendments and zone changes requested by this application are intended to:

1. Amend the Rural Residential (RR5/C) zoning on tax lot 902 of TRS 20-03-15.2.3, to Rural Public Facility (RPF/C), to comply with the establishment of the South Lane Rural Fire Department -- Saginaw Substation in 2000.
2. Amend the Rural Residential (RR5/C) zoning on the 60' x 90' adjusted area added to tax lot 700 of TRS 20-03-15.2.3) to Rural Commercial (RC/C) in recognition of the existing commercial use on the subject property (Mitchell's Mercantile).
3. Remove the historical suffix (/H) from tax lot 700 of TRS 20-03-15.2.3 in acknowledgement that there are no identified historical buildings or sites on the subject property.
4. Add the historical suffix (/H) to tax lot 900 of TRS 20-03-15.2.3 in acknowledgement of the Saginaw Market's listing on the Oregon State Historic Preservation Office listing and Map No. 52, and the listing of the building and site on the Lane County Lane Manual 11.300(2) Significant (1-C) Sites inventory.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within to the rural community of Saginaw and are not located within an urban growth boundary. The properties receive a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The rural community of Saginaw was founded as a lumber mill community along the Old Highway 99 and Coast Fork of the Willamette River in the 1880s. The rural community is within Developed & Committed Exception Area # 403-1 which is approximately one-third of the actual community with the other two-thirds being adjacent to the east in D&C Exception Area 403-2. There is no evidence in the record that the extensive facilities and uses in the past on the subject properties or within the community have committed nearby resource lands to nonresource uses. The public record indicates that the prior uses have been compatible with forest industry's use of the regional and nearby Impacted Forest lands to the northwest, west and southwest.

The EFU E30 landS to the northeast, east and south are developed with residences and a winery.

The adjacent Forest Lands (F2) and Agricultural Lands has been managed for decades on the periphery of the rural community boundaries of Saginaw without conflict from the communities' facilities and uses. No foreseeable impacts to resource lands have been identified resulting from the amendments to the three subject properties.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The community of Saginaw includes relatively dense rural residential, rural commercial, and rural public facility uses. The rural commercial uses are a mixture of retail sales that normally support small communities including the two convenience markets. All properties within the community are developed with onsite water systems and subsurface sanitation systems. The elementary school, church and fire station provide essential public services. Old Highway 99 and Saginaw Road East intersect within the community and link the community with the urban areas of Eugene to the north via Old Highway 99 and Interstate 5 on the eastern boundary.

The residential, commercial, and public facility uses have co-existed compatibly with the surrounding resource base for decades and there is no indication that the continued or anticipated uses of the properties and structures will adversely affect resource uses in any fashion.

B. OAR 660-022-0030(6),(7),(8) -- Unincorporated Community Rule

OAR 660-022-0030 (6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

Development standards and uses allowed conditionally by LC 16.291 in the Rural Commercial Zone were adopted in April 2002 in compliance with the Unincorporated Community Rule. The operation of the existing businesses within the community have not adversely affected the management practices of forest or farm operators in the area of Saginaw and there is no foreseeable way that the continued operation of the existing structures in the designated commercial or public facility uses could pose any new adverse impact to management of farm or forest lands in the vicinity. Any new commercial use proposed on tax lots 700 or 900 of TRS 20-03-15.2.3 shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.291(3) and (4). Any new public facility use proposed on tax lot 902 of TS 20-03-15 shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.294(3) and (4).

OAR 660-022-0030(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

Some change in the uses on the subject properties may occur in the future as a direct result of the proposed rezoning of a portion of one subject property to Rural Commercial (RC/C) and one to Rural Public Facility (RPF/C). Operation of the existing fire station and two convenience markets are two of the common uses to be found in rural settings and have been found to be compatible with draw-down on groundwater resources, disposal of septic waste, and use of public transportation corridors.

All of the properties have developed access points to public roads and the current uses are compatible with the capacity of the public roads.

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;

ODOT has adopted a TSP, which includes Highway 99 and Interstate 5. Lane County adopted a new TSP in May 2003 for county and public roads. Any proposed expansion of the

current uses or request for a new use on the subject properties shall be required to comply with the permitting process and the siting standards and criteria of LC 16.291(3) and (4) in the RC-C zone and LC 16.294 (3) and (4) in the Rural Public Facility Zone. The criteria of LC 16.291(4)(e), (f), (g) and (h) and LC 16.294(4)(e), (f) and (g) requires that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, and to address traffic safety and congestion concerns anticipated by the development.

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

No increase in anticipated traffic as a result of the proposed zone changes has been identified. No need to reduce automobile travel by citizens of Saginaw or the general traveling public to or through the rural community is warranted. Use of the county road system is essential to the tourism and local trade that supports the commercial development in Saginaw, the current employment options in Saginaw, and any potential development of the proposed commercial or public facility properties, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) *Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:*

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RC/C zone or RPF/C zone require Planning Director approval and compliance with LC 16.291(4)(i) or LC 16.294(4)(h) criteria: “(–) *The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*”

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RC/C zone or RPF/C zone require Planning Director approval and compliance with LC 16.291(4)(j) or LC 16.294(4)(i) criteria: “(–) *The proposed use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available.*”

C. Plan Conformity

The three subject properties are located in "developed and committed" Exception Areas No. 403-1 or 403-2, which is part of the unincorporated rural community of Saginaw. They are proposed to be designated Commercial or Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC/C) or Rural Public Facility (RPF/C). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

a. Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate “livability” with the current level of impacts and services either suffered or enjoyed by the community. An “adverse” impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject properties was defined, in part, by the existing operations on the subject properties. Services to the public by the Saginaw Market and Mitchell’s Mercantile have been located on the subject properties, tax lot 900 and 700 for decades, and the South Lane RFD - Saginaw Fire Station have been located on tax lot 902 since 2000. Those uses will still be available for the foreseeable future and provide services directly in support of the livability of the rural community of Saginaw. There is no evidence in the public record for one to conclude that the proposed uses on any of the subject properties have significantly affected surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the sites.

While the impacts from the existing uses appear to be consistent with the livability and appropriate development of the surrounding area and the community-at-large, other uses conditionally allowed within the Rural Commercial Zone or Rural Public Facility Zone may not be. The applicants have not done a compatibility analysis of these uses. Therefore, the rezoning requests can only be approved if the change in zone is limited to the existing uses and expressed uses contemplated on the subject properties. Any future change of use shall be required to comply with the special use permit processes and the site review criteria of LC 16.291(3) and LC 16.291(4) in the Rural Commercial Zone and LC 16.294(2), (3), (4) and (6) in the Rural Public Facility Zone.

2. Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.

All of the subject properties are located adjacent to Old Highway 99 or Delight Valley School Road. The properties being considered for rezoning reflect existing structures or uses within clustered commercial or public facility development. The proposed rezoning of the subject properties to Rural Commercial or Rural Public Facility will augment the employment and commercial uses as well as public services in the area and are most favorably located.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. All of the current uses on the three subject properties are served by the existing

onsite wells and therefore will not alter the use or availability of groundwater that is currently provided to the development. In the event that more intensive uses are proposed for any of the subject properties the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) or Lane Code 16.294(4)(i) *“The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site’s ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available.”*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties. Refer to II. GENERAL FINDINGS OF FACT.

d. Agricultural Lands, Policy # 8: “Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.”

The existing commercial, residential or public service operations on the subject properties and the current commercial and public services within the rural community of Saginaw have co-existed for decades with the agricultural and forest product industries in the surrounding area. The existing development on the three subject properties, tax lots 902, 700 and 900, has existed for decades as a part of the community of Saginaw without any known adverse impacts on forest operations in the area. The rezoning from RR5 to RPF for tax lot 902 is compatible with the surrounding RR5 density and is viewed as an improvement of fire protection services to structures in the surrounding resource and nonresource designations.

e. Flora and Fauna, Policies 1 and 10 “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

Significant species or wildlife habitat and other natural areas have not been identified on the subject properties.

There are no wetlands identified on the Cottage Grove SE1 quad of the National Wetlands Inventory for any of the three subject properties proposed for zone changes. Therefore, the proposed uses will not pose any anticipated risk of significantly altering the natural wetland system in the area.

The proposed zone changes for the three subject properties are in compliance with these Plan policies.

D. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. **Lane Code 16.003.** Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

- (1) **Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The purposes of the zone change requests for three subject properties are:

- Tax lot 902, TRS 20-03-15 - to conform the zoning designation with the public ownership and development of the property was the South Lane Rural Fire Department Saginaw Substation;
- Tax lot 700, TRS 20-03-15.2.3 - to acknowledge the ancillary use of the area added to the subject property in conjunction with the existing commercial use;
- Tax lot 700, TRS 20-03-15.2.3 – to remove a historical suffix (/H) from the property where no historical structures or sites have been identified;
- Tax lot 900, TRS 20-03-15.2.3 – to add the historical suffix (/H) to the property to acknowledge the listing of the Saginaw Market as a historical building in 1976 on the Oregon State Historical Preservation Office (Map No. 52);

Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.291(4) or Lane Code 16.294(5), promoting and protecting public health, safety, convenience and welfare.

- (2) **Protect and diversify the economy of Lane County.**

The proposed rezoning to Rural Commercial for a portion of one of the subject properties promotes the opportunity to further provide services to citizens. The proposed rezoning of the subject property to Rural Commercial seeks to support current and anticipated uses and services on the subject parcel in the community of Saginaw.

- (4) **Conserve farm and forest lands for the production of crops, livestock and timber products.**

The subject properties are small ranging from 0.52 of an acre (tax lot 700), 0.65 of an acre (tax lot 1900), and 3.82 acres (tax lot 902). None have been managed for the production of crops, livestock or timber products for the past 25 to 95 years. Two of the subject properties have been used in connection merchandizing groceries and supplies and the third was developed with the fire station in 2000. The total acreage for the three subject properties is 5.09 acres. Due to the location of the subject properties and their development with structures or facilities, none of the subject properties could effectively be managed for either commercial farm use or forest activities.

On October 25, 1989 the Lane County Board of commissioners voted unanimously to approve Board Order 89-10-25-4, which adopted the 1989 Addendum to the Lane County RCP Developed and Committed Lands Working Paper. The 1989 Addendum includes the findings of a panel of agricultural and forestry experts who formulated the following guidelines for determining whether land that is otherwise suitable for resource production may be so used:

- “(a) Parcels of 20 acres or less with dwellings on three or more sides are committed to non-resource uses that make it impractical to conduct farm or forest management.
- (b) Parcels with dwellings on two adjoining sides are impracticable for farm management if 15 acres or less, and impracticable for forest management if 20 acres or less.
- (c) Parcels with a dwelling on one adjoining side are impracticable for farm management if 5 acres or less, and impracticable for forest management if 15 acres or less.”

The zoning designations of either RC or RPF for the three subject properties complies with category “(c)” above.

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential, commercial, industrial and public facility uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

No natural hazards have been identified.

b. Not Contrary to the Public Interest

Development on the subject properties are not, or need not be, contrary to the public health, safety convenience and welfare in that they will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services. The “public interest” has not been defined, as such, but for the purposes of this decision it will be assumed that if the proposed use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for acknowledging existing commercial and public uses, and promoting employment and the retailing of commercial products in this area. While the potential impacts of a commercial use conditionally allowed pursuant to LC 16.291(3) and (4) appear to be culturally consistent with the livability and appropriate development of the surrounding area, the exact uses to which the properties could be put could change in time. This application does not include a compatibility analysis of all conditional uses in the Rural Commercial (RC) or the Rural Residential (RR) zones. To provide a level of comfort for the surrounding residential properties, the special use permit processes of LC 16.291(3) or LC 16.294(2), and (3), and the site review criteria of Lane Code 16.291(4) or LC 16.294(4) would be used to achieve this end.

c. Lane Code 16.290, Lane Code 16.291 and Lane Code 16.294

Lane Code 16.291(1) states that the purposes of the Rural Commercial Zone is to provide commercial goods and services needed by rural residents and to provide services and facilities for tourists and travelers, and to provide employment that rely on a rural location and work force.

Lane Code 16.294(1) states that the purpose of the Rural Public Facility Zone is to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and are by nature intensive or unusual uses not normally associated with other zones.

The proposed zone changes and uses are consistent with these purposes.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are not located in an area identified as being water quantity limited. Any future partitioning or change of use would by necessity have to comply with the carrying capacities of the groundwater aquifer and soils for subsurface waste disposal system requirements.

V. CONCLUSION

This application has shown by a preponderance of evidence that the standards and criteria applicable for amendments of Plot No. 403-1 and Plot No. 403-2 Official Plan and Official Zoning designations for the following subject properties have been met:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C).
20-03-15.2.3	700	0.12	Rural Residential (RR5/C)	Rural Commercial (RC/C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

VI. RECOMMENDATION

1. Approval of PRZC Control No. 6 of Ordinance No. PA 1226, amending the Official Plan Map No. 403 for the following subject properties:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural (R)	Public Facility (PF).
20-03-15.2.3	700	0.12	Rural (R)	Commercial (C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

2. Approval of PRZC Control No. 6 of Ordinance No. PA 1226, amending the Official Zoning Map No. 403 designations for the following subject properties:

TRS	Tax lots	Acres	From	To
20-03-15	902	3.82	Rural Residential (RR5/C)	Rural Public Facility (RPF/C).
20-03-15.2.3	700	0.12	Rural Residential (RR5/C)	Rural Commercial (RC/C), and
		0.52	Removal of the historical designation suffix (/H).	
20-03-15.2.3	900	0.65	Addition of the historical designation suffix (/H).	

VII. EXHIBITS

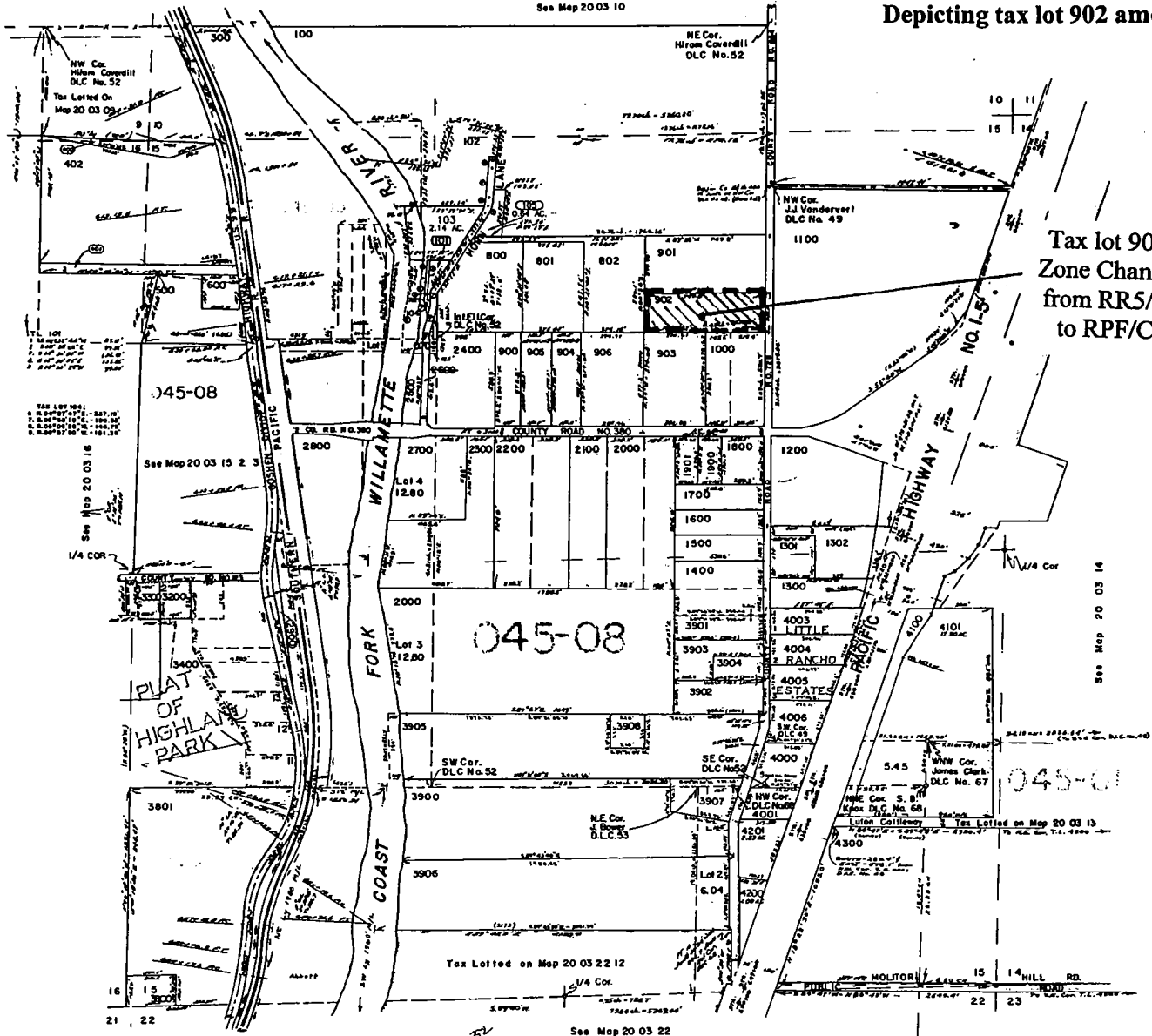
- A. Amendments to Official Plan Map #403:
- B. Amendments to Official Zoning Map #403:
- C. Assessor Map TRS 20-03-15: depicting tax lot 902 amendment.
- D. Assessor Map TRS 20-03-15.2.3: depicting tax lot 700 amendments.
- D-1. TRS 29-03-15.2.3 recorded property line adjustment (C.S. File No. 33541).
- E. Assessor Map TRS 20-03-15.2.3: depicting tax lot 900 amendment.
- F. Aerial Photograph: BLM 7-65.1-6 (5-21-2000)

FOR ASSESSMENT
AND TAXATION
ONLY

Section 15 T.20S. R.3W.W.M.
LANE COUNTY
1"=400'

20 03 15
& INDEX

Exhibit C. Assessor Map TRS 20-03-15
Depicting tax lot 902 amendment



Tax lot 902
Zone Change
from RR5/C
to RPF/C

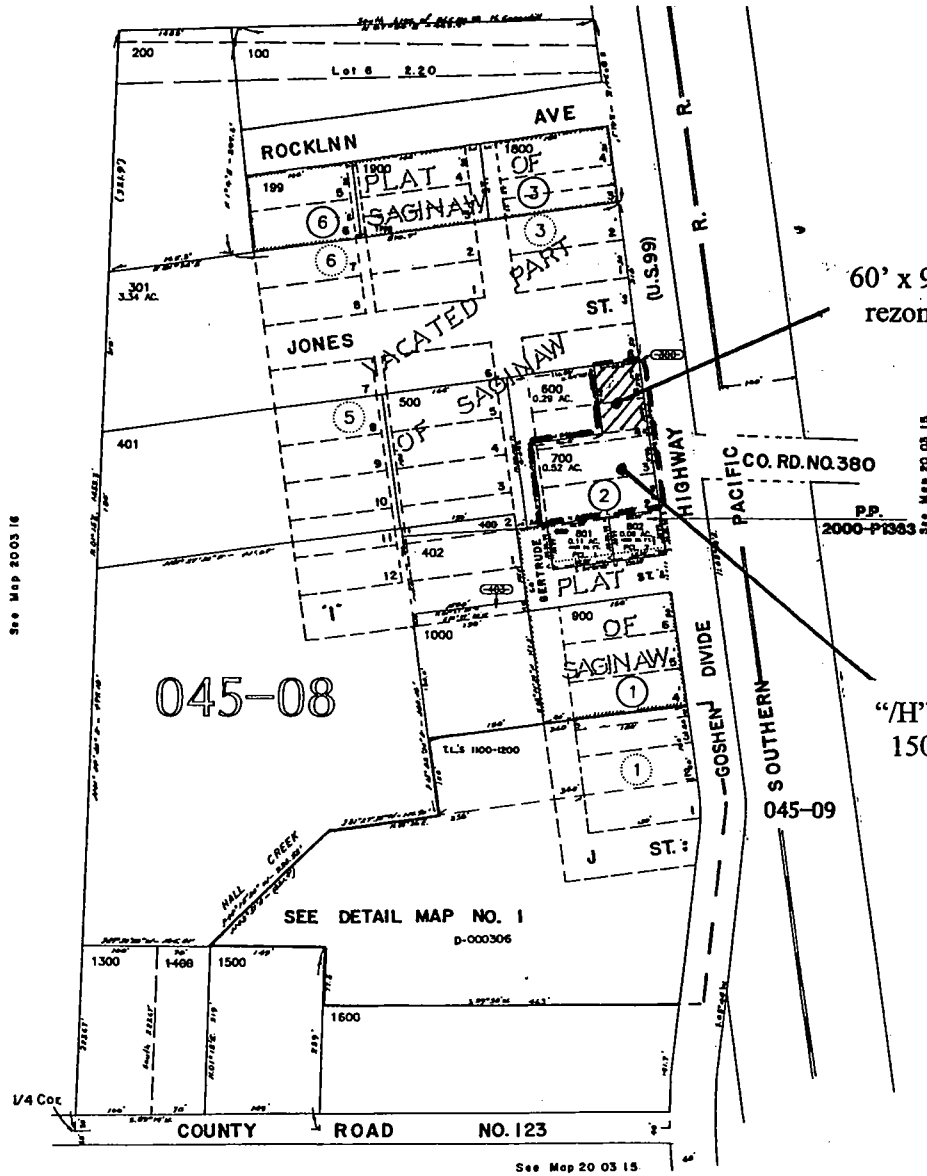
See Map 20 03 18
See Map 20 03 15 2 3
See Map 20 03 10

See Map 20 03 14

See Map 20 03 22

DATE	APPROVED	REVISION

Exhibit **D**. TRS 20-03-15.2.3, tax lot 700
Areas proposed for amendments



CANCELLED
1400
1700
300
400
403
800

60' x 90' area to be
rezoned to RC/C

045-08

"/H" removed from
150' x 150' area

045-09

See Map 2003 16

See Map 20 03 15

See Map 20 03 15

LANE COUNTY SURVEYORS OFFICE
C.S. FILE NO. 33171
FILING DATE 5-16-96

BOUNDARY LINE ADJUSTMENT
SURVEY FOR

KENNETH E. MITCHELL

N.W. 1/4, SEC. 15, T.20S., R.3W., W.M.

LANE COUNTY, OREGON

APRIL 23, 1996

SCALE 1"=30'

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO MONUMENT A PROPERTY LINE ADJUSTMENT IN AN UNINCORPORATED AREA IN LANE COUNTY, OREGON AND TO COMPLY WITH THE OREGON REVISED STATUTES (O.R.S. CHAPTER 92) REQUIREMENTS FOR PROPERTY LINE ADJUSTMENTS. THE SOUTH BOUNDARY OF THIS SURVEY WAS ESTABLISHED BY HOLDING FOUND MONUMENTATION AT THE EAST AND NORTHWEST CORNERS OF LOT 1, BLOCK 2 OF THE PLAT OF SAGRAW. THE SOUTHWEST CORNER OF THE SURVEY WAS ESTABLISHED PER DEED CALL AT 276.00 FEET WESTERLY BY PERPENDICULAR MEASUREMENT TO THE CENTERLINE OF THE SOUTHERN PACIFIC RAILROAD TRACKS AND 26.00 FEET FROM AND ON THE EXTENSION OF THE NORTH LINE OF SAID LOT 1.

THE WEST BOUNDARY OF THIS SURVEY WAS ESTABLISHED PARALLEL TO AND 276.00 FEET FROM CENTERLINE OF SAID RAILROAD TRACKS.

THE NORTH BOUNDARY WAS ESTABLISHED BY HOLDING RECORD DEED CALL (200.00 FEET PARALLEL) AND RECORD PLAT DISTANCES FROM THE AFORESAID SOUTH BOUNDARY.

THE EAST BOUNDARY OF THIS SURVEY WAS HELD PER DEED CALL 100.00 FEET WESTERLY OF AND PARALLEL TO THE CENTERLINE OF SAID RAILROAD TRACKS.

THE REVISED LOT LINES WERE SET AT THE DIRECTION OF THE OWNER WHO HAS COMMON OWNERSHIP OF ALL PARCELS BEING ADJUSTED.

MONUMENTS WERE SET AS SHOWN.

REFERENCES

1. PLAT OF SAGRAW, BOOK 2, PAGE 26, LANE COUNTY OREGON PLAT RECORDS.
2. DEED RECORDED IN REEL NO. 980R, RECEPTION NO. 784588, LANE COUNTY OREGON DEED RECORDS.
3. DEED RECORDED IN REEL NO. 147R, RECEPTION NO. 874562, LANE COUNTY OREGON DEED RECORDS.
4. DEED RECORDED IN REEL NO. 153R, RECEPTION NO. 880668, LANE COUNTY OREGON DEED RECORDS.
5. COUNTY SURVEY FILE NO. 8704, LANE COUNTY OREGON RECORDS.
6. COUNTY SURVEY FILE NO. 20446, LANE COUNTY OREGON RECORDS.
7. COUNTY SURVEY FILE NO. 1337, LANE COUNTY OREGON RECORDS.

LEGEND

- FOUND MONUMENT AS NOTED.
 - SET 5/8" x 30" REBAR WITH YELLOW PLASTIC CAP MARKED "BRANCH ENG. L.S. 2609".
 - CALCULATED POINT - NOTHING FOUND NOR SET.
 - * DENOTES MEASURED BEARINGS AND DISTANCES ARE EQUAL TO DATA OF RECORD.
 - () DENOTES DATA OF RECORD.
- ALL DISTANCES SHOWN ARE IN FEET.

NEITHERED
PROFESSIONAL
LAND SURVEYOR

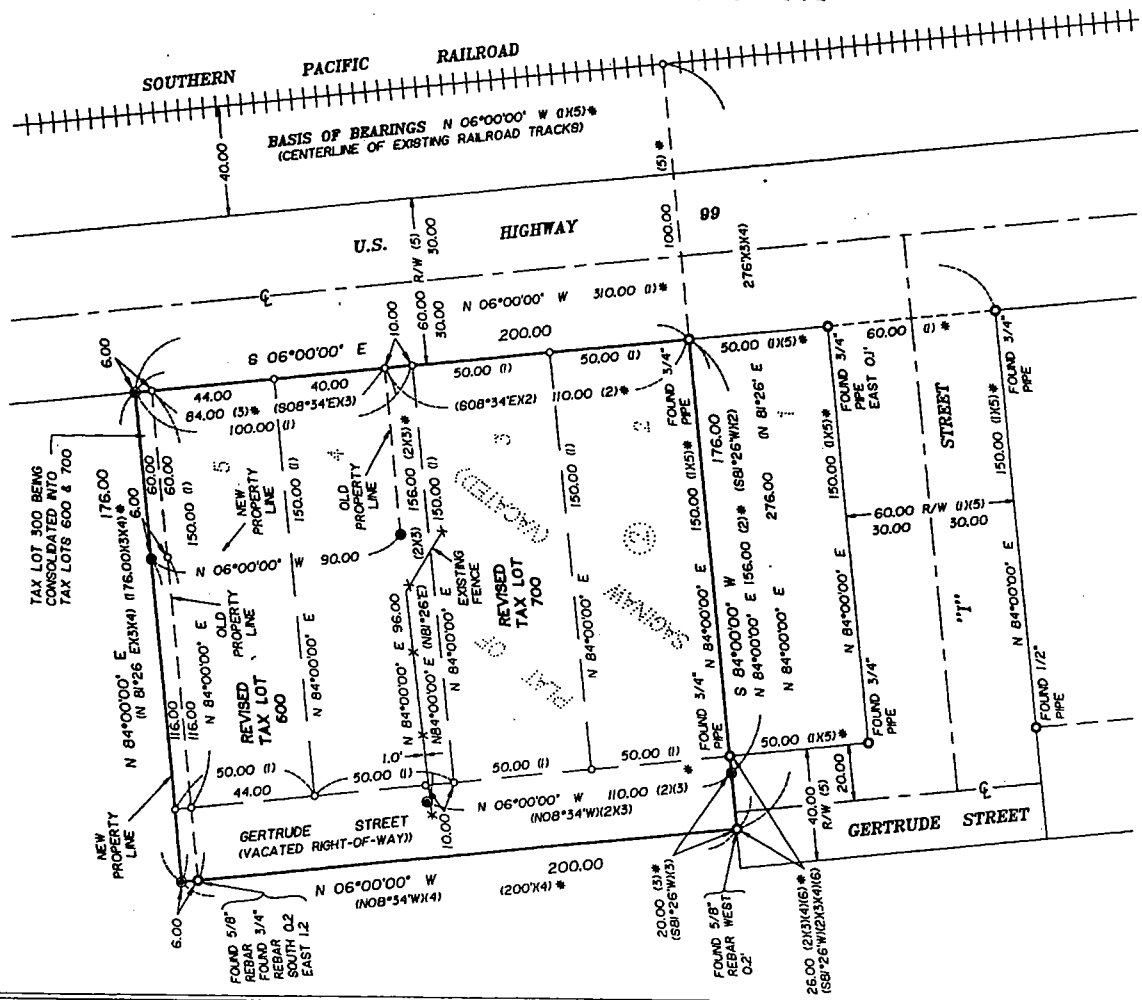
DAVID L. BROWN
ALL OREGON
2609
EXPIRES DEC. 3, 1997



Branch Engineering
310 North 6th Street
Springfield, Oregon 97477
(541)748-0837 FAX (541)748-0380

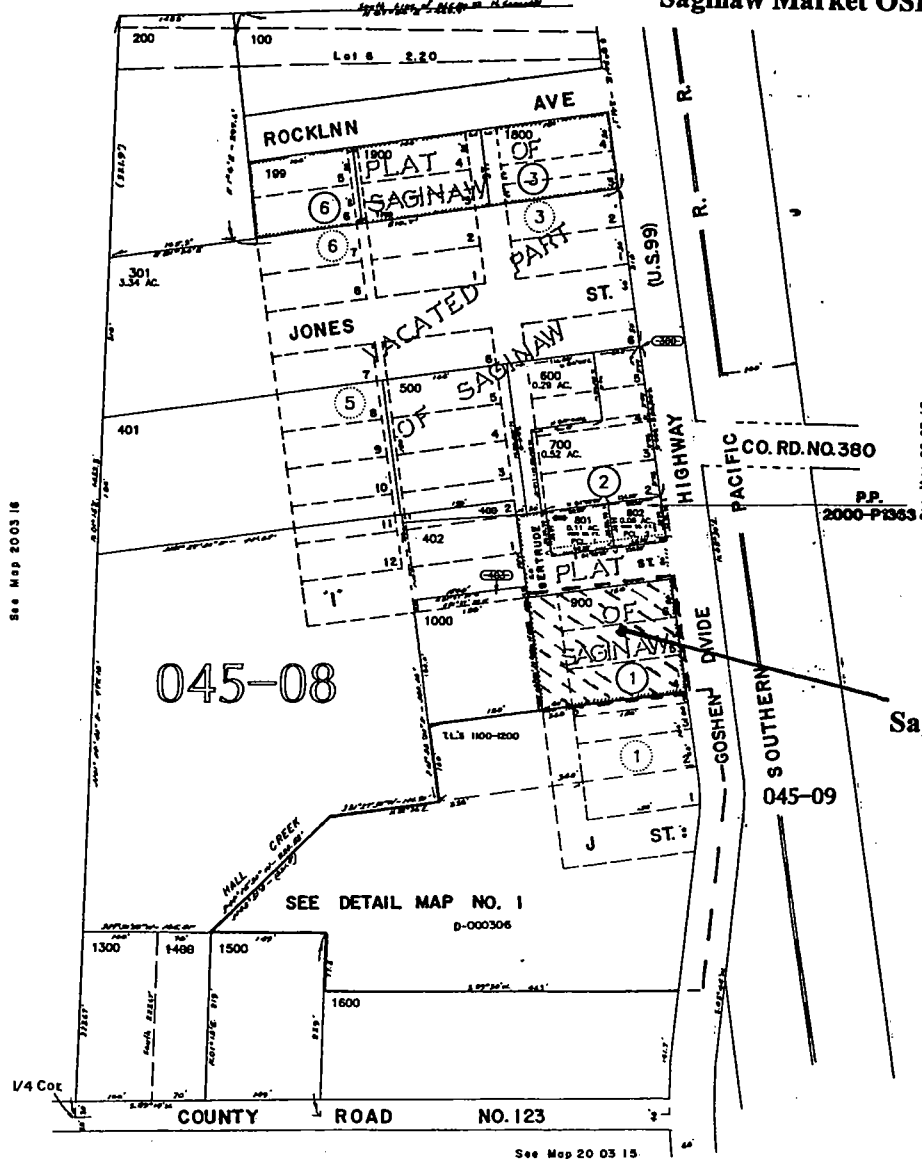
PROJECT NO. 96-081

DWG. NO. E1196196-081196081.DWG 4-23-96 AMW



TAX MAP 20-3-15-2-3, TAX LOT 300, 600 & 700

Exhibit E, TRS 20-03-15.2.3, tax lot 900
Parcel receiving historical suffix "/H"
Saginaw Market OSHPO Map # 57



CANCELLED
1400
1700
300
400
600
800

See Map 20 03 15
P.P.
2000-P1363
See Map 20 03 15

045-08

045-08

Tax lot 900
Saginaw Market
1900-1910

045-09

SEE DETAIL MAP NO. 1
D-000306

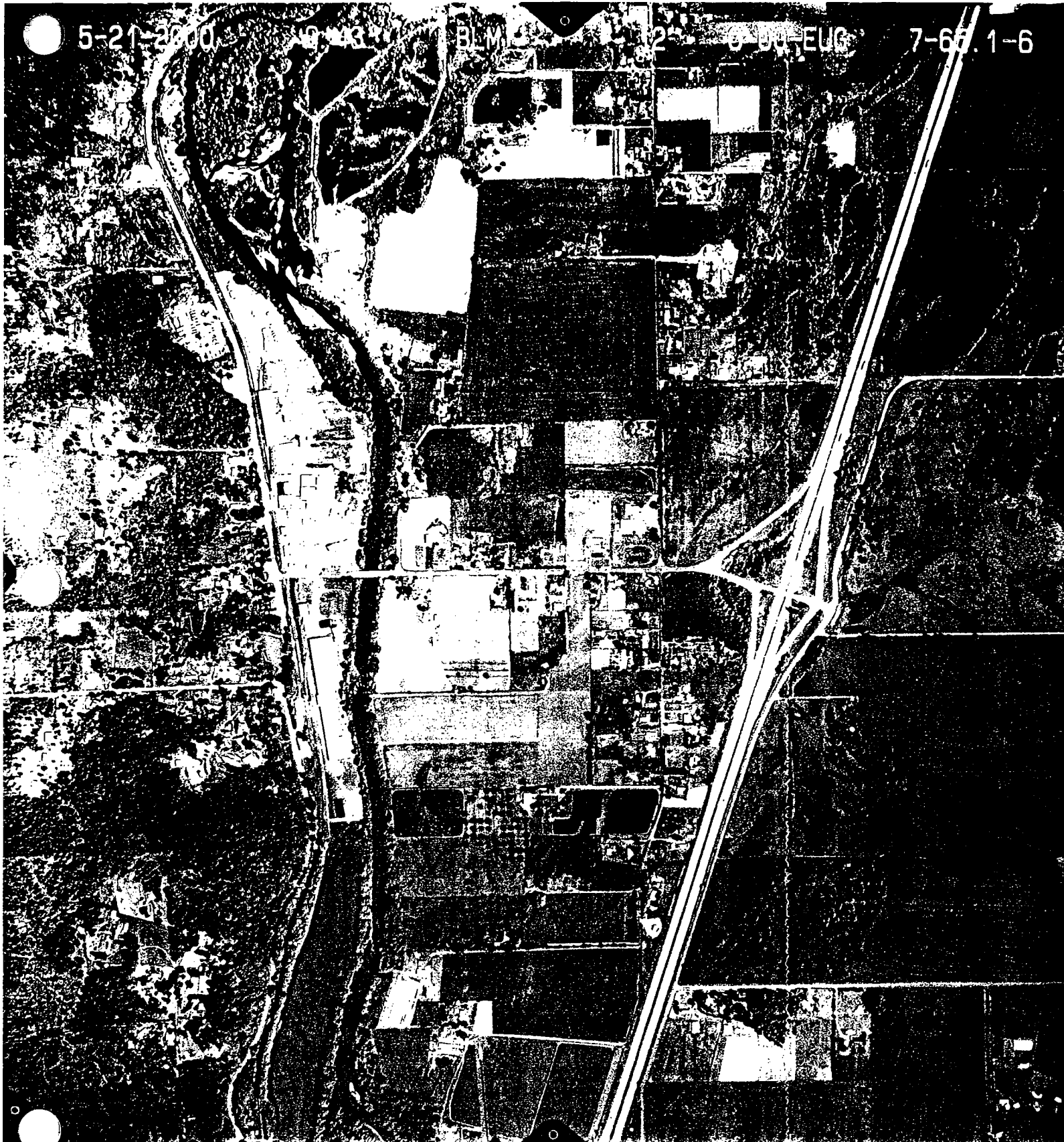
COUNTY ROAD NO. 123

See Map 20 03 15

See Map 20 03 15

1/4 Cor

Exhibit G. Aerial Photograph: BLM 7-65.1-6 (5-21-2000)



Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 412-1

Plan Amendments and Zone Changes for:

Tax lots 102, 3800, 3801 and 3803 of Assessor's Map TRS 18-03-11.3

TRS - Tax lot	Acres	From/Action	To
18-03-11.3, 102	1.41	Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3, 3800	5.74	Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3, 3801	1.03	Rural Industrial (RI)	Rural Public Facility (RPF)
18-03-11.3, 3803	4.10	Rural Industrial (RI)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) - *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
 Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.292 - *Rural Industrial Zone (RI)*
Lane Code 16.294 - *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

One public ownership of four contiguous properties is being considered for a zone change.

Four contiguous tax lots in the ownership of Emerald People's Utility District (EPUD) were designated as Rural Residential (RR5) in 1984 and rezoned Light Industrial (M2) in 1986. The 12.28-acre facility includes the EPUD headquarters, service buildings and equipment yards. The appropriate land use designation for the EPUD subject properties is Rural Public Facility (RPF).

II. FOUR SUBJECT PROPERTIES -- FINDINGS OF FACT

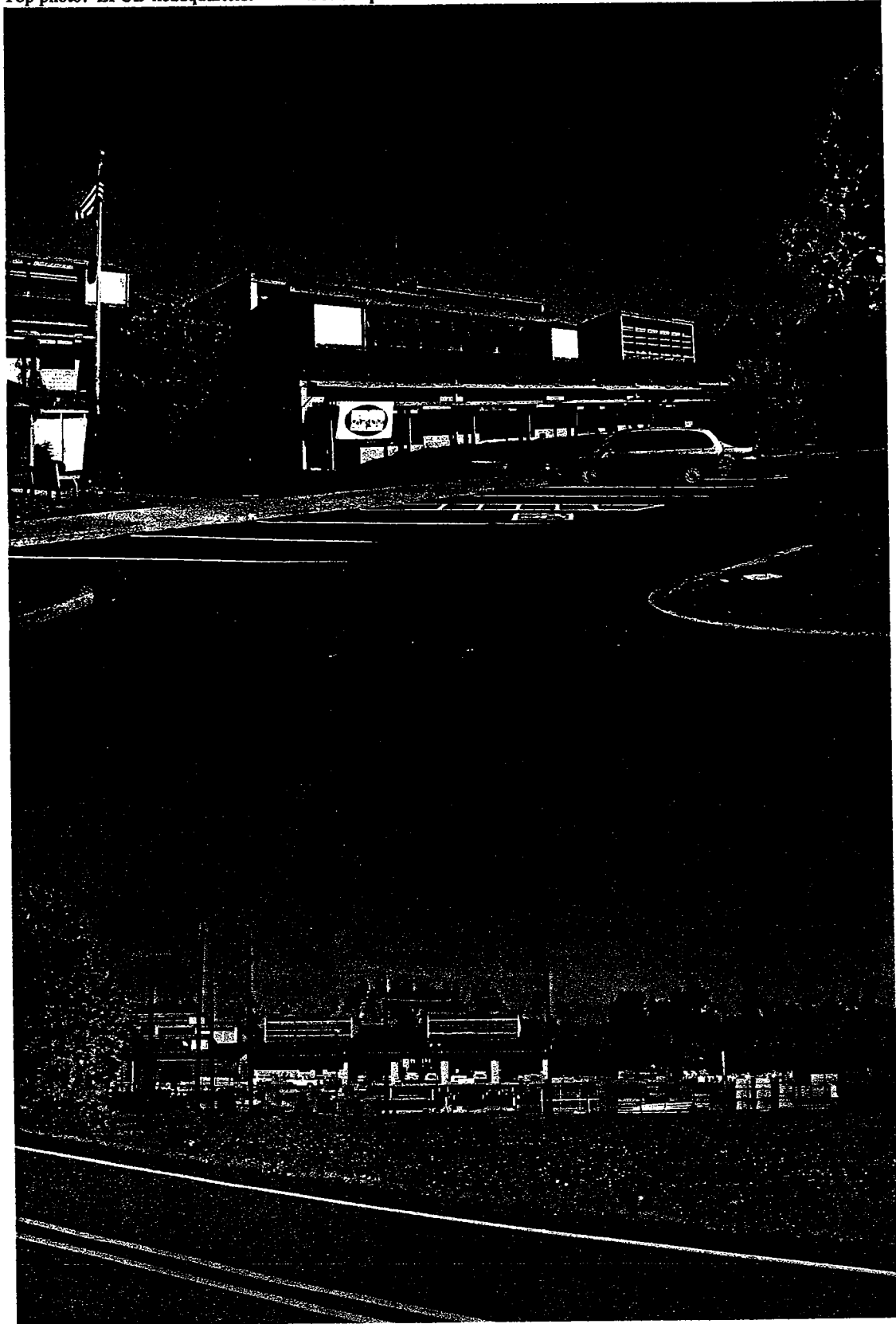
TRS 18-03-11.3, tax lot 102 -- 1.41 acres
TRS 18-03-11.3, tax lot 3800 -- 5.74 acres
TRS 18-03-11.3, tax lot 3801 -- 1.03 acres
TRS 18-03-11.3, tax lot 3803 -- 4.10 acres
Properties Owner: Emerald People's Utility District
Proposed change in zoning designation from Rural Industrial (RI) to Rural Public Facility (RPF).

Findings of Fact

1. The four properties subject to this application, hereinafter referred to as the "subject properties," are located within an "island" of land south of Franklin Boulevard and east of Seavey Loop Road created by the two intersections of the two roads at the northwestern and southeastern ends of the properties. They are within the Developed & Committed Exception Area No. 412-1. They can be identified as tax lots 102, 3800, 3801 and 3803 of Assessor's map 18-03-11.3, with a rural address of 33735 Seavey Loop Road, Eugene, OR 97405, and the four contiguous properties total 12.28 acres in size.
2. The subject properties are developed with the headquarters of Emerald People's Utility District including the offices, warehouses, vehicle maintenance shops and parking, and pole/equipment storage yards.
3. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and was vacant at the time. In 1986, the four properties were rezoned from RR-5 to M-2, Light Industrial by Ordinance PA 919. The development of the properties as the EPUD headquarters and main service center followed in 1987. In May of 2002, the properties were legislatively rezoned from M-2 to RI in compliance with the Rural Community Rule and Goal 14 as county-wide amendments within all developed & committed exception areas outside designated unincorporated communities.

Top photo: EPUD headquarters.

Bottom photo: view from southern intersection Franklin & Seavey Loop.



4. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject properties in connection with the utility's public service and facilities is inconsistent with the Rural Industrial Zone (RI).
5. The existing public facility uses of the subject properties are allowable uses in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution..*

The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

6. There is no record of any historical compatibility issues occurring between the existing uses on the subject properties and their neighbors since the facilities were established in the 1987.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility is provided with community water via an extraterritorial water extension from the Willamette Water Company in 1987.
8. The subject property receives the following public services: Springfield School District #19 (schools); Emerald People's Utility District (electrical power); Springfield Department of Fire and Safety (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Eugene East 4.

IV. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this application are intended to recognize the “public facility” uses of Emerald People’s Utility District (EPUD) which were established on the subject properties in 1986-87 and amend the zoning designation to conform with the uses on those tax lots 102, 3800, 3801 and 3803 of TRS 18-03-11.3.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within developed & committed exception area No. 412-1, east of the Metro Plan Boundary that is defined by the western right-of-way of Interstate 5 (I-5). The subject property is southeast of the interchange of I-5 and 30th Avenue. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for expansion of the EPUD facility uses that have existed on the property for nineteen years (1986).

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The four subject properties are enveloped by developed and committed exception lands on two sides and resource lands on two sides. Lands to the north of Seavey Loop Road are zoned Sand and Gravel. Rural residential (RR5) lands are located northeast of the subject property on the east side of Seavey Loop Road. Rural Industrial (RI) lands are located to the west across Seavey Loop Road. The EFU lands are located to the east and separated from the subject property by Seavey Loop Road. No foreseeable impacts from these proposed zone changes or increased commitment to nonresource uses has been identified on the EFU lands to the east since 1986.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area #412-1 includes relatively dense Rural Residential development along Seavey Loop Road, strip commercial development along College View Road, consolidated public facility uses, and extensive industrial uses along Seavey Loop Road and Franklin Road.

The Emerald People’s Utility District facility has been providing a service in southeastern Lane County for 19 years (1986) and the record indicates this facility has been compatible with the resource use of forest and agricultural lands to the east.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 412-1 of Lane County, 4,500 feet southeast of the urban growth boundary of the City of Eugene. It is proposed to be designated Public Facility (PF) by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

- A. Land Use Planning Policy #12. *Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest, In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject properties (tax lots 102, 3800, 3801 and 3803 of TRS 18-03-11.3) are relatively flat with no identified hazards due to slope grade or terrain features. Development from the designations Rural Industrial (RI) to the proposed designations of Rural Public Facility RPF (tax lots 102, 3800, 3801 and 3803) has been orderly and through application of land use regulations providing for the current uses. The resulting public facility uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.294 (RPF).

- (2) *Protect and diversify the economy of the County.*

Re-designation of the subject properties will allow diversification of the current uses and avenues for new facilities in compliance with the required permit processes, criteria and standards.

- (3) *Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.*

This application seeks to aid in the development of existing public facility uses on 12.28 acres (tax lots 102, 3800, 3801, 3803) of land. This action would remove the 12.28 acres from the industrial lands inventory in acknowledgement of existing public service facilities on the land. In this instance, the public has derived considerable benefit from the EPUD facility over the past 19 years that offsets the reduction in the RI inventory.

- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The EPUD facility includes the operations headquarters and the maintenance facilities in a consolidated setting. The facility is well located for distribution of services to their customers.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lots 102, 3800, 3801 and 3803 will acknowledge the existing public facility on the subject properties. The current uses of the facility are served by Willamette Water Company and therefore will not alter the use or availability of groundwater that is currently provided to the structures.

In the event that more intensive uses are proposed for any of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. Agricultural Lands, Policy # 8: *"Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The existing public services on the EPUD subject properties (tax lots 102, 3800, 3801 and 3803) have co-existed since 1986 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located to the east across Franklin Boulevard. Electrical utility facilities commonly occur adjacent to resource lands and in some instances are essential to the distribution of power to rural uses including resource operations. Any expansion or intensification of the 1986 facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. Flora and Fauna, Policies 1 and 10 *"Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."*

Significant species or wildlife habitat and other natural areas have not been identified on any of the subject properties. There are no wetlands identified on the Eugene East 4 quad of the National Wetlands Inventory for the four subject properties proposed for rezoning. Past development on all of the subject properties has significantly altered the natural flora and fauna communities and habitat. Therefore as a result of past uses, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the four subject properties are in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, 3, and 8 were addressed in the B. **Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject properties are small ranging from 1.03 to 5.74 acres. None have been managed for the production of crops, livestock or timber products for the past twenty years. All of the subject properties have been used for public facility activities in the past.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential, commercial, industrial, and public facility uses. The existing uses are rural uses that utilize a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The EPUD properties (tax lots 102, 3800, 3801 and 3803) are partially within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1144 of 2975 (6-2-99). Any future development of the subject properties will require review under the criteria and standard of Lane Code 16.244 Floodplain Combining Zone.

b. Not Contrary to the Public Interest

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the existing and proposed uses will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the public services in this area.

c. Lane Code 16.294

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is (1)(b) *To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and uses on tax lots 102, 3800, 3801 and 3803 are consistent with these purposes.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are not located in an area identified as being water quantity limited.

The EPUD properties (tax lots 102, 3800, 3801 and 3803) receive service from an existing water system, Willamette Water Company.

The four subject properties are small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

1. This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 18-03-11.3, tax lots 102 (1.41 acres), 3800 (5.74 acres), 3801 (1.03 acres), and 3803 (4.10 acres) from Rural Industrial (RI) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 7 of Ordinance No. PA 1226, amending the Official Plan Map No. 412 designations for tax lots 102, 3800, 3801 and 3803 of Assessors Map TRS 18-03-11.3, from Industrial (I) to Public Facility (PF); and
2. Approval of PRZC Control No. 7 of Ordinance No. PA 1226, amending the Official Zoning Map No. 412 designations for tax lots 102, 3800, 3801 and 3803 of Assessors Map TRS 18-03-11.3, from Rural Industrial (RI) to Rural Public Facility (RPF); and

VII. EXHIBITS

- A. Plan Maps:
 - A-1. Plan Map Plot No. 412 with four proposed plan changes depicted.
- B. Zoning Maps:
 - B-1. Zoning Map Plot No. 412 with four proposed zone changes depicted.
- C. Lane County Assessor's Maps TRS 18-03-11.3:
 - C-1. Depicting tax lot 102 of TRS 18-03-11.3.
 - C-2. Depicting tax lot 3800 of TRS 18-03-11.3.
 - C-3. Depicting tax lot 3801 of TRS 18-03-11.3.

- C-4. Depicting tax lot 3803 of TRS 18-03-11.3.
 - D. Site plan of EPUD properties (1987).
 - E. Aerial Photograph and enlargement of EPUD site.
-
-

18 03 11 30

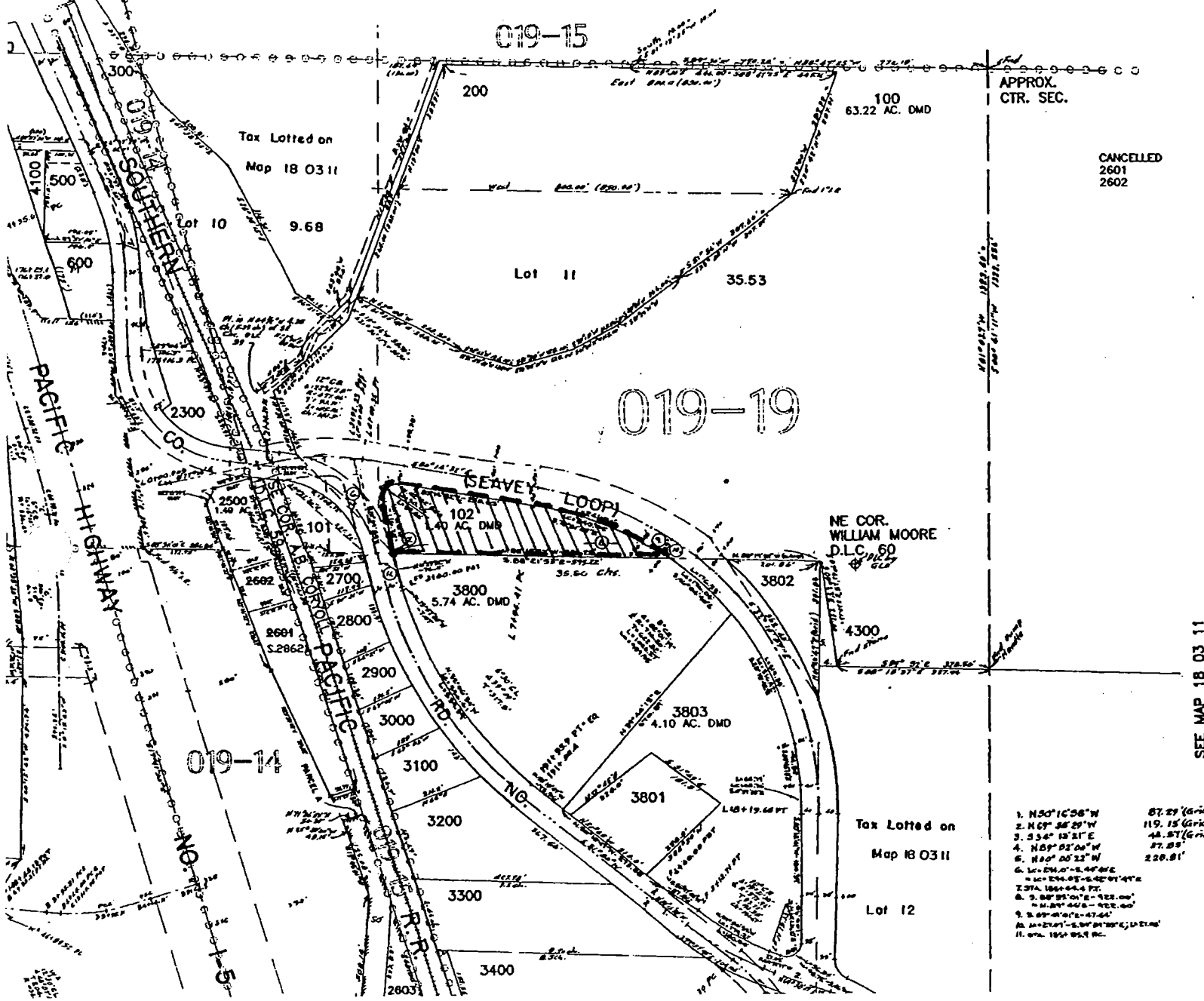
NAD 83/91

SW1/4 SECTION 11 T.18S. R.3W. W.M.
LANE COUNTY

SCALE 1" = 200'

DATE	REVISION	EMPLOYEE
11/22/91	B/B CONNECTION TO PAGES & PAGES	LEATERS
12/26/91	RECTIFIER'S MARK	LEATERS
1/20/92	CAME TO'S ROAD & ROAD INTO TL 2500	LEATERS

SEE MAP 18 03 11



APPROX. CTR. SEC.

CANCELLED
2601
2602

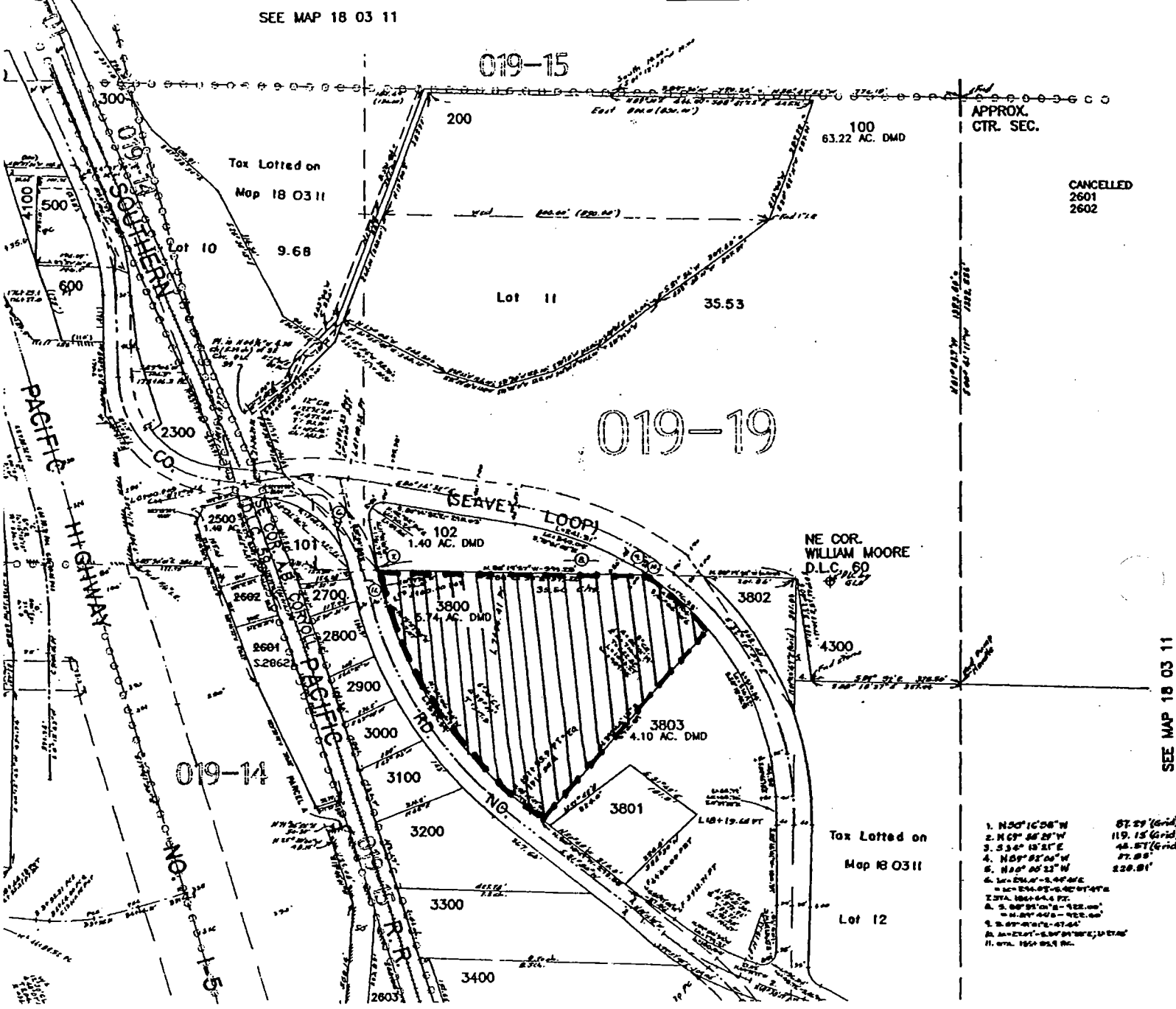
SEE MAP 18 03 11

- Tax Lotted on
Map 18 03 11
Lot 12
1. N50°10'08"W 87.29' (Grid)
 2. N09°38'29"W 119.15' (Grid)
 3. S34°18'21"E 48.87' (Grid)
 4. N89°02'00"W 87.88'
 5. N00°00'32"W 228.81'
 6. S0°04'07"-8.44' (Grid)
 7. S0°04'07"-8.44' (Grid)
 8. S0°04'07"-8.44' (Grid)
 9. S0°04'07"-8.44' (Grid)
 10. S0°04'07"-8.44' (Grid)
 11. 0.00' 195.4 AC.

SW1/4 SECTION 11 T.18S. R.3W. W.M.
 LANE COUNTY
 SCALE 1" = 200'

18 03 11 30
 NAD 83/91

DATE	PERSON	EMPLOYEE
07/22/98	L/R DEDICATION TO 2602 & 2604	LEATHY
01/28/91	RECORDER'S INDEX	LEATHY
07/28/91	CHANGE TO'S 2602 & 2604 INTO TL 2500	LEATHY



1. N50°10'00"W 67.29' (60-ft)
2. N 0° 00' 00" W 119.15' (Grid)
3. S 34° 15' 21"E 48.57' (Grid)
4. N 0° 00' 00" W 27.85'
5. N 0° 00' 00" W 120.81'
6. S 0° 00' 00" W 2.00' (60-ft)
7. S 0° 00' 00" W 2.00' (60-ft)
8. S 0° 00' 00" W 2.00' (60-ft)
9. S 0° 00' 00" W 2.00' (60-ft)
10. S 0° 00' 00" W 2.00' (60-ft)
11. S 0° 00' 00" W 2.00' (60-ft)

SEE MAP 18 03 11

SW1/4 SECTION 11 T.18S. R.3W. W.M.
LANE COUNTY

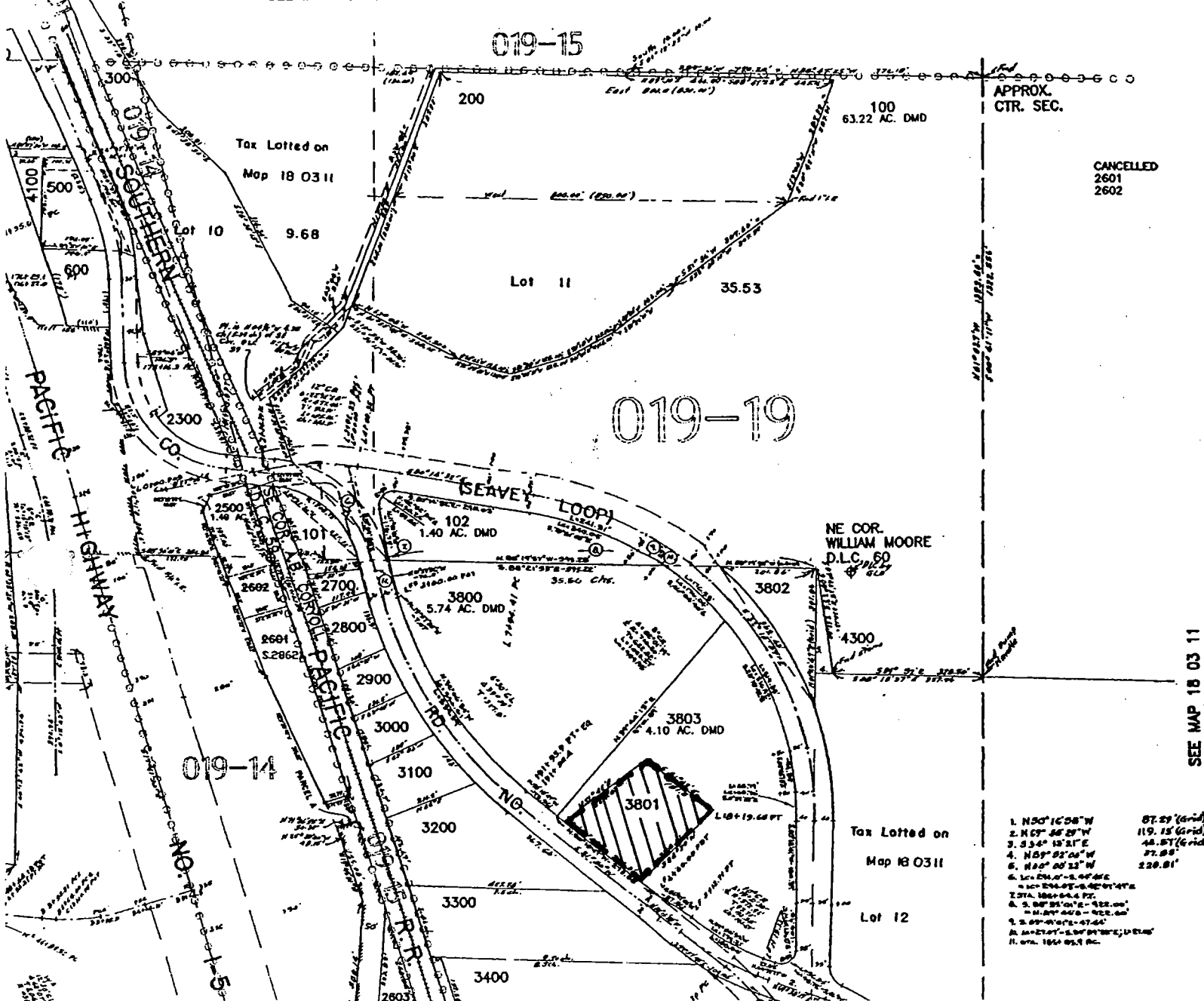
18 03 11 30

SCALE 1" = 200'

NAD 83/91

DATE	REVISION	EMPLOYEE
07/22/91	B78 CONNECTION TO 2403 & 2404	LEATERS
07/26/91	REVISION TO 2403	LEATERS
07/26/91	CHANGE TO'S 2403 & 2404 INTO TO 2500	LEATERS

SEE MAP 18 03 11

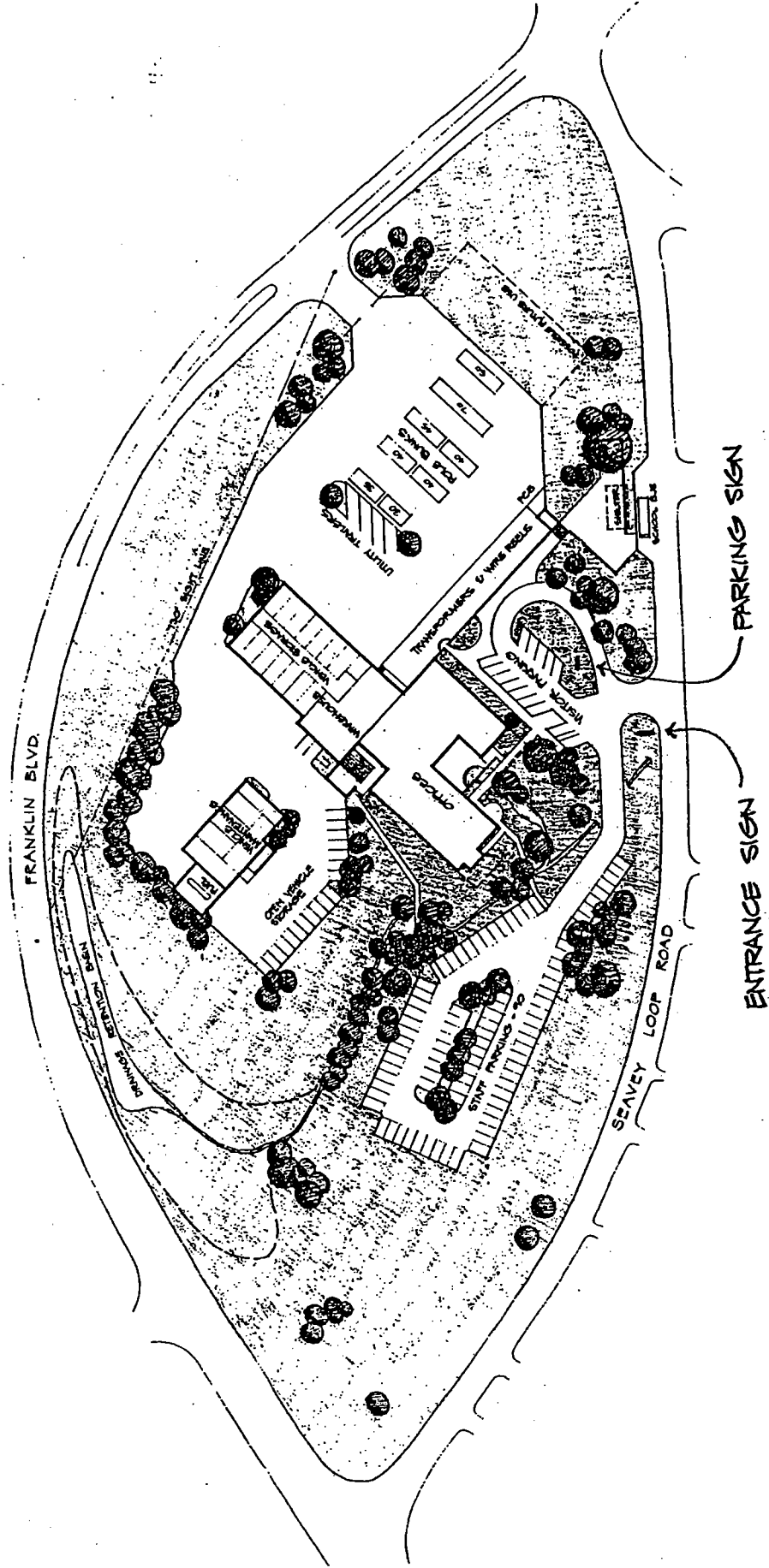


CANCELLED
2601
2602

SEE MAP 18 03 11

- Tax Lotted on
Map 18 03 11
1. N50°10'00"W 87.29' (cont'd)
 2. N0°00'00"W 119.15' (Grid)
 3. S54°15'21"E 48.57' (Grid)
 4. N50°00'00"W 27.83'
 5. N50°00'00"W 220.81'
 6. Lot 2403 - 2.40 AC
 7. Lot 2404 - 2.40 AC
 8. Lot 2405 - 2.40 AC
 9. Lot 2406 - 2.40 AC
 10. Lot 2407 - 2.40 AC
 11. Lot 2408 - 2.40 AC

D. Site plan of EPUD properties (1987).



SITE PLAN
EMERALD P. U. D. HEADQUARTERS
WEIGROUP ARCHITECTS / SCUMOR DESIGN

File # PA 3385-87
Exhibit # 6

Exhibit E. Aerial Photograph and enlargement of EPUD and Minnis sites:

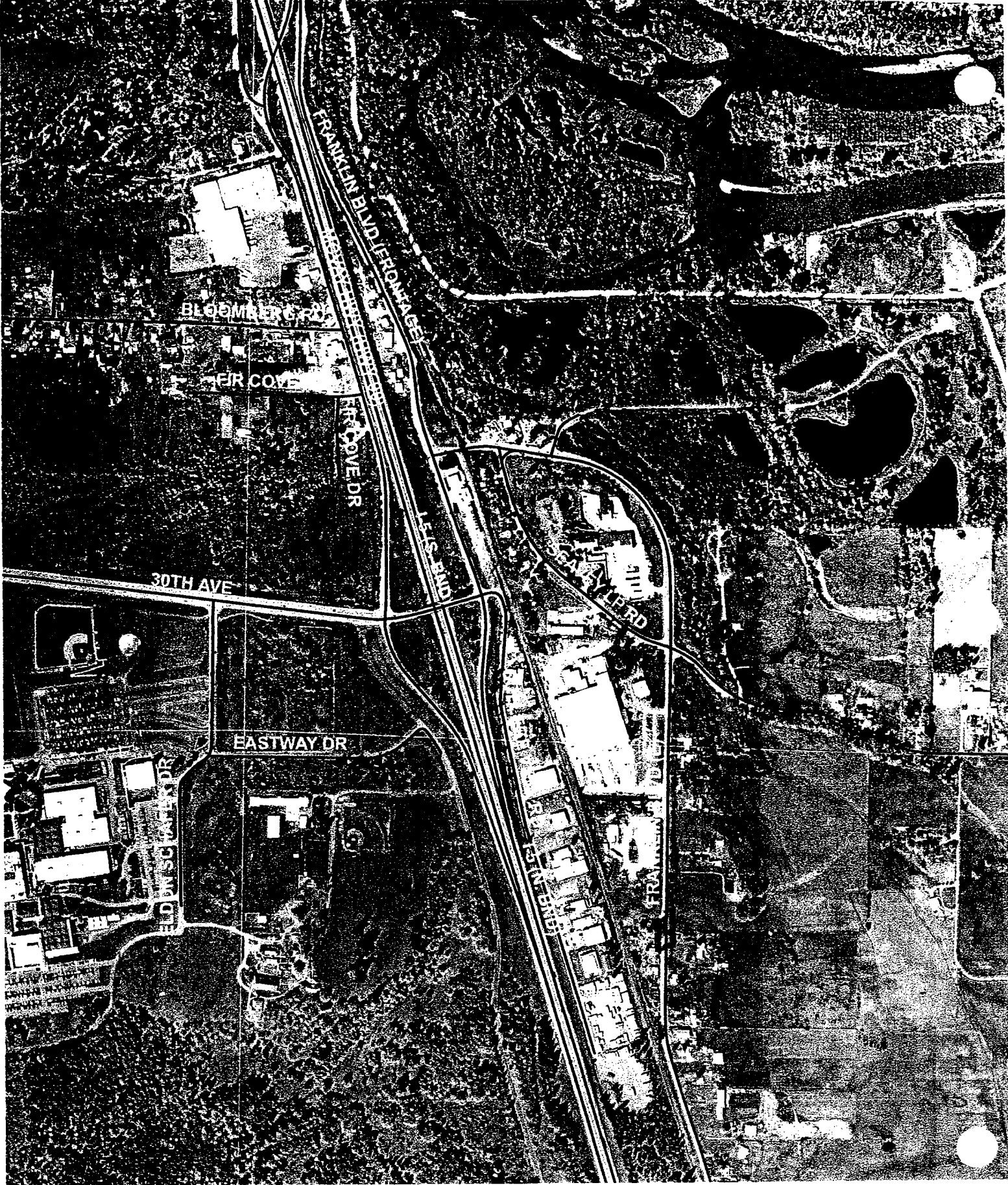
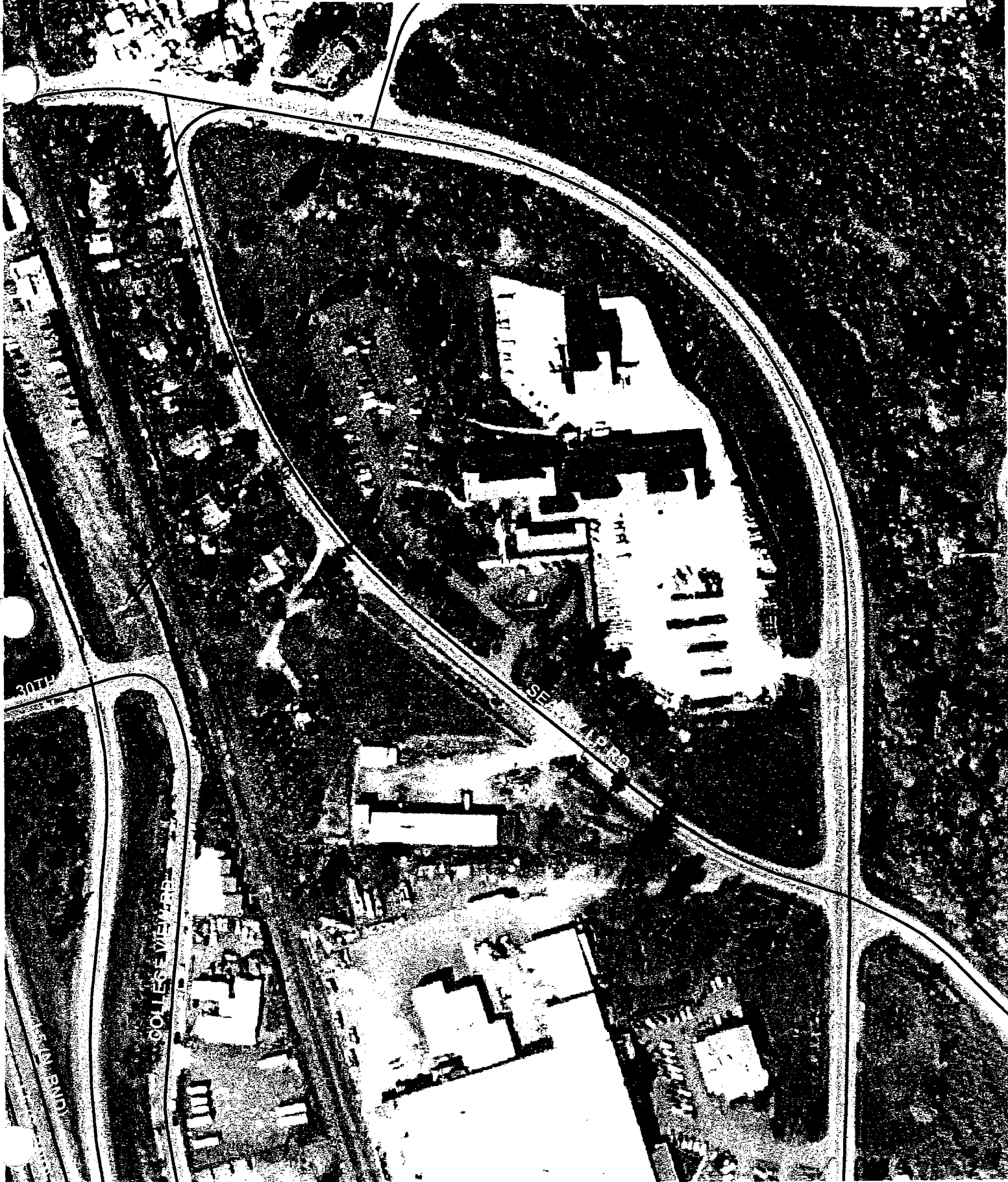


Exhibit E-1. Enlargement of Aerial Photograph EPUD and Minnis sites:



Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 413-2

Plan Amendments and Zone Changes for:

Tax lots 1300 and 1400 of Assessor's Map TRS 18-03-14

TRS - Tax lot	Acres	From
18-03-14, 1300	0.54	Rural Commercial (RC)
18-03-14, 1400	0.58	Rural Commercial (RC)
Consolidated:	1.12	

	Acres	To
	0.45	Rural Commercial (RC)
	0.67	Rural Industrial (RI)
Consolidated:	1.12	

Applicable Criteria and Standards

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) - *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.014(6) and (7)(h) - *Plan Designation and Zoning Maps*
Lane Code 16.291 - *Rural Commercial Zone (RC)*
Lane Code 16.292 - *Rural Industrial Zone (RI)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. General Findings of Fact

1. Two contiguous properties under the applicant's ownership are being considered for zone changes to facilitate the development of a total of 1.25 acres within three contiguous properties and the combined uses provided for in the Rural Commercial (RC) and Rural Industrial (RI) zoning designations under the ownership and operation of a single entity know as Doyle's Harley Davidson. Two contiguous properties subject to these zone changes are tax lots 1300 and 1400 of TRS Map 18-03-14. The third property is tax lot 1500 of TRS Map 18-03-14.

The owners of the three properties, Janie and Mike Doyle, currently operate Doyle's Harley-Davidson motorcycle dealership located on a property, tax lot 1200, to the north of their tract of three contiguous properties, tax lots 1300, 1400 and 1500. The applicants have operated their warehouse service and sales business since 1996 through a lease of an existing structure on tax lot 1200. The 18,000 square-foot structure was constructed in 1985 and leased by the Doyles in 1986. For the past 19 years the applicants operated their distributorship in the C-3 Commercial Zone pursuant to Lane Code 16.222 provisions that included *(o) Stores (retail and wholesale) and business uses similar to the above and normally located in a commercial zone . . .*

In the last decade, a shift in soils and water table beneath the concrete floor of the occupied building have resulted in a significant fracture and misalignment of two, now askew, slabs. As a result, the applicants acquired title to the three contiguous properties, tax lots 1300, 1400 and 1500 to the south along College View Road, with the intent to construct a new building and move the dealership to their ownership.

2. Tax lots 1300 and 1400 of TRS map were zoned C-3 Commercial Zone from 1984 to 2002, and tax lot 1400 was previously developed with Irwin Marine Center in a 7,606 square-foot building, which is now used by the applicants for storage of their product line. Tax lot 1300 is a gravel parking lot. Tax lot 1500 is an asphalt parking lot that was zoned M-1, Limited Industrial Zone from 1984 to 2002.
3. In 2002, the applicants' properties and adjacent properties along the east right-of-way of College View Road were rezoned in compliance with the Rural Community Rule (OAR 660-22) and statewide Goal 14. Tax lots 1300 and 1400 were rezoned RC - Rural Commercial (Lane Code 16.291) and tax lot 1500 was rezoned RI - Rural Industrial (Lane Code 16.292). Both zoning designations include limitations on floor area for allowable uses within the zones.

Lane Code 16.291(4)(a) limits commercial development on tax lots 1300 and 1400.

(a) Floor Area and Lot or Parcel Coverage. . . . If not located in an area designated by the RCP as an unincorporated community, no commercial building or combination of commercial buildings

on a lot or parcel shall contain more than 3,500 square feet of floor area for the same commercial use . . .

Lane Code 16.292(3)(b) limits industrial development on tax lot 1500.

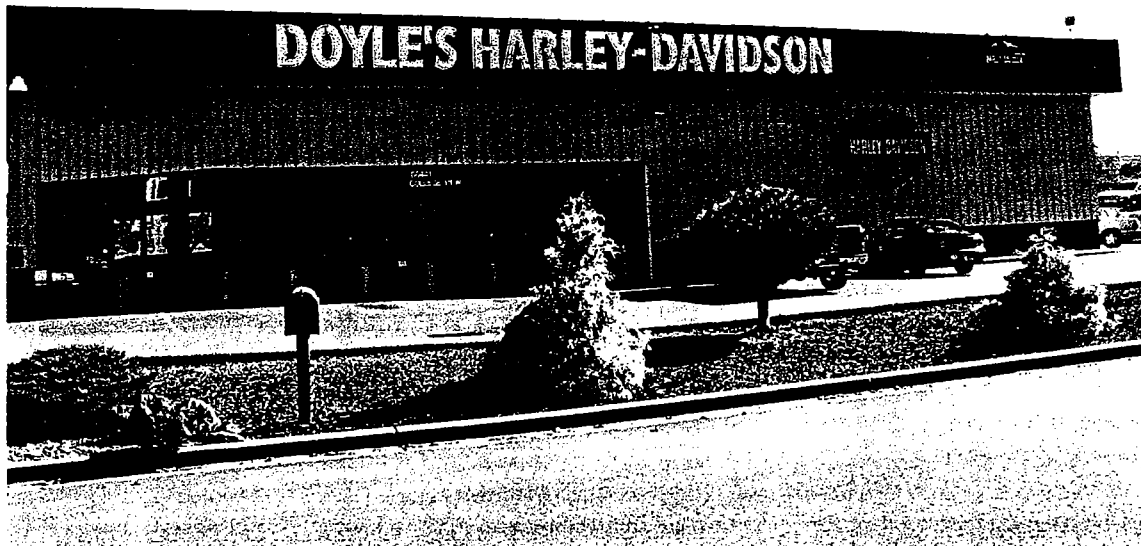
(b) Small-scale, low impact manufacturing, assembling, processing, packaging, storage, wholesale distribution, testing or repairing that does not include radioactive materials or hazardous waste byproducts in the manufacturing process and that may occur outside a building or in one or more buildings containing not more than:

(iii) 35,000 square feet of floor area in any one or combination of buildings on the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

Tax lots 1300, 1400 and 1500 of TRS map 18-03-14 are located in developed & committed exception area 413-2 and are not within the designated boundaries of the unincorporated community of Goshen located to the south along Highway 999 and west of Interstate 5.

4. The applicant's are confronted with a hardship caused by the structural deficiencies of the leased building and a prudent need to move into a safe and healthy environment for customers and staff. The applicants are also faced with limitations in LC 16.291(4)(a) on floor area square-footage for commercial uses which would severely restrict their previous retail operation of approximately 11,000 square-feet to 3,500 square feet without some relief from the standard. Of the original 18,000 square feet, approximately 7,000 square feet was used for warehousing of parts and storage of motorcycles, or assembly and maintenance of the motorcycles for retail display and sales.

Retail store and industrial warehouse occupied by Doyle Harley-Davidson since 1986.



5. The applicants are requesting a zone change on tax lot 1300 to retain 0.45 of-an-acre of the current 0.54 of-an-acre lot in the Rural Commercial Zone (RC) and split-zone the remaining 0.09 of-an-acre as Rural Industrial (RI).

The applicants are also requesting a zone change on contiguous tax lot 1400 to retain a 11.25-foot wide (N-S) strip for a distance of 184 feet (2,070 square feet or 0.0475 of-an-acre) along the northern boundary of tax lot 1400 in the Rural Commercial Zone (RC) and rezone the remaining 0.4925 of-an-acre as Rural Industrial (RI). The rezoning actions would create a rectangular-shaped RC zoned area in the northwestern corner of the two contiguous lots and an “L”-shaped area in the Rural Industrial Zone to the south and east.

If the requests are granted, the applicants, as a condition of approval, would vacate to the current, common property line between tax lots 1300 and 1400 creating a single lot, 1.12 acres in size. The action would allow construction of a building across the zoning boundaries and provide for retail sales in the RC zoned land and industrial warehousing and assembly in the RI zoned land in compliance with LC 16.291 and LC 16.292, respectively.

6. LC 16.292(3)(a) provides for 35,000 square feet for industrial uses on a lot or parcel, in this case the consolidated tax lots 1300 and 1400, which is more than adequate for the industrial aspects of the Harley-Davidson business. Without some relief, the 3,500 square-feet provided for in the LC 16.291(4)(a) for a commercial use would be inadequate for the continuation of the 20-year old, retail business.

As stated in General Finding of Fact 2. above, the existing commercial building on tax lot 1400 is 7,606 square feet. The building qualifies as a lawful nonconforming use predating the application of LC 16.291 to the two properties in 2002. The applicant’s have a right to occupy the existing building for commercial use or replace the building at the same square footage. This right is provided for in the Rural Comprehensive Plan, General Plan Policy – Goal Two, Policy 17:

17. Lane County shall recognize and incorporate into the Lane County Comprehensive Plan all prior land use applications approved since January 1980 with respect to the Statewide Planning Goals to the extent legally possible.

The right is also provided for in Lane Code 16.291(2)(a):

(a) Maintenance, repair or replacement of lawfully (per LC Chapter 16) existing uses and development not authorized elsewhere by LC 16.291.

7. The applicant’s also have the option to exercise a one-time exception to the square-footage standard as provided for in Lane Code 16.291(4)(a):

(a) . . . An exception to the 8,000, 4,000 or 3,500 commercial building square feet floor area requirement in LC 16.291(4)(a) above may be allowed if it complies with these requirements:

(i) The exception shall be adopted by ordinance as part of an amendment to the RCP for a specific lot or parcel.

(ii) The exception shall be for a expansion of up to 50% of the existing square feet building floor area used for commercial uses.

(iii) The existing and proposed commercial uses shall:

(aa) Provides foods and services to primarily rural residents or persons traveling through the area;

(bb) Notwithstanding the small-scale commercial building floor area limits in OAR 660-022-0030(10), comply with OAR 660-022 (for commercial uses located inside unincorporated communities) or with the Statewide Planning Goals (for commercial uses located outside unincorporated communities); and
(cc) Fit within the uses allowed by LC 16.291(2) and/or (3) above.

This exception is addressed in the Findings of Fact and Zone Conformity sections below.

II. Two Subject Properties – Specific Findings of Fact

TRS 18-03-14, tax lot 1300 – 0.54 acre
TRS 18-03-14, tax lot 1400 – 0.58 acre
Property Owners: Janie and Mark Doyle

Findings of Fact

1. The two properties subject to this application, hereinafter referred to as the "subject properties," are located along the eastern right-of-way of College View Road and within the Developed & Committed Exception Area No. 413-2. They can be identified as tax lots 1300 and 1400 of Assessor's map 18-03-14. Tax lot 1300 is developed with a flat gravel parking lot. Tax lot 1400 is developed with a commercial building with a rural address of 86417 College View Road, Eugene, OR 97405.
2. The subject properties, tax lot 1300 and 1400, were lawfully created as Lots 9 and 10, respectively, of the 19-lot Freeway Park subdivision in September 1966.
3. Lane County records verify that the commercial building on tax lot 1400 and the two subject properties were a retail business known as Irwin Yacht Sales dba Irwin Marine Center circa 1994-1997. The building and lots were utilized as a retail business known as Truck Trailer Sales of Eugene Inc. for a period of time beginning in 2000. The building is presently used for storage of inventory by Doyle's Harley-Davidson. The two contiguous subject properties total 1.12 acres in size.
4. The subject properties were designated as C-3 Commercial Zone (LC 16.222) in 1984 in conjunction with adjacent properties along College View Road. In May of 2002, the properties were legislatively rezoned from C-3 to RC Rural Commercial (LC 16.291) in compliance with the Rural Community Rule and Goal 14 as county-wide amendments within all developed & committed exception areas outside designated unincorporated communities.
5. The proposed commercial use of the subject properties is an allowable use in the Rural Commercial Zone (RC) and similar to other commercial uses provided for in *Lane Code 16.291(3)*:
 - (a) Retail trade of products, including: food, new general merchandise, second-hand general merchandise in an enclosed building; and building materials, hardware or farm equipment.*
 - (q) Recreational vehicle or boat storage, sales, repair and subordinate boat building that comprises less building floor area that used for boat sales or rentals.*
 - (s) Outdoor car or truck sales lots, indoor truck or auto repair, and not including the outdoor storage of inoperable vehicles.*

The proposed commercial use complies with the Purpose statement of LC 16.294(1)(b) Purpose: *The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products and services needed by rural residents or by people traveling through the rural area;*