

6. The proposed industrial use of the subject properties is an allowable use in the Rural Industrial Zone (RI) provided for in *Lane Code 16.292(3)*:

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

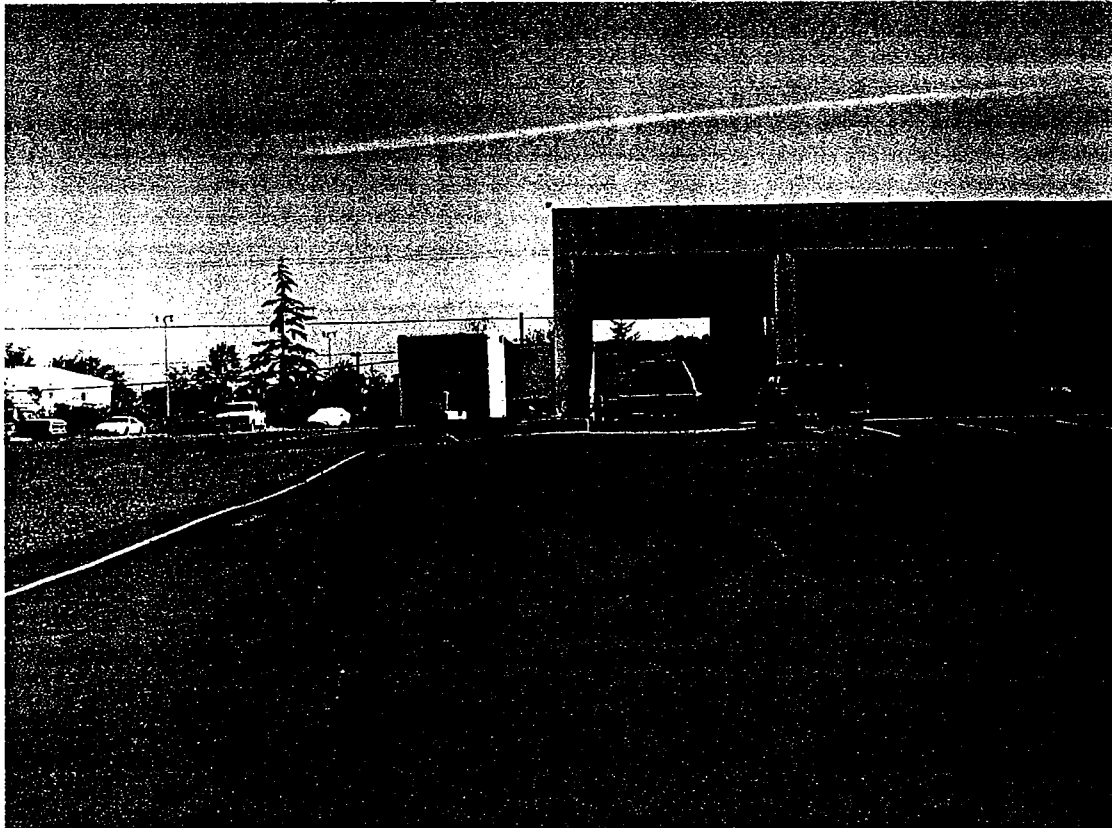
(iii) 35,000 square feet of floor area in any one or combination of buildings or the same parcel or lot located in an exception area that is not designated by the RCP as an unincorporated community.

The proposed industrial use complies with the Purpose statement of *LC 16.294(2)(b) Purpose: The purposes of the Rural Industrial Zone (RI-RCP) are . . . to allow industrial uses and development that are consistent with Goal 14 and that include areas for small scale industrial uses . . . ; to allow continued operation of existing industries;*

7. There is no record of any compatibility issues occurring between Doyle's Harley-Davidson dealership on tax lot 1200 to the north or their operations on the subject properties and their neighbors since the dealership was established in the 1986.
8. Existing structures and uses on the subject properties include:

Tax lot 1400 of TRS map 18-03-14

Irwin Marine Center – existing 7,606 sq. ft. commercial building viewed from west (College View Road)

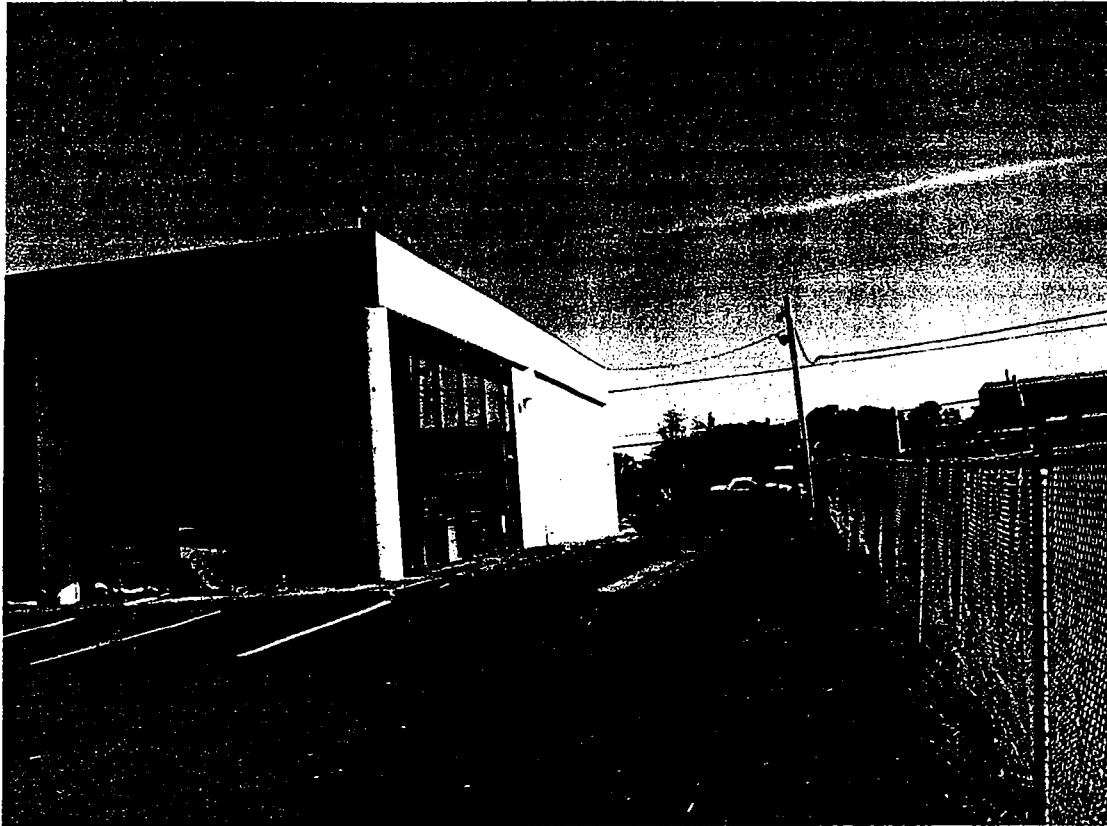




“Irwin Marine Supply” building viewed from north. (below photo)

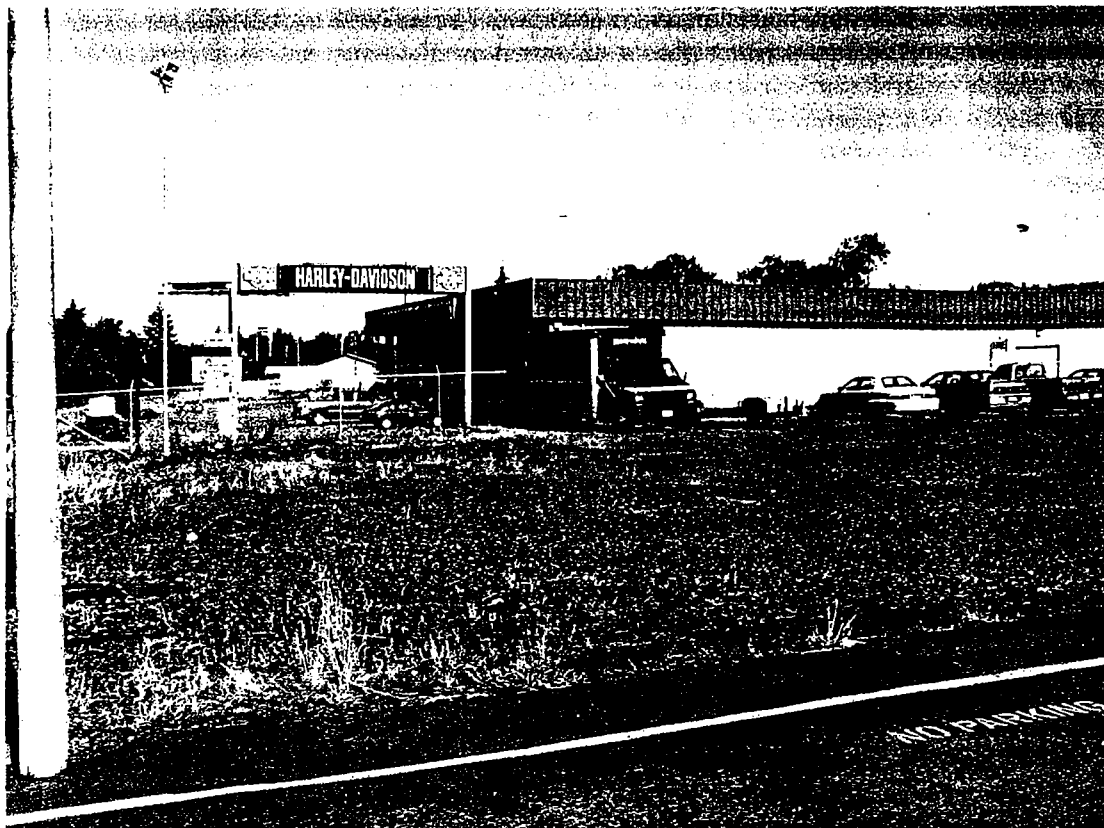


Southern exposure of "Irwin Marine Center", boundary of tax lot 1400 and tax lot 1500.



Tax lot 1300 – gravel parking lot viewed from tax lot 1400 looking north. (below and next page).





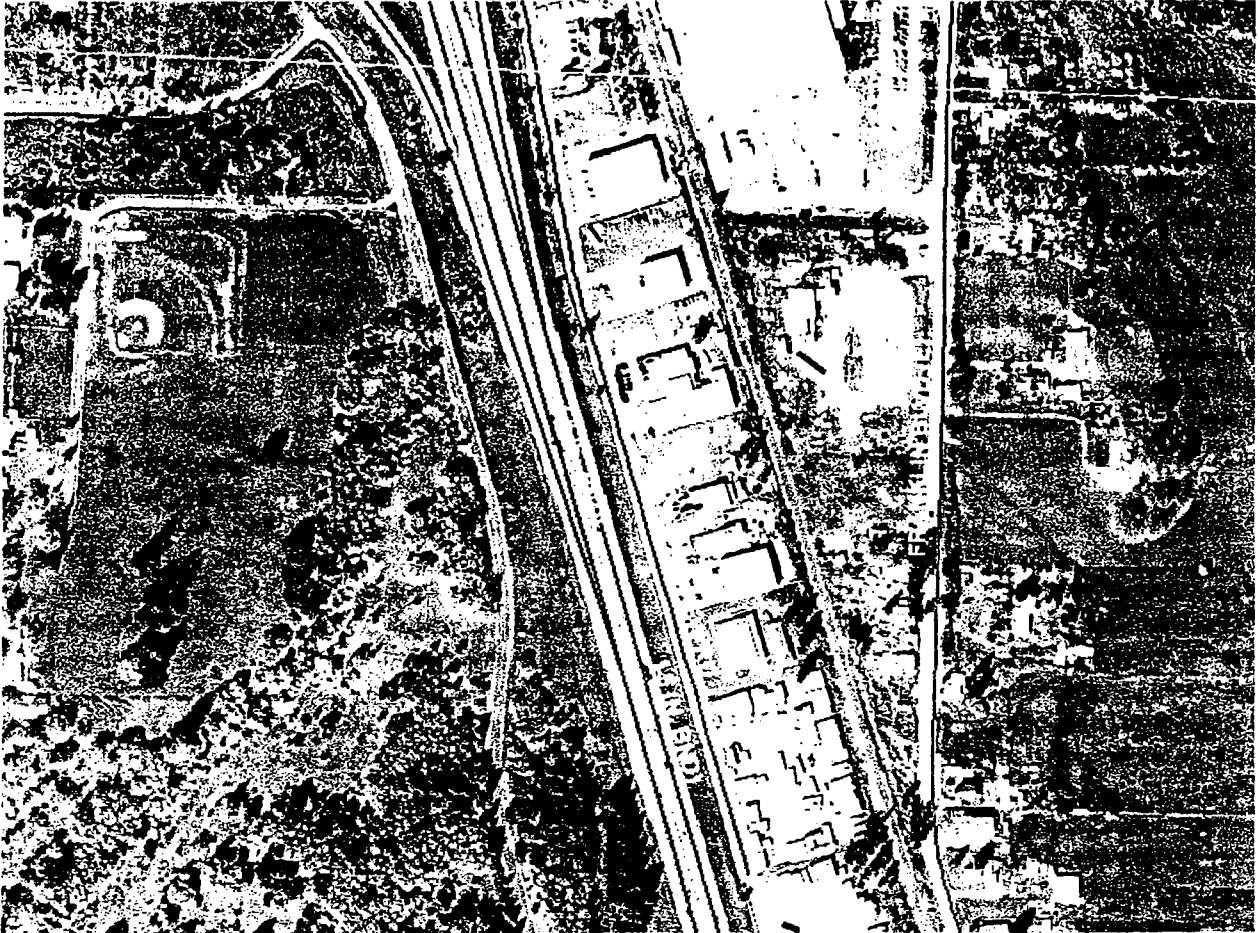
9. Existing uses along College View Road to the north and south of the subject properties include:

Commercial uses: TECO (testing of equipment and structural components)
Northwest RV Supply (retail of recreational vehicle parts and accessories)
The Baron's Den (gun shop and shooting range)

Industrial uses: Northwest Stamping and Precision (manufacturing and distribution)
Rosen Sunvisor System (manufacturing and distribution)
Wrico International Generators (wholesale distribution)
Crowley Equipment Company (heavy equipment sales)
Western Storage Trailers (conex containers and trailer storage/sales)

10. Lands to the north of the subject properties are zoned Rural Commercial RC (LC 16.291). Lands to the south are zoned Rural Industrial RI (LC 16.292). Lands to the east are zoned Rural Industrial RI (LC 16.292). The exposure to the west includes the right-of-ways of College View Road and parallel to it, Interstate 5.
11. 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 from the Willamette Water Company.
12. The subject property receives the following public services: Eugene School District #4J (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.

13. An 2004 aerial view of the commercial and industrial development in the vicinity of the subject properties illustrates the developed status and mix of uses in the vicinity of the subject properties.



III. 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:

1. Acknowledge the “commercial” and “industrial” uses of the existing Doyle’s Harley-Davidson distributorship on tax lot 1200 which were established adjacent to the subject properties in 1986;
2. Acknowledge the existing commercial development on the subject properties, tax lots 1300 and 1400; and
3. Apply zoning designations on the subject properties in conformity with the existing commercial and industrial uses of the Doyle’s Harley-Davidson distributorship with the proposed commercial and industrial uses on the subject properties.

(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 within developed & committed exception area No. 413-2, 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 continuation of the commercial and industrial aspects of the applicant’s business that have co-existed with other commercial and industrial uses within the “business park” created by plat along College View Road in 1966 and developed over a 20-year period between 1966 to 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 subject property is enveloped by developed and committed lands. Rural Commercial and Rural Industrial (RR5) lands envelope the subject properties to the north, east and south. Three major transportation corridors, Southern Pacific Railroad and Highway 99 to the east and Interstate 5 to the west, traverse the area along north-south axis. The lands further to the east are developed with the Emerald People’s Utility District headquarters and support facilities on the four properties. The closest EFU lands are located approximately 400 feet to the west and separated from the subject property by the Interstate 5 (I-5) right-of-way.

The Doyle distributorship has occupied the present location since 1986 without any known impacts on resource lands in the vicinity and no foreseeable impacts or increased commitment to

nonresource uses from these proposed zone changes and relocation of the business have been identified for the EFU lands to the west or east.

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

D&C Area #413-2 includes Rural Residential development along Seavey Loop Road to the east, extensive commercial and industrial development along College View Road, consolidated public facility uses to the east, and extensive industrial uses along Seavey Loop Road and Franklin Road to the east and southeast.

The Doyle business has been providing a service in Lane County and southern Oregon for 19 years (1986) and the record indicates these uses have been compatible with the resource use of forest and agricultural lands in the adjoining sections to the east and west.

These proposed zoning changes, as they can be restricted to the uses that exist, is in accord with the requirements of state law.

B. Plan Conformity

The subject properties are located in developed and committed exception area number 413-2 of Lane County, and 4,500 feet southeast of the urban growth boundary of the City of Eugene. They are proposed to be split zoned after consolidation with a portion designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural Industrial (RI), and a portion designated Commercial and zoned Rural Commercial. 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.

Refer to Zone Conformity section below for findings addressing these criteria.

Lane Code 16.003 Purpose.

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 1300 and 1400 of TRS 18-03-14) are excavated sites with no identified hazards due to slope, grade or terrain features.

Development of the 19 lots of the Freeway Park as commercial and industrial zones from 1984 to 2002 has been orderly and through application of land use regulations providing for the current uses. The resulting industrial and public facility uses within the lots have not contributed any identified adverse impacts to the immediate area or resources.

The development of the subject properties with the commercial and industrial uses will require compliance with the applicable criteria and siting standards of the base zones [Lane Code 16.291 (RC) and Lane Code 16.292 (RI)] at the time of review of the construction project plans.

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

Re-designation of the subject properties will allow continuation of an existing business and diversification of the current uses 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 preserve the established commercial activities and provide for the industrial activities associated with the applicant's business. Currently zoning districts limit the blend of these two activities under one operation thus the applicant's are seeking a split-zoning to accommodate the two essential aspects within one structure on one property.

Lane Code 16.014 Plan Designation and Zoning Maps.

Applicable criteria from the *Lane Code 16.014* subsection include:

(7)(h) Except as hereinafter noted, where a zone boundary divides an ownership of property, unless the same is indicated by dimensions, map coordinates or similar notation, the boundary shall be determined by the use of scale appearing on the Zoning Map . . .

The circumstances surrounding these amendments require specific dimensions delineating the zoning boundaries which will be carried forth to the construction drawings to define commercial and industrial uses within a single structure.

After consolidation of tax lots 1300 and 1400 into one parcel of 1.12 acres, the zoning district boundaries of the Rural Commercial Zone (RC) subject to Lane Code 16.291 shall have the following metes and bounds:

Beginning at the northwest corner of tax lot 1300 with College View Road, east along the northern property line for a distance of 173 feet, 2 inches; south through the subject properties (1300 and 1400) a distance of 110 feet, 8 inches; west parallel to the northern property line for a distance of 184 feet, 6 inches to the right-of-way of College View Road; hence north along the western property line and right-of-way for a distance of 112 feet to the point of beginning.

The above metes and bounds defines a trapezoid of approximately 0.45 of-an-acre for development of commercial uses. The remaining, "L"-shaped zoning district of approximately 0.67 of-an-acre defines the area for development of industrial uses. Refer to Exhibit "C" -- Zoning Boundaries and

Schematic First Floor Plan. The RC and RI boundaries are highlighted on the Schematic illustrating the proposed construction of the distributorship with the interior dimensions and defined activities and uses for both first and second floors therein.

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 the subject properties will provide an opportunity for continuation and growth of the existing commercial and industrial uses associated with the Doyle Harley-Davidson distributorship. The proposed rezoning will also allow the redevelopment of the subject properties with a use currently on another property to the north. The current uses are and the relocated uses will be served by the Willamette Water Company and therefore will not alter the use or availability of groundwater that is currently provided to the overall use in the area.

In the event that more intensive uses are proposed for 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) [RC] or Lane Code 16.292(4)(i) [RI] *“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 commercial and industrial uses on tax lot 1200 abutting the subject properties have co-existed since 1986 with the agricultural and forest product industries in the surrounding area. The nearest EFU E25 resource lands are located 400 feet to the west across Interstate 5 and over 1,000 feet to the east across Franklin Boulevard. By definition, “exception areas” including commercial and industrial uses occur adjacent to resource lands in the rural areas. The proposed development and any expansion or intensification of the proposed facility in the future would require compliance with Lane Code 16.291(4) or 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”.

The existing, dense commercial and industrial development along Seavey Loop Road, Franklin Boulevard, and College View Road effectively buffer any developed & committed uses on the properties from the management of resource parcels in the vicinity.

- 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 Eugene East 4 quad of the National Wetlands Inventory for the two subject properties proposed for rezoning. Past development on 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 two 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, and 3 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 0.54 to 0.58 acres. None have been managed for the production of crops, livestock or timber products for the past forty years. The subject properties have been used for commercial or industrial 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 commercial and industrial 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.*

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 subject properties are not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1144 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 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 Doyle distributorship on the adjacent property strongly suggests that there is a need for this specific use in this area.

c. Lane Code 16.291 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 rural residents or by persons traveling through the rural area . . .*

The proposed rezoning and uses on tax lots 1300 and 1400 are consistent with these purposes.

Lane Code 16.292(1) states that one of the purposes of the Rural Industrial Zone is (1)(b) *To allow industrial uses and development that are consistent with Goal 124 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 continued operation of existing industries . . .*

The proposed rezoning and uses on tax lots 1300 and 1400 are consistent with these purposes.

d. Lane Code 16.291(4)(a)

The applicant’s also have elected to exercise a one-time exception to the square-footage standard for a commercial use 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.

This exception to the 3,500 square foot, floor area limitation is a part of this Ordinance No. PA 1226.

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

The Irwin Marine Center conducted a retail sales operation in the existing structure with a floor area of 7,606 square feet. Fifty percent of 7,606 square feet is 3,802 square feet. The existing floor area and the allowable expansion for floor area equals 11,407 square feet.

The applicant is requesting approval for an exception to allow 11,301 square feet of commercial space in the proposed building which is less and complies with the maximum allowable.

(iii) The existing and proposed commercial uses shall:

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

The Doyle Harley-Davidson distributorship has served the southern Oregon region since 1986 on a site within developed and committed exception area number 413-2. The dealership serves rural and

urban riders as well as persons traveling to the business, or traveling through the area and requiring services.

(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

The applicants seek approval for an exception to the 3,500 square foot limitation *for commercial uses located outside unincorporated communities.*

(cc) Fit within the uses allowed by LC 16.291(2) and/or (3) above.

The existing commercial and industrial uses were allowable uses in the C-3 Commercial Zone (LC 16.222) in 1986. The more restrictive Rural Commercial (LC 16.291) and Rural Industrial (LC 16.292) zones do not address a mix of commercial and industrial uses as separate but combined aspects of a single business. For this reason the applicants are required to pursue a split-zoning to continue the 20-year old business.

LC 16.291(3)(c-c) provides for *Expansion of a lawfully existing commercial use that shall: (ii) Not result in more than a 50% increase in the total square foot floor area devoted to the commercial use that existed on the subject lot or parcel when LC 16.291 became applicable to the subject lot or parcel;*

The Irwin Marine Center was constructed on tax lot 1400 and occupied as a commercial use in 1986.

LC16.291 standards were first applied to the subject properties in May 2002.

LC 16.291(3)(a) also provides for the *Retail trade of products . . .*

LC 16.292(3)(b) allows *Small-scale, low impact manufacturing , assembling, processing, packaging , storage, wholesale distribution, testing or repairing . . . 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.*

The proposed floor area devoted to industrial uses within the proposed building is 12,906 square feet on the first floor and 12,234 square feet on the second floor for a total of 25,140 square feet. The exception complies with the allowable use and standard.

(iv) No more than one exception pursuant to LC 16.291(4)(a) shall be allowed for the same lot or parcel.

Adoption of this exception will preclude any other processing of an exception on tax lots 1300 and/or 1400 pursuant to this provision.

The applicant's request for an exception complies with the applicable criteria and standards of LC 16.291(4)(a)(i)-(iv).

e. 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 subject properties receive service from an existing water system, Willamette Water Company.

The 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.

IV. Conclusions

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of amendments of the Official Plan and Official Zoning designations for the consolidated 1.12 acres of TRS 18-03-14, tax lots 1300 and 1400 from Rural Commercial (RC) to a split-zoning of Rural Commercial (RC) and Rural Industrial (RI) have been met.

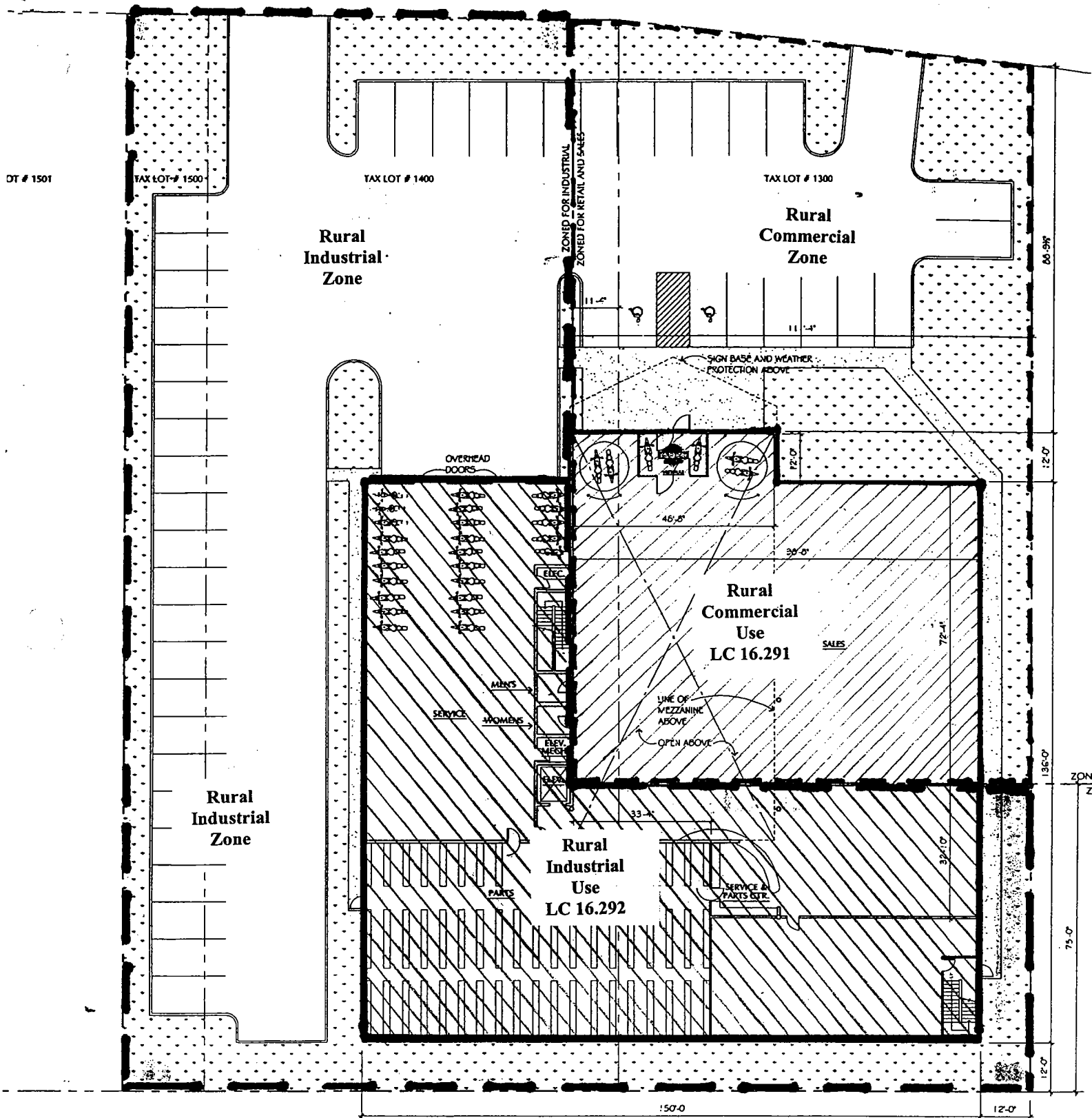
V. Recommendations

1. Approval of PRZC Control No. 8 of Ordinance No. PA 1226, amending the Official Plan Map No. 413-2 designation for 0.45 of-an-acre of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14, as Rural Commercial (RC); and
2. Approval of PRZC Control No. 8 of Ordinance No. PA 1226, amending the Official Zoning Map No. 413-2 designation for 0.67 of-an-acre of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14, as Rural Industrial (RI); and
3. Approval of an exception to the floor area regulations of LC 16.291(4)(a) to allow 11,301 square feet of floor area for commercial use within the 0.45 of-an-acre Rural Commercial (RC) Zone of the combined 1.12 acres of tax lots 1300 and 1400 of Assessors Map TRS 18-03-14.

VI. Exhibits

- A. Plan Map No. 413 with proposed plan amendment depicted.
- B. Zoning Map No. 413 with proposed zone change depicted.
- C. Zoning Boundaries and Schematic First Floor Plan.
- D. Lane County Assessor's Map TRS 18-03-14

C. Zoning Boundaries and Schematic First Floor Plan.



SCHEMATIC FIRST FLOOR PLAN



0' 4' 16'

1/16" = 1'-0"
 FLOOR SLABS AREA CALCULATION:
 PREVIOUS EXISTING BUILDING FOOTPRINT: 90'x84'-6" = 7,606 S.F.
 50% INCREASE, 7,606 S.F. x .5 = 3,802 S.F.
 7,606 S.F. + 3,802 S.F. = 11,407 S.F. (TOTAL ALLOWABLE SALES AREA)
 TOTAL PROPOSED SALES AREA INCLUDING MEZZANINE = 11,301 S.F.

CHECK SET
 THIS DRAWING IS
 PRELIMINARY
 AND
 INCOMPLETE
 IT IS NOT TO BE USED FOR
 PERMITTING
 OR
 CONSTRUCTION

NEW HARLEY DAVIDSON BLDG
DOYLE'S HARLEY

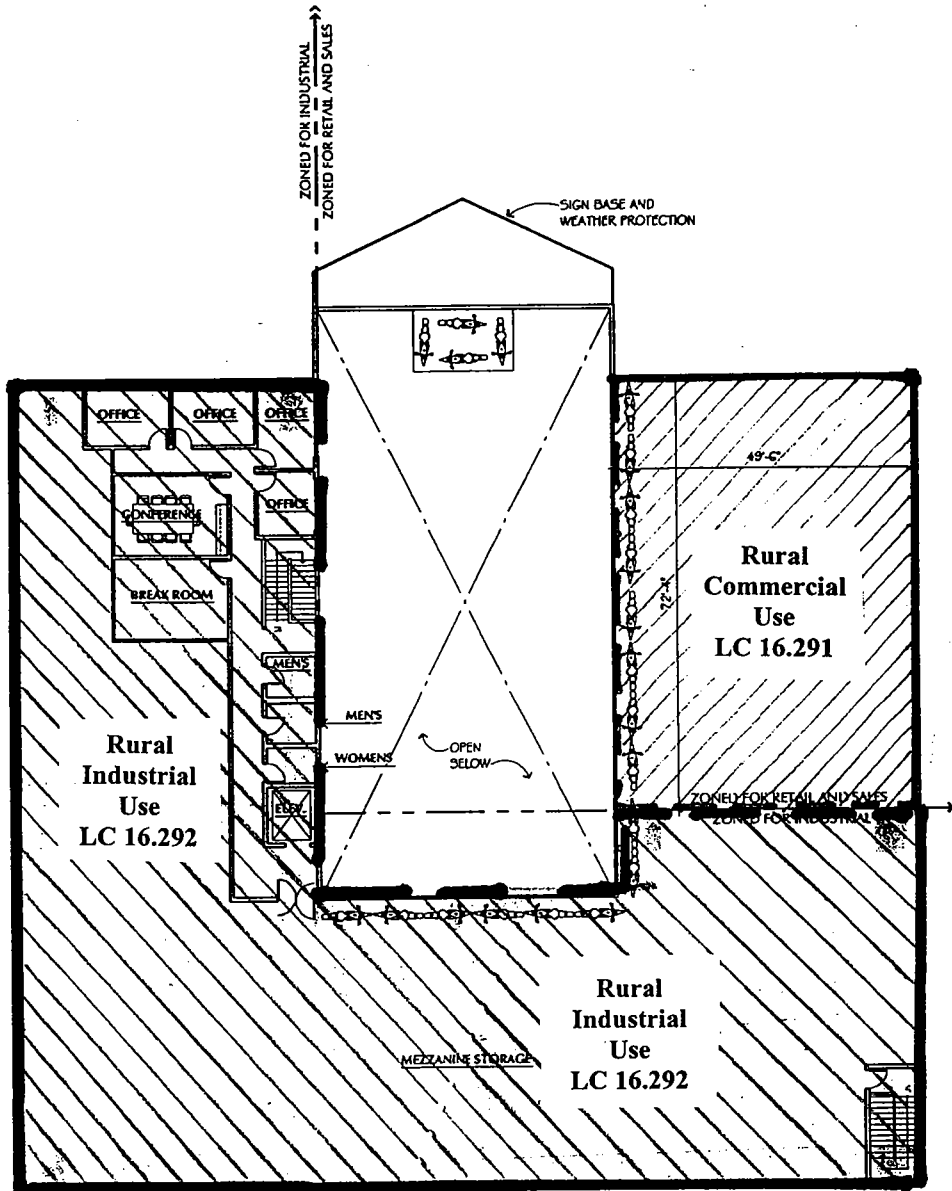
PROJECT ADDRESS
 CITY & ZIP

**SCHEMATIC
 SITE PLAN
 & FLOOR
 PLANS**

PROJECT # 200430
 DRAWN Q
 CHECKED JEL
 DATE 8-17-05

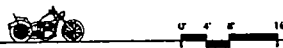
SHEET

A1



SCHEMATIC SECOND FLOOR PLAN

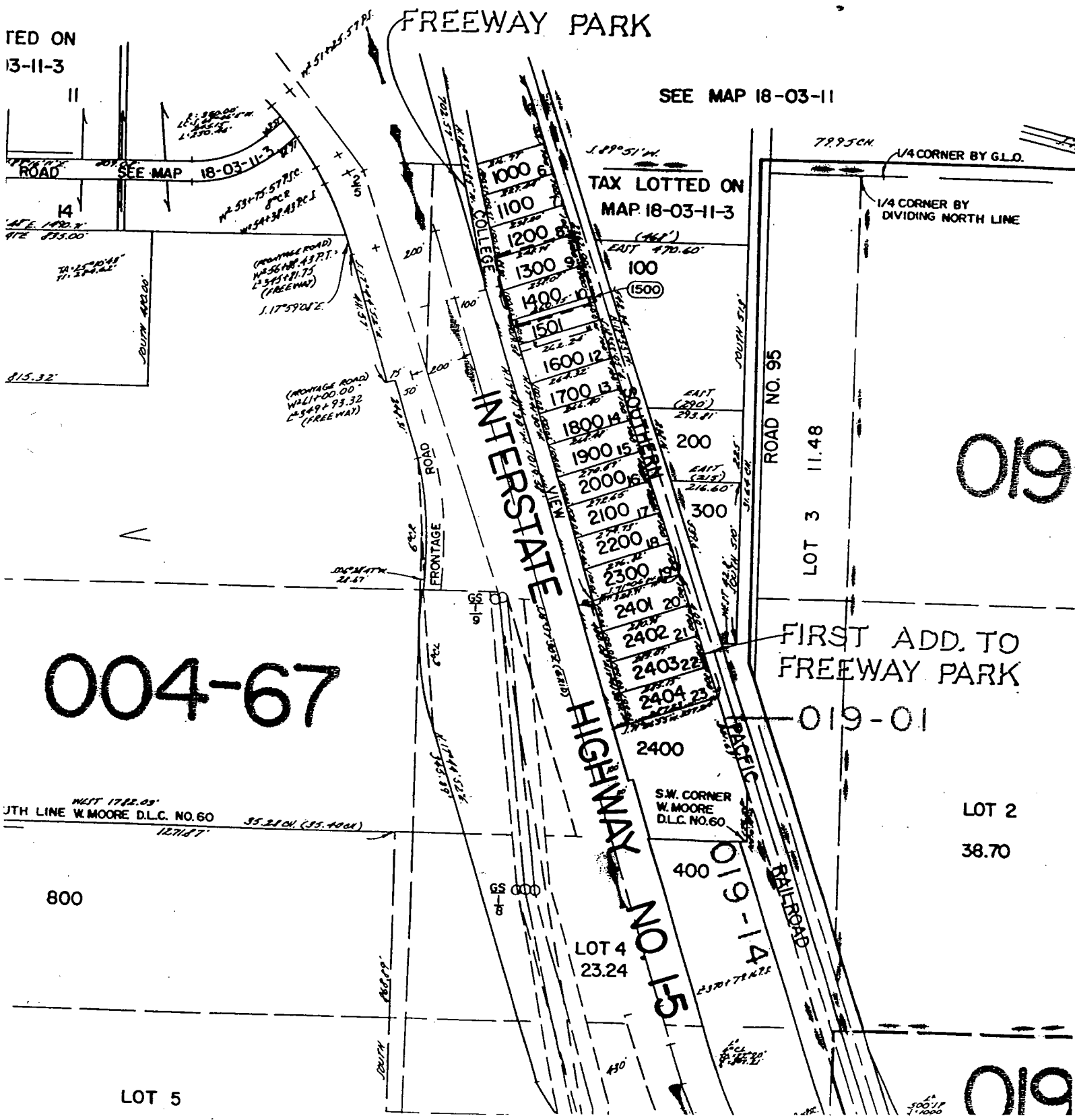
1/16" = 1'-0"



Section 14 T. 18 S. R. 3 W.W.M

LANE COUNTY

1" = 400'



FED ON 13-11-3

FREEWAY PARK

SEE MAP 18-03-11

TAX LOTTED ON MAP 18-03-11-3

1/4 CORNER BY DIVIDING NORTH LINE

004-67

019

FIRST ADD. TO FREEWAY PARK

019-01

LOT 2

38.70

LOT 4 23.24

LOT 5

019

Exhibit No. C-9

PAPA Control No. 9

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

Rural Community of Goshen
Developed & Committed Exception Area No. 413-1

Plan Amendment and Zone Change for:

Tax lot 2401 of Assessor's Map TRS 18-03-23.1

TRS - Tax lot	Acres	From/Action	To
18-03-23.1, 2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C)

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<u>II. Findings of Fact In Support of Zone Change for Subject Property</u>			<u>3</u>
TRIS 18-03-23.1	tax lot 2401	0.28 acre	
<u>III. Justification for the Conclusions and Recommendations</u>			
A. Statewide Planning Goals			
B. OAR 660-022-0030(6), (7), (8) -- Unincorporated Community Rule			
C. Plan Conformity			
D. Zone Conformity			
<u>IV. Conclusions</u>			
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<u>VI. Exhibits</u>			

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 16.290 - *Rural Industrial Zone*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

Rural Community of Goshen

Exception Area Plots: No. 413, Area 1; No. 414, Area 1; No. 426, Area 3; No. 427, Area 2.

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

This proposed amendment to the Official Plan Map and Zoning Map Plot No. 413 would rezone one property (TRS 18-03-23.1, tax lot 2401) and 0.28 of an acre from Rural Industrial (RI/C) to Rural Commercial (RC/C).

The unincorporated Rural Community of Goshen is situated south and west of the Interstate 5 (I-5) highway and straddles Highway 99 which dissects it on a north to south axis. Goshen extends across sections lines into four developed & committed exception area plots. It is located approximately four miles north of Creswell and three miles southeast of Eugene.

The “community” of Goshen was originally established as the Goshen Plat on October 15, 1889. The plat includes the area currently situated between “A” Street to the north and “C” Street to the south with the western boundary being the “county road” now known as Highway 99, and the eastern boundary being 1st Street. The Plat was expanded in 1890 extending to “D” Street to the south and 2nd Street to the east. In final form the two plats included six square blocks with 48 rectangular parcels with dimensions of 80 feet by 160 feet and 12,800 square feet in size. In the past 115 years the residential core of the unincorporated rural community of Goshen has significantly changed to the point that the western quarter running north to south along Highway 99 is a mixture of rural commercial and rural industrial designations and uses, whereas the center of the eastern half includes the Goshen School with a rural public facility designation.

Goshen evolved into a commercial and industrial center which was acknowledged in 1984 with the adoption of the zoning designations and the Rural Comprehensive Plan. The core lay out by the Goshen Plat and the conveyance of small parcels to the south by deeds and contracts during the period of 1940–1960 resulted in a very densely developed rural setting of mixed uses. The average size of a parcel is skewed by the presence of the three large industrial tracts aligned along the western right-of-way of Highway 99.

Four designated service areas are served by the Willamette Water Company. Area “A” is the largest and includes the rural community of Goshen as well as a developed & committed exception area to the north parallel to College View Road which is not within the community boundary and an Area “B” to the northwest along McVay and Bloomburg Roads within the

Metro Plan boundary. Two smaller areas "C" and "D" to southeast receive service. The Willamette Water Company has 86 connections for residential uses and 56 connections that are either industrial or commercial uses.

All of the subsurface sanitary systems are site specific and no identified community sewer system is operating within the community of Goshen

Services are provided to the rural community of Goshen (Levy code 019-19) by:

Electricity:	Emerald Peoples Utility District
Water:	Willamette Water Company
Fire/Ambulance:	Goshen Rural Fire Protection District
School:	Springfield School District #19
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police

II. Findings of Fact in Support of Zone Change for Subject Property

TRS 18-03-23.1, tax lot 2401, 0.28 of an acre.

Property Owner: Bruce E. and Sally A. Brooks

Proposed change in zoning designation from Rural Industrial (RI-C) to Rural Commercial (RC-C).

Findings of Fact

1. The property subject to this amendment, hereinafter referred to as the "subject property," can be identified as tax lot 2401 of Assessor's Map TRS 18-03-23.1. The subject property is a rectangle shaped parcel, 0.28 of an acre in size with direct access to "B" Street along its southern boundary. The subject property is developed with The Auto Doctor in a structure that served as the Goshen Rural Fire Department fire substation in the 1980s
2. When Goshen was designated as a "community" in the Rural Comprehensive Plan in 1984, the subject property was designated as Light Industrial Land Zone (M2) with Commercial Zone (C3) to the north and south.
3. The property owners, Bruce and Sally Brooks, are requesting a zone change for the subject property to Rural Commercial (RC-C), that would provide the parties with the option to continue operating the existing facility as a rural commercial use as provided for in Lane Code 16.291(3)(h) or (s):

(3)(h) Service stations and auto repair garages; or

(3)(s) Outdoor car or truck sales lots, indoor truck or auto repair, and not including the outdoor storage of inoperable vehicles.

The existing structure and use are depicted in the photograph below:

Photo: The Auto Doctor (October 2004) – tax lot 2401, TRS 18-03-23.1



4. The subject property is not within an area identified as a “water quantity limited” area in Lane Manual 13.010. The subject property is served by the Willamette Water Company.
5. There are no apparent wetlands on the subject property, per NWI map Cottage Grove NE1.
6. All of the soils present on the subject property are Urban Land-Hazelair-Dixonville Complex (126), with a Douglas fir site productivity rating of 68 cubic feet per acre per year and is listed as agricultural capability class 8, which is considered non-high value in Lane County’s inventory.
7. The subject property is in the interior of developed & committed exception area No. 413-1 that is east of the right-of-way of Highway 99 and north of “B” Street. It is separated from the management practices of nearby farm or forest operations on four sides:
 - Rural Industrial (RI) lands and an operating lumber mill are situated between Highway 99 and resource lands 1,400 feet to the west of the subject property;
 - Rural Residential (RR1) and Rural Public Facility (RPF) lands are designated to the east over a distance of 1,700 feet between the subject property and Interstate 5;
 - To the north and south, there are Rural Commercial (RC) and Rural Industrial (RI) properties and uses extending in both directions along Highway 99.
8. Prior to 1983, the subject property had been occupied by the Goshen Rural Fire Protection District fire station. The Goshen RFPD constructed a new facility on lands to the northeast within the rural community of Goshen in 1983 and moved the use to the new site.

9. After adoption of the zoning designation of Public Facility (PF) for the subject property as a component of the Rural Comprehensive Plan in August 1984, the Goshen RFPD received approval from the Lane County Hearings Official (PA 2718-84) on November 7, 1984 for rezoning from PF to Light Industrial (M2).
10. On June 15, 2005, the zoning designations of Light Industrial (M2) were amended to Rural Industrial (RI) in compliance with the Rural Community Rule and of the adopted and acknowledged Periodic Review Work Program for the Coast Fork Willamette Watershed.
11. The subject property and structure has been occupied by commercial uses for the past 20 years including a transmission repair shop and currently an auto repair shop. The current use, The Auto Doctor, is owned and operated by the applicants and is illustrated above.

Conclusion

The designation of Rural Commercial (RC/C) for tax lot 2401 of TRS 18-03-23.1 on the zoning diagram of Plot No. 413 is justified by the above findings of fact.

III. 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 amendment and zone change requested by this application are intended to amend the Rural Industrial (RI/C) zoning on tax lot 902 of TRS 20-03-15.2.3, to Rural Commercial

(RC/C), to comply with the long standing use of the property for commercial uses. The current use is an allowable use pursuant to LC 16.291(3)(h) or (s).

(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 are located within to the rural community of Goshen and is 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

Approximately 95% of the rural community of Goshen is within Developed & Committed Exception Area # 413-1 and the subject property is within the core of the original Plat of Goshen. There is no evidence in the record that the facilities and uses in the past on the subject property or within the community have committed nearby resource lands to nonresource uses. The public record indicates that the prior uses have been compatible with farm and forest industry's use of the Impacted Forest (F2) and Exclusive Farm Use (E40) lands located in excess of 1,200 feet to the west, southwest and southeast.

The adjacent Forest Lands (F2) and Agricultural Lands (E40) have been managed for decades on the periphery of the rural community boundaries of Goshen without conflict from the communities' facilities and uses. No foreseeable impacts to resource lands have been identified resulting from the amendment to the subject property in the interior of the community of Goshen.

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

The community of Goshen includes relatively dense rural residential, rural commercial, rural industrial, and rural public facility uses. The rural commercial uses are a mixture of retail sales that normally support small communities. All properties within the rural community are served by the Willamette Water District and onsite subsurface sanitation systems. The Goshen Elementary School, Willamette Water District, church and Goshen RFPD fire station provide essential public services. Old Highway 99 through the center and Interstate 5 on the eastern boundary of the community intersect at the northern end community and link the community with the urban areas of Eugene to the north and Creswell four miles to the south.

The residential, commercial, industrial 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 Goshen and there is no foreseeable way that the continued operation of the existing structure or the existing commercial uses could pose any new adverse impact to management of farm or forest lands in the vicinity. Any new commercial use proposed on tax lot 2401 of TRS 18-03-23.1 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).

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 the subject property to Rural Commercial (RC/C). Operation of the existing auto repair garage is one of the common uses to be found in rural settings and has been found to be compatible with draw-down on groundwater resources, disposal of septic waste, and use of public transportation corridors.

The subject property has a developed access point to a public road, "B" Street, and the current uses are compatible with the capacity of the public road.

(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 Rural Commercial (RC/C) zone. The criteria of LC 16.291(4)(e), (f), (g) and (h) requires that in the event a new commercial use is proposed on the subject property 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 change has been identified. No need to reduce automobile travel by citizens of Goshen or the general traveling public to or through the rural community is warranted. Use of the county road system and two state highways is essential to the tourism and local trade that supports the commercial development in Goshen, the current employment options in Goshen, and any potential development of the proposed commercial property, 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 require Planning Director approval and compliance with LC 16.291(4)(i) criteria: *"(i) 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 the existing use or implementation of new uses within the RC/C zone require Planning Director approval and compliance with LC 16.291(4)(j) criteria: *"(j) 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 subject property is located in "developed and committed" Exception Areas No. 413-1, which is part of the unincorporated rural community of Goshen. It is proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC/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 property was defined, in part, by the existing operation on the subject property. There have been well-received services for decades to the public by the commercial uses located on the subject property. Those uses will still be available for the foreseeable future and provide services directly in support of the livability of the rural community of Goshen.

There is no evidence in the public record for one to conclude that the existing use on the subject property has significantly affected surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the site.

While the impacts from the existing use appears 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 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 use. 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.

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 adjacent to Old Highway 99. The property being considered for rezoning reflects existing structures or use within clustered commercial and industrial development. The proposed rezoning of the subject property to Rural Commercial will augment the employment and commercial uses 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) *“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. Findings of Fact in Support of Zone Change for 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 operation on the subject property and the current commercial services within the rural community of Goshen have co-existed for decades with the agricultural and forest product industries in the surrounding area. The existing development on the subject property has existed for decades as a part of the community of Goshen without any known adverse impacts on forest operations in the area.

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 identified on the Cottage Grove NE1 quad of the National Wetlands Inventory for the subject property. Therefore, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

Conclusion

The proposed zone change for the subject property is 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 request for the subject property, tax lot 2401 of TRS 18-03-23.1, is to conform the zoning designation with the commercial development of the property which has spanned the past twenty years.

Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.291(4), 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 is small, 0.28 of an acre in size, and in the center of a developed & committed exception area. It has not been managed for the production of crops, livestock or timber products for the past 100 years. Due to the location of the subject property and its development with structures, it could not 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 Rural Commercial (RC/C) for the subject property 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 property is not, or need not be, contrary to the public health, safety convenience and welfare in that it is 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 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 acknowledging existing commercial uses, and promoting employment and commercial services in this area. While the potential impacts of the existing 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 future uses to which the property could be put could change in time. This application does not include a compatibility analysis of all conditional uses in the Rural Commercial (RC) zone. To provide a level of comfort for the residential properties to the east, the special use permit processes of LC 16.291(3) and the site review criteria of Lane Code 16.291(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.*

The proposed zone change and current use 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 property is not located in an area identified as being water quantity limited. The property is serviced by the Willamette Water District. Any future partitioning or change of use would by necessity have to comply with the District’s capacities 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 amendment of Plot No. 413 Official Plan and Official Zoning designations for the subject property have been met:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C).

VI. RECOMMENDATION

1. Approval of PRZC Control No. 9 of Ordinance No. PA 1226, amending the Official Plan Map No. 413 designation for the following subject property:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Industrial (I)	Commercial (C).

2. Approval of PRZC Control No. 9 of Ordinance No. PA 1226, amending the Official Zoning Map No. 413 designations for the following subject property:

TRS	Tax lots	Acres	From	To
18-03-23.1	2401	0.28	Rural Industrial (RI/C)	Rural Commercial (RC/C).

VII. EXHIBITS

- A. Amendments to Official Plan Map #413
 - B. Amendments to Official Zoning Map #413
 - C. Assessor Map TRS 18-03-23.1, depicting tax lot 2401 amendment.
 - D. Aerial photograph of subject property.
-
-

C. Assessor Map TRS 18-03-23.1, depicting tax lot 2401 amendment.

NE1/4 SECTION 23 T.18S. R.3W. W.M.
LANE COUNTY

18 03 23 10
NAD 83/91

SCALE 1" = 200'

004-67

SEE MAP 18 03 14 4

SEE COR
WAS RECORDS
D.L.C. 40

FOR ASSESSMENT
AND TAXATION
ONLY

Tax lot 2401
RI to RC

019-15

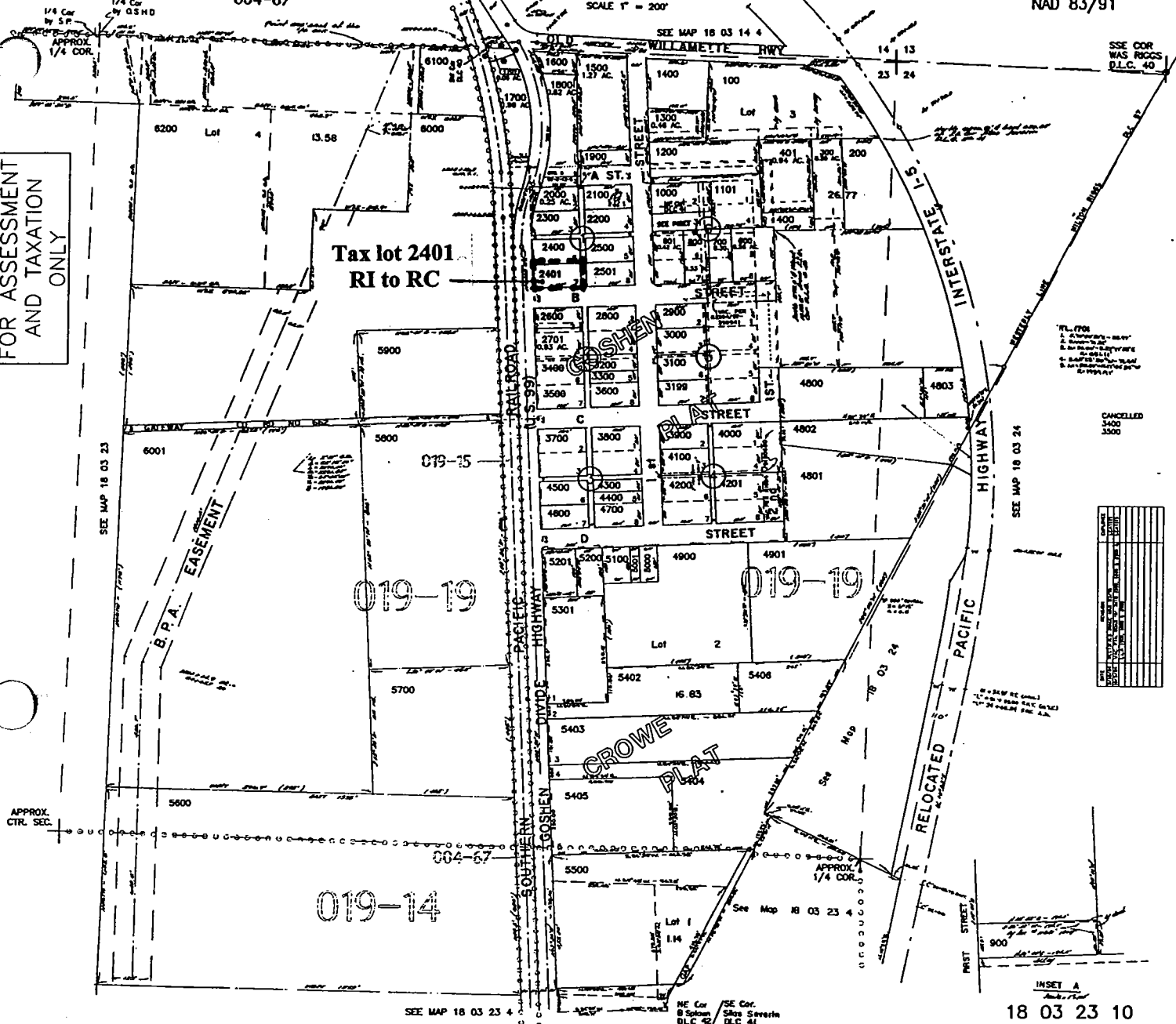
019-19

019-19

019-14

SEE MAP 18 03 23 4

18 03 23 10



- 1. L.L.P. 1708
- 2. Easement - 100'
- 3. Easement - 100'
- 4. Easement - 100'
- 5. Easement - 100'
- 6. Easement - 100'
- 7. Easement - 100'

CANCELLED
3400
3500

NO.	DATE	DESCRIPTION	BY

INSET A

NE Cor
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DLC 42

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DLC 41

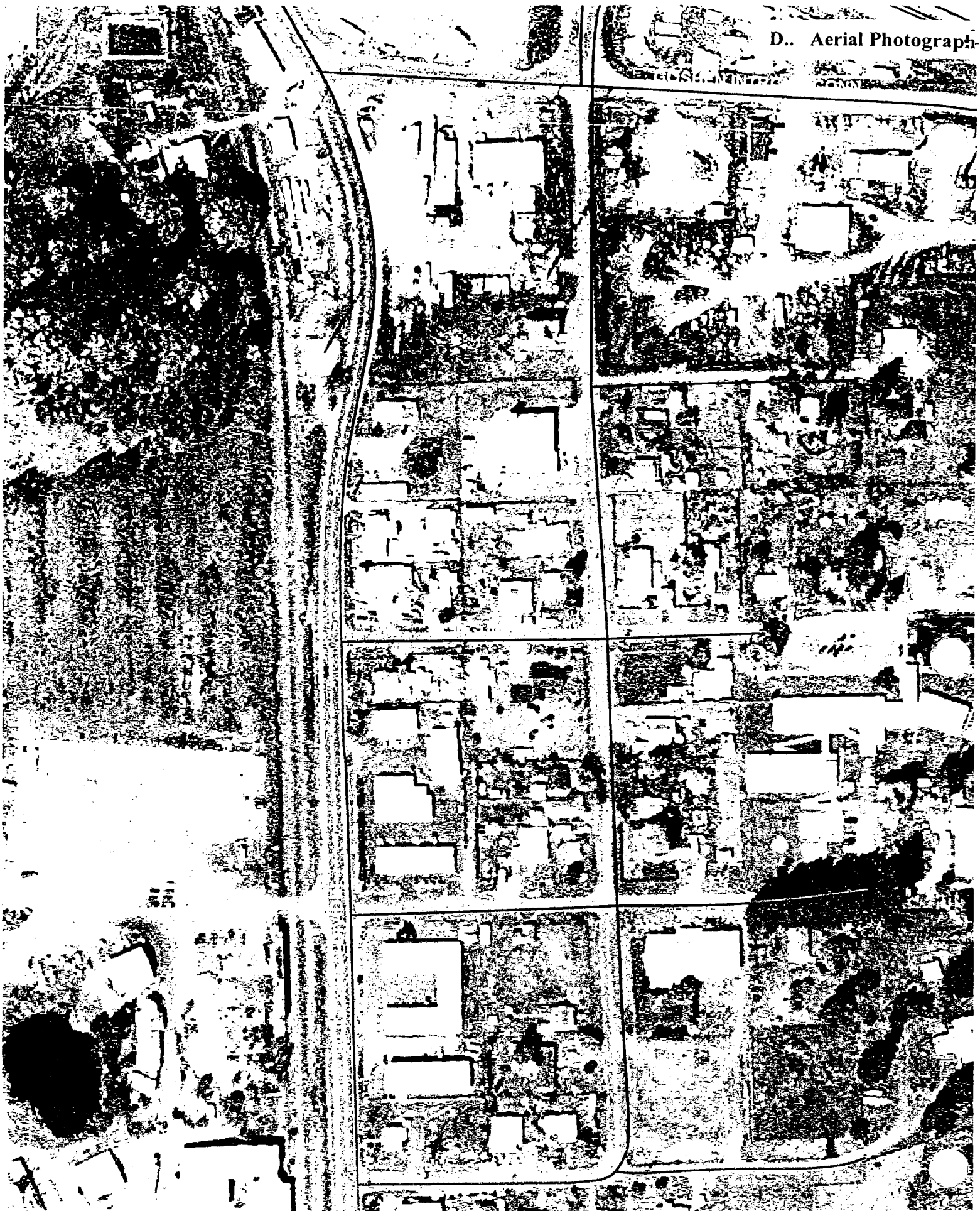


Exhibit No. C-10

PRZC Control No. 10

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

Developed and Committed Exception Area No. 415-1

**Plan Amendment and Zone Change for
Tax Lot 1400 of Assessor's Map 19-03-11**

Tax lot	Acreage	From	To
1400	3.12	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, approximately 530 feet south of Harvey Lane, approximately 1,250 feet north of the urban growth boundary of the City of Creswell, and within the Developed & Committed Exception Area No. 415-1. It can be identified as tax lot 1400 of Assessor's map 19-03-11, with a rural address of 83658 Highway 99, Creswell, OR 97426, 3.12 acres in size, and designated as Rural Residential (RR5, RCP).

2. The subject property is developed with eighteen, extended-stay, residential units and marketed under the name – Sisters View Apartments. Previously the units had been marketed under the name Tall Firs Apartments. The residential and accessory units have access from Highway 99 and include the following structures:

Refer to Exhibit "E" – Assessment & Taxation Building Diagram-Area Computation, and Exhibit "F" - Plot Plan (BP 05-0780).

Type of structure	Unit No.	No. of bedrooms	Year Built	Square Footage
SFD	1	4	1935	932
SFD	2	1	1963	576
SFD	3	1	1963	576
SFD	4	1	1963	576
6-plex	5	1	1964	576
-	6	1	1964	576
-	7	1	1964	576
-	8	1	1964	576
-	9	1	1964	576
-	10	1	1964	576
3-plex	11	2	1966	600
-	12	2	1966	600
-	13	2	1966	600
Shop	14	-	-----	320
SFD	15	2	1964	675
Shed	--	-	-----	288
SFD	16	2	1935	668
MH	17	1	-----	320
MH	18	1	-----	320

9,832 sq. ft.

Unit # 1 (foreground) and Unit #15 (background) -- located next to Highway 99



Units #2, #3 and #4 (southern side of subject property)

Six-plex -- Top photo: Unit #5 in foreground. Bottom photo: Unit #10 in foreground.



3. The Sisters View complex is a lawful, nonconforming use in the Rural Residential Zone however replacements or repairs are hampered by a repetitive process of verifications per action. The burden on the property owner and residents would be relieved and the public better served if the property were rezoned to Rural Commercial wherein the existing use is recognized as commercial use.
4. Domestic water for the commercial uses is provided by Creswell Water District.

Nine subsurface disposal systems (SDS) were developed on the subject property in the 1960s.. Repairs to two have been documented in LC records since that time:

S.I. 428-75 (1975) repair of Unit #1 system
 S.I. 734-78 (1978) repair of six-plex system (Units #5 - #10)

Maintenance and repairs have been documented in LC records:

BP 2664-86 (1986) re-roof of tri-plex (units #12, #13, #14)
 BP 1495-89 (1989) repair to fire damage to six-plex (Unit #5)
 BP 05-0780 (2005) repair to fire damage to tri-plex (Unit #13)

One more recent manufactured (mobile) home replacement is documented in LC records:
 BP 1299-87 (1989) Tamerak 12' x 50 mobile home (1969)

A "shop" (10' x 32') is situated in the prior MH space (Unit #17) and is utilized for maintenance activities and storage of supplies.

5. The subject property is a legal lot by virtue of being created as Lot 35 of the Harmon Farm Plat in 1911 with a reduction from 6.119 acres by 3 acres per RT -41181 in 1940 and transfer of the remaining 3.119 acres in 1941 per RT-43166 and conveyance by warranty deed as recorded in Lane County Deeds and Records in 1965, Reel 241-R, Instrument No. 52576.
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(2)(a), respectively.

The existing "managerial" 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 continuation of the existing commercial use of the subject property is an allowable use in the Rural Commercial Zone per *Lane Code (LC) 16.291(2)*:

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

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 to continue with the existing Sisters View Apartment uses and 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 1963-66. Nor is there any record of complaints from any surrounding property owners concerning the commercial activities or the current use of Sisters View Apartments 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. The property receives community water from the Creswell Water District.
9. The subject properties receive the following public services: Creswell School District #40J (schools); Emerald People’s Utility District (electrical power); South Lane Fire & Rescue District (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.
10. Lands to the south are designated Rural Industrial (RI) and developed with a woods products manufacturing business. The Southern Pacific Railroad right-of-way and tracks abut the western property line separating the subject property from Rural Residential (RR5) lands. RR5 land lies to the north and across Highway 99 to the east. The urban growth boundary of the City of Creswell is located approximately 1300 feet to the south.

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 seventeen extended-stay residential units and accessory uses 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 approximately 1,300 feet north of the urban growth boundary of the City of Creswell. 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 multi-dwelling 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 across the Southern Pacific RR right-of-way to the southwest of the subject property and adjacent to the Creswell UGB. The next closest EFU lands are located to the northeast and southeast on the east side of Highway 99. The EFU lands are buffered from the commercial use on the subject property by the intervening Rural Industrial property to the south and the Rural Residential property directly to the east across Highway 99.
- There are no forest lands (F1 or F1) adjacent to the subject property or within 2,600 feet.

During the past 40 years, the Sisters View Apartments has operated as part of the fabric of the rural business and agrarian culture in the Creswell area. No activities associated with the multiple residential uses have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses. Its role of providing less-expensive housing in the area can be viewed as being complimentary and beneficial to the agricultural resource base.

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

The existing use is commercial in nature due to the scale and an important and essential housing service to the surrounding rural area. The commercial use of the subject property has been compatible with the adjacent properties and nearby agricultural uses.

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 415-1 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 1400 of TRS Map 19-03-11) is relatively flat with no identified hazards due to slope 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 zones: 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 subject property is small, slightly over three acres, and developed in its current state in the same manner as for the past 40 years. It is buffered by railroad and highway corridors and nonresource-zoned properties from nearby agricultural (E25) land. Continued and anticipated use of the subject property will not affect the conservation of those E25 lands.

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 current commercial uses on the subject property are served by the Creswell Water District and nine existing subsurface disposal systems dating back to the 1963-1967 period. Therefore, the uses will not alter the volume or availability of local groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for of 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 use on the subject property has co-existed since 1963-67 with the agricultural industry in the surrounding area. The nearest EFU (E25) resource lands are buffered by either the Southern Pacific Railroad or Highway 99 right-of-ways and transportation corridors. Any expansion or intensification of the use 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 are no delineated wetlands identified within the subject property on the Cottage Grove SE1 quad of the National Wetlands Inventory. No known impacts have occurred from the existing

uses on the wetland area. The continuation of the commercial 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. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the Sisters View Apartments for what it has been for 40 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 1400) is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 1642F 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 residential units 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 1400 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 receives water service from the Creswell Water District.

The subject property is 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 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 19-03-11, tax lot 1400 (3.12 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. 10 of Ordinance No. PA 1226, amending the Official Plan Map No. 415 for tax lot 1400 of Assessors Map TRS 19-03-11, from Rural (R) to Commercial (C); and
2. Approval of PRZC Control No. 10 of Ordinance No. PA 1226, amending the Official Zoning Map No. 415 designations for tax lot 1400 of Assessors Map TRS 19-03-11, from Rural Residential (RR5) to Rural Commercial (RC).

V. EXHIBITS

- A. Plan Map No. 415 with proposed plan change depicted.
 - B. Zoning Map Plot No. 415 with proposed zone change depicted.
 - C. Lane County Assessor's Maps TRS 19-03-11
 - D. Aerial Photograph BLM Eugene 3-66-1-18 (5-18-2000).
D-1. Aerial Photograph BLM Eugene 3-66-1-18 enlargement x 400 percent.
 - E. Assessment & Taxation Building Diagram-Area Computation
 - F. Plot Plan (BP 05-0780).
-
-

FOR ASSESSMENT
AND TAXATION
ONLY

SEC. 11 T.19S. R.3W. W.M.
LANE COUNTY

SCALE 1" = 400'

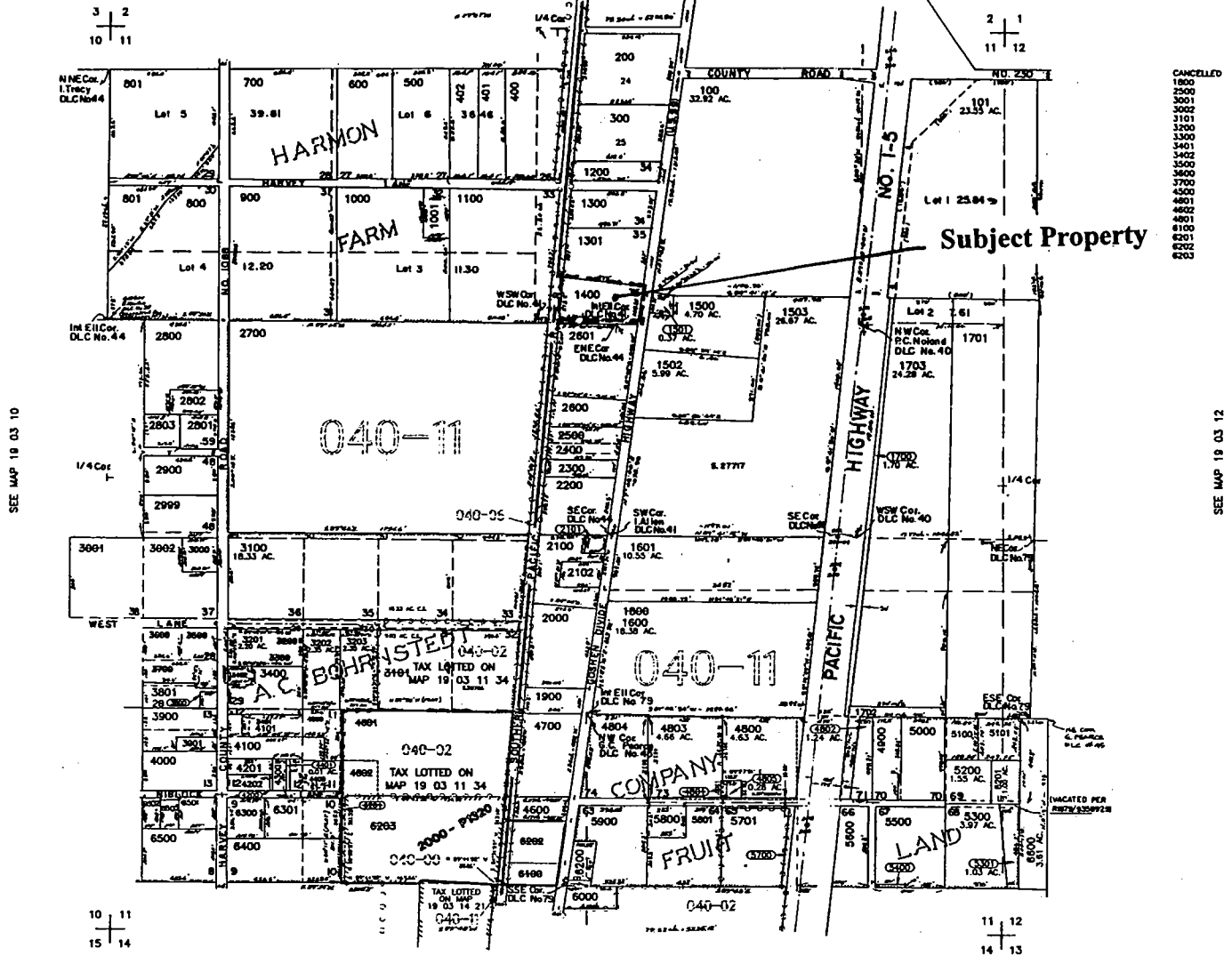
SEE MAP 19 03 02

C. Lane County Assessor's Maps TRS 19-03-11

19 03 11

NAD 83/91

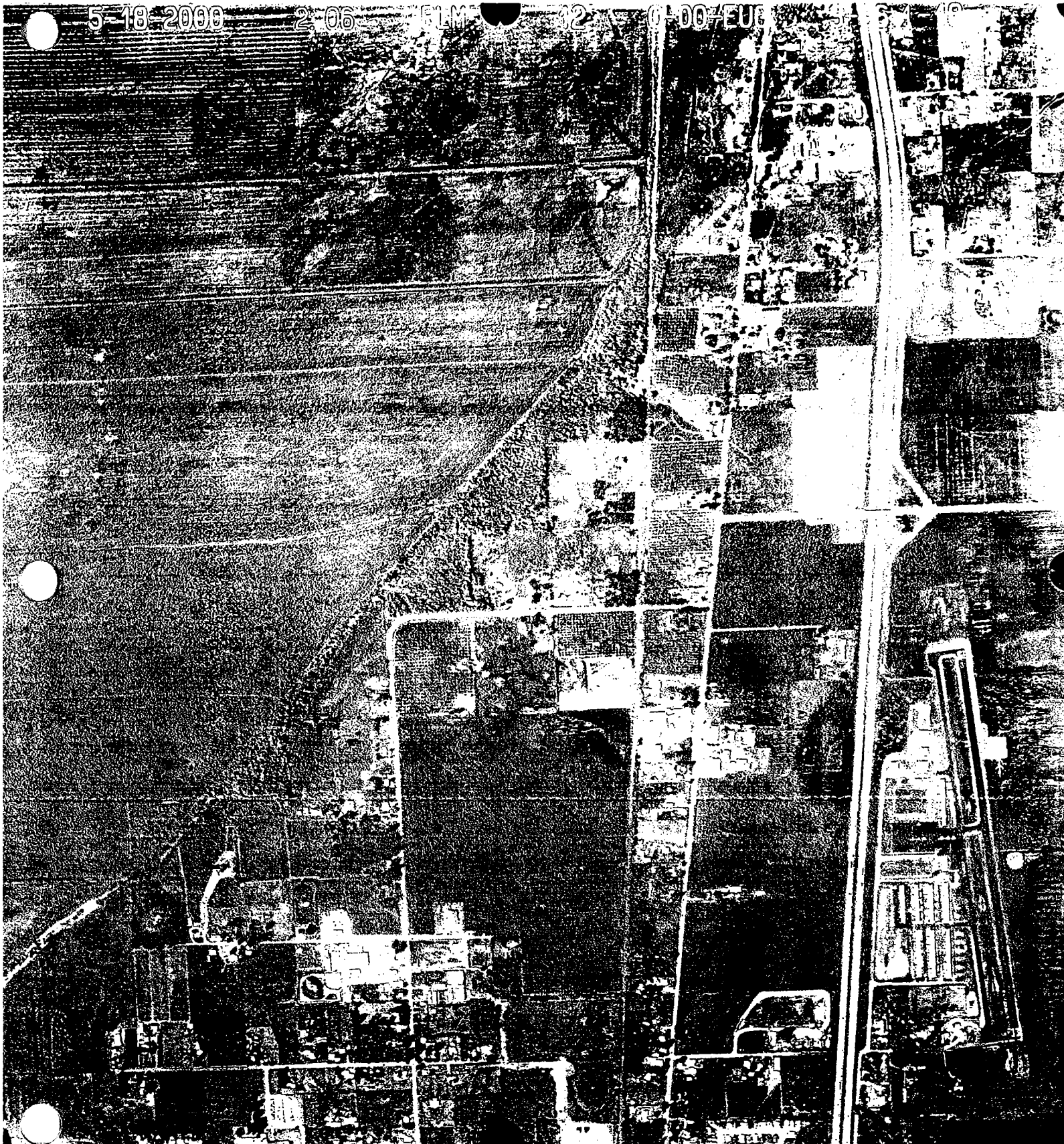
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0119	Other	0219	Other
0120	Other	0220	Other



- CANCELLED
- 1800
- 2500
- 3001
- 3002
- 3101
- 3200
- 3300
- 3401
- 3402
- 3500
- 3600
- 3700
- 4500
- 4801
- 4802
- 4801
- 8100
- 8201
- 8202

19 03 11

D. Aerial Photograph BLM Eugene 3-66-1-18 (5-18-2000).



D-1. Aerial Photograph BLM Eugene 3-66-1-18 enlargement x 400 percent.



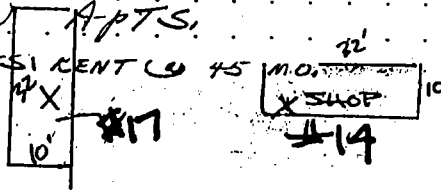
This is a high-contrast, black and white aerial photograph showing a rural landscape. The terrain is divided into numerous rectangular plots, likely agricultural fields or parcels of land. A large, dark, rectangular area in the center-right of the image is highlighted with a white border and labeled "Subject Property". The surrounding areas show various textures, possibly representing different types of vegetation, soil, or structures. The overall image has a grainy, high-contrast appearance, characteristic of an aerial photograph enlargement.

Subject Property

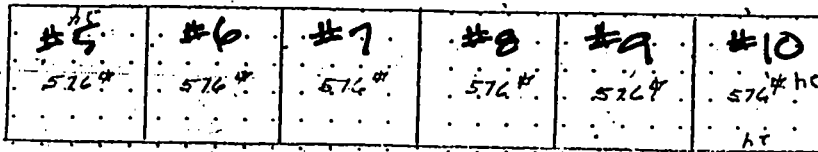
BUILDING DIAGRAM-AREA COMPUTATION

SISTERS VIEW APTS.

TRAILER SITES RENT @ 45 MO.



All 1 BEDRM
6 UNITS @ 99/MO.



576
x 6
3456

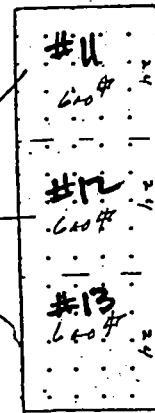
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Entry

hhl

600
x 3
1800

\$118/MO.

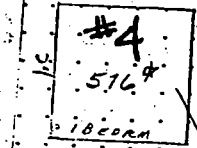


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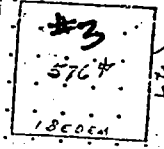
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DUPLEX TO BE DEMOLISHED

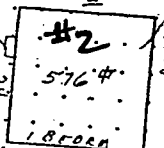


YR BLT 1963

\$108/MO.

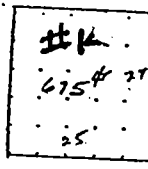


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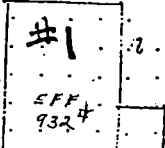
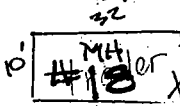
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\$127/MO



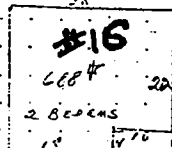
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YR BLT 1964



YR BLT 1965

127/MO.



APPRAISER: 603



HIGHWAY 99

#14 FIRE RESTORATION - PLOT PLAN

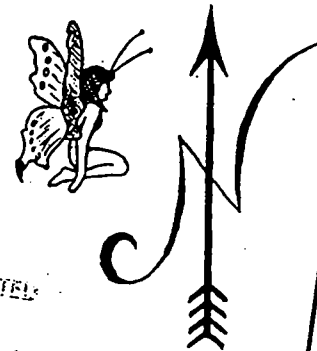
SCALE: 1" = 40'
MARCH 14, 2005

OWNER & APPLICANT:
RUSSELL T CRAWFORD
83650 N PACIFIC HWY #9
CRESWELL OR 97126
(541) 895-4130

MAP 19-03-11-00
TL 1400

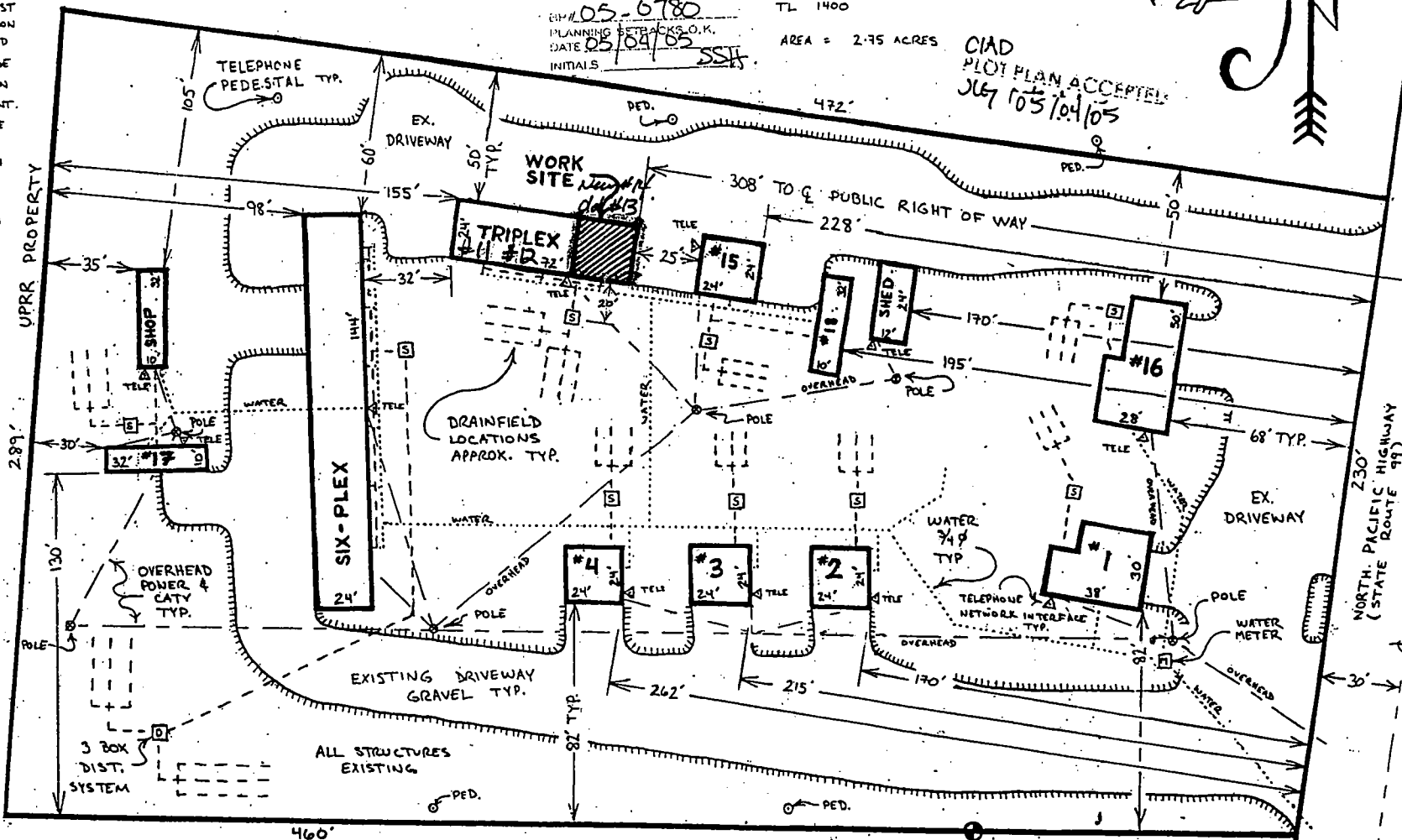
AREA = 2.75 ACRES

CIAD
PLOT PLAN ACCEPTED
JUG 105/04/05



BP# 05-0780
PLANNING SETBACKS O.K.
DATE 03/04/05
INITIALS SSS

BEGINNING ON THE EAST LINE OF LOT 35, HARMON FARM, AS PLATTED AND RECORDED IN BOOK 4, PAGE 89, LANE COUNTY OREGON PLAT RECORDS, AT A POINT 337 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH 229.93 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE SOUTH 89 DEGREES 40' WEST 459.54 FEET TO THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 275.3 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF TRACT DESCRIBED IN DEED 41181; THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTH LINE OF SAID TRACT TO THE POINT OF BEGINNING, BEING A PART OF LOTS 35, HARMON FARM, IN LANE COUNTY, OREGON.



NOTE:
PARAMETER FOUNDATION AND UNDER GROUND UTILITIES WERE UNDAMAGED BY THE FIRE. NO EXCAVATION WORK WILL BE NEEDED.

460'

Int. EIL Con.
DLC No. 41

Exhibit No. C-11

PRZC Control No. 11

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

Developed and Committed Exception Area No. 417-3 (new)

**Plan Amendment and Zone Change for
Tax Lot 1301 of Assessor's Map 19-03-35, and
3.03 acres of tax lot 1202 of Assessor's Map 19-03-35.**

Tax lot	Acreage	From	To
1301	4.10	Impacted Forest Land (F2)	Rural Industrial (RI)
1202 (portion)	3.03	Impacted Forest Land (F2)	Rural Industrial (RI)
Total	7.13 acres		

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Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-04-018, 020, 025, and 028 – *Exception Requirements*
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 16.210 – *Impacted Forest Land (F2)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

This amendment to the Official Plan Map and Zoning Maps Plot No. 417 would revise the Plan and Zoning designations of one property and a portion of a second and provide for the continued use of the existing industrial use on the properties. The amendment would take an exception to Goals Three and Four, amend the plan diagram from Forest to Industrial, re-designate tax lot 1301 and a portion of tax lot 1202 of TRS 19-03-35 from Impacted Forest Land (F2) to Rural Industrial (RI) and create Developed & Committed Exception Area No. 417-I.

II. FINDINGS OF FACT

The properties subject to plan amendment and zone change in this application are:

TRS 19-03-35, tax lot 1301, 4.10 acres.

TRS 19-03-35, tax lot 1202, 3.03 acres, a portion of 19.15 acres

Property Owner: Gary W. and Valerie A. Nash

Proposed change in zoning designation from Impacted Forest Land (F2) to Rural Industrial (RI).

The following findings of fact and conclusions act to support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change. These findings are divided into the following three sections:

- A. General Findings Relating to the Subject Property.**
- B. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.**
- C. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.**

A. General Findings Relating to the Subject Properties.

1. The properties subject to this application, hereinafter referred to as the "subject properties," can be identified as tax lot 1301, 4.1 acres in size, and 3.03 acres of tax lot 1202 of Lane County Assessor's map TRS 19-03-35 situated west of Sears Road. The subject properties' two access

points are from Sears Road through tax lot 1301 in the northeast and tax lot 1202 in the southeast and tax lot 1301 has an assigned rural address of 81510 Sears Road, Creswell, OR 97426.

2. The subject properties are part of a contiguous, three-property tract that includes tax lot 1300 (5.43 acres) to the north, tax lot 1301(4.1 acres) in the middle, and tax lot 1202 (19.15 acres) to the west and south.

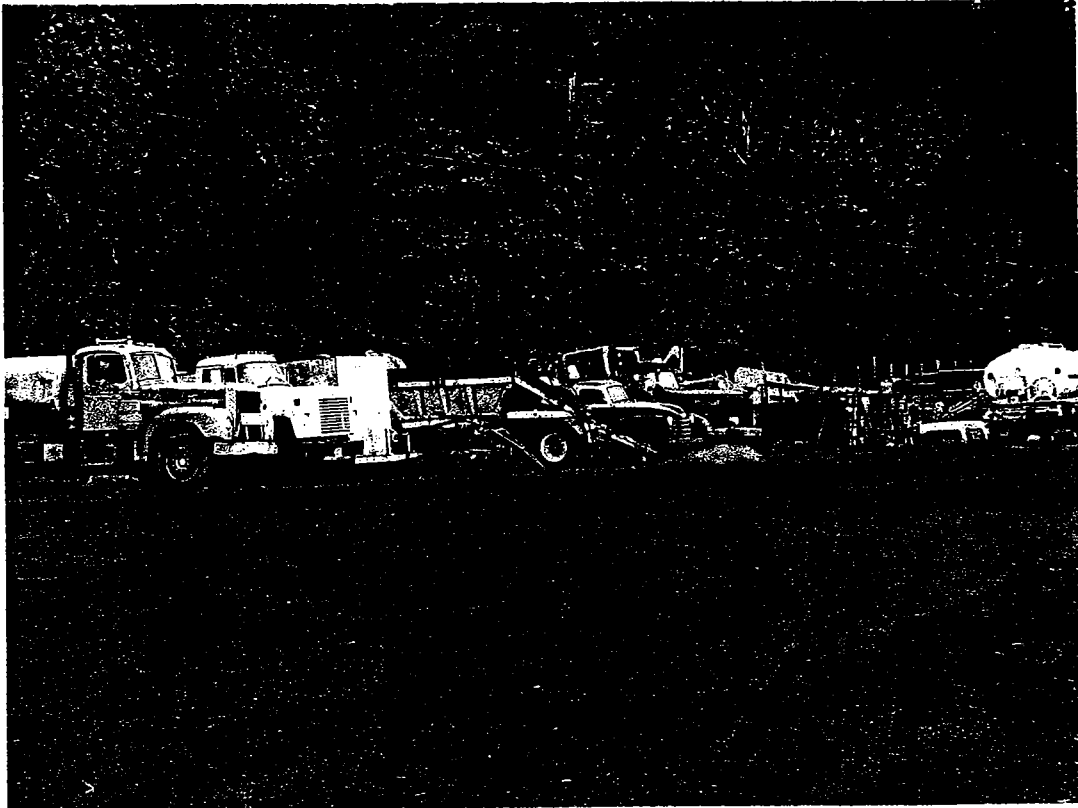
The subject 3.03 acres of tax lot 1202 abut tax lot 1301 on the western and southern boundaries. All of the three contiguous properties are bordered on the east by the right-of-way of Sears Road and are bordered by Interstate 5 right-of-way along the western boundary of tax lot 1202. The tract is about two miles north of the Saginaw/I-5 interchange and 1.5 miles south of the City of Creswell.

The subject properties are level to gradually sloping. Coast Fork of the Willamette River is located north of the north-northwest boundary of the tract (tax lot 1202 and 1300), but its location has no effect on the subject plan amendment and zone change since it is over 500 feet from tax lot 1301 and the acreage within tax lot 1202 proposed for amendment to Rural Industrial.

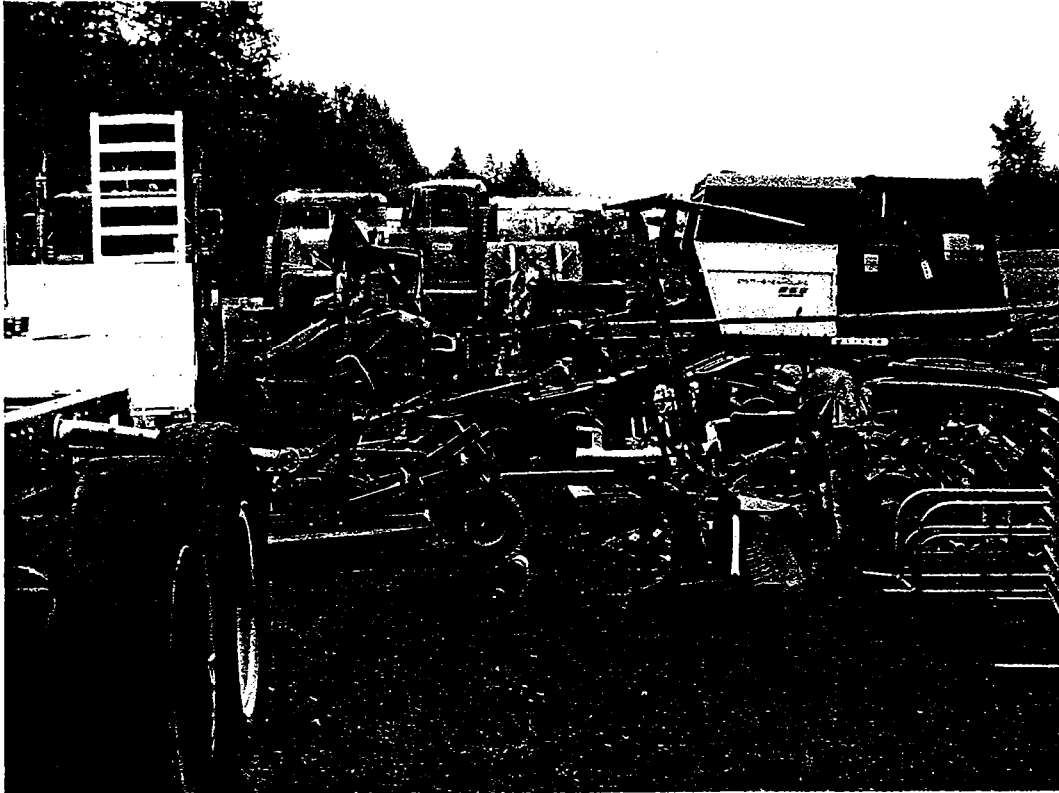
3. The applicant is proposing a Minor Plan amendment to the Lane County Rural Comprehensive Plan (RCP) from Forest Land to Industrial Land, with an exception to Statewide Goal 3 - Agricultural Lands and Goal 4 - Forest Lands, concurrent with a zone change from F-2 Impacted Forest Land to RI Rural Industrial.
4. This request is required to recognize an existing rural industrial land use of the subject properties for the last six years and to remove the nonconforming use status created by the current F-2 zone.
5. The subject property is developed with a 28' x 64' manufactured residence (1978 Brookwood), 20' x 32' storage building, a five-acre graveled vehicle storage area, a manufactured office, graveled roads, a sanitation drainfield, and a well. These improvements impact or occupy approximately five acres of the 7.13-acre site. The nonimpacted area of the subject properties is located along the northeastern portion of the site, adjacent to Sears Road, and has moderate slopes covered with deciduous vegetation. This portion of the subject property is not suitable for development due to the terrain and road right-of way setback.
6. The subject property is located within an area composed of a mixture of resource land uses. To the north is a vacant 5.43-acre property (tax lot 1300) zoned F-2. Further to the north and to the east across Sears Road and extending into Plot No. 430, the land is zoned Nonimpacted Forest Land (F1). To the southeast there is an existing quarry operation zoned Quarry and Mine Operations (QM). To the west is Interstate 5.
7. The subject property, tax lot 1301 is developed with a residence closest residence to the subject property is located on Tax Lot 901, over 700 feet to the east across Sears Road.
8. The subject property receives all public services required by RCP Goal 11, Policy 6.h, including South Lane Rural fire protection, police protection by the Lane County Sheriff, individual water and sanitation service, and local utility services.
9. The subject properties have been used as a heavy equipment storage and sales yard since 1998 for logging, construction and farm equipment. Refer to Exhibit "D" - Nash Enterprises – periodical advertisement of equipment. The enterprise initially was established as a storage yard for idle forest related equipment including logging road construction (dozers, dump trucks, etc.) and

harvesting equipment (yarders, trucks, fire trucks, water tankers, etc.). Farm equipment was added along the way. Currently, the enterprise has evolved to encompass a wider range of heavy construction equipment including quarrying and rock processing equipment.

11. The subject property is occupied with logging contractor's equipment and vehicles, including log skidders, yarders, shovel loaders, front—end loaders, bulldozers, road graders, dump trucks, fuel trucks, fire trucks, tractor-trailers, tractor backhoes, low-boys and crew cab trucks. The property also is occupied with farming equipment including tractors, disks, plows, combines, etc.







12. The Soil Survey of Lane County identifies all 4.10 acres of tax lot 1301 as 43C Dixonville-Philomath-Hazelair Complex (DPH). The DPH unit is listed as being agriculture capability class 3 with a Douglas Fir forest capability of 54 cubic foot per acre per year. The subject 3.03 acres of tax lot 1202 consists of approximately 1.5 acres of 43C Dixonville-Philomath-Hazelair Complex (DPH) and 1.8 acres of 79 McBee Silty Clay Loam with agriculture capability of 3 and no potential forest productivity index for Douglas fir.
13. The Cottage Grove NE4 and Cottage Grove SE 1 National Wetlands Inventory maps do not identify any delineated wetlands on tax lot 1301 or the subject acreage of tax lot 1202.
14. The applicant is requesting a developed lands exception to Statewide Goals 3 and 4, as provided by OAR 660-04-025. An exception is warranted when land subject to an exception is physically developed to the extent it is no longer available for uses allowed by the goal. The applicant's holdings include 7.13 acres developed with a residence and the above described heavy equipment sales operation of the subject tract of 28.68 acres is developed or impacted by physical improvements that make either a farm or forest use impracticable. The undeveloped 21.55 acres will remain in the Impacted Forest Land Zone (F2).

B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria.

Lane Code 16.400(6)(h)(iii)(aa)-(dd) provides for the Board to amend or supplement the RCP upon making the following findings:

Lane Code 16.400(6)(h)(iii)(aa)

(aa) For Major and Minor Amendments as defined in LC 16.400(8 (a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

1. The Board finds this plan amendment meets all legal processing requirements of the Lane Code and the acknowledged comprehensive plan, and incorporates by reference the supporting exhibits. This amendment recognizes the existing rural industrial use on the subject properties. Findings provided in this report address applicable County standards and Statewide planning goals.
2. The Board finds that the subject 7.13 acres has a significant comparative advantage over other potential sites because of its existing industrial use which benefits the county economy, and the lack of resource value on the portion (7.13 acres) of the site available and developed for the rural industrial use. Additional detail is provided in the following findings. Approval of the requested RCP amendment and zone change will recognize the existing rural industrial use of the subject properties and remove its nonconforming use status.
3. The applicant seeks a physically developed exception to Statewide Goals 3 and 4, as provided by OAR 660-04-018(2). An exception is warranted when the requested plan designation and zoning designation limits permitted uses on the site to those which are rural in nature, are consistent with other applicable Statewide Goal requirements, and are compatible with nearby uses and do not commit them to nonresource use.

The Board finds the existing industrial uses of the subject properties, are allowable uses under the proposed Rural Industrial (RI) zone per LC 16.292(3)(c) and (e):

(c) Forest and farm equipment storage yards, sales, rental and repair.

(e) Associated sales and administrative offices for the uses permitted by LC 16.292(3)(a) through(d) above. Offices that are for 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 Board finds the existing industrial uses are rural industrial uses that are commonly located on rural land and they are sited in Lane County outside of urban growth boundaries. Heavy equipment sales yards are also located in urban areas, but this does not mean they are exclusively urban by this fact. Rural uses are developed at a low density and separated from adjacent uses, require few public facilities and services, and are intended to serve rural populations. These uses are properly sited on rural lands.

The Board also finds the existing rural industrial use of the subject property appears to be compatible with neighboring resource uses, as it has been in continuous operation since 1998 with no apparent conflicts. The six-year history of rural industrial use on the site has not committed nearby properties to nonresource use. The operating characteristics, including noise and traffic, generated by the existing rural industrial use on the site are among the least obtrusive relative to other permitted uses in the RI zone.

Imposition of site review standards as specified in LC 16.292(4) for new development on the subject property also acts to ensure its future uses will continue to have impacts that are rural in scale and nature, thereby ensuring future compatibility with adjacent or nearby resource uses, and ensuring that future uses will not commit adjacent or nearby resource properties to nonresource use. Site review standards in LC 16.292(4)(a)-(i) require applicable development on the site “to

minimize any adverse effect on existing or contemplated abutting land use” and “compatible with the surrounding vicinity.”

(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:

(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

1. The Board finds that this amendment meets criteria (v-v) above.

The existing, rural industrial use involves activities associated with logging and logging road construction and maintenance as well as farm use practices. They are rural in nature, since resource—related activities such as logging and associated uses are primarily located in rural areas and are encouraged by comprehensive plan policies and zoning regulations in rural areas. Goal 9, Policy 7a of the RCP specifies the rural orientation of one of the industrial uses (logging equipment storage and sales) on the subject property. Evidence in the record shows the proposed Industrial Land designation more appropriately identifies the subject property.

Based upon reasons discussed in this application, the Board finds that it is desirable, appropriate and proper to designate the subject 7.13-acre site as Rural Industrial Land. It is the desire of the Board to permit existing rural industrial uses such as those located on the subject properties to continue in operation, in conformance with appropriate industrial plan and zoning designations.

(cc) For Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.

1. The Board finds the proposed amendment conforms to the following applicable RCP Policies:

Goal 2, Policy 11.c. permits existing industrial uses to receive an Industrial designation, upon consideration of:

- i. the existing development pattern;*
- ii. on-site sewage disposal suitability;*
- iii. domestic water supply availability;*
- iv. access;*
- v. public services;*
- vi. lack of natural hazards; and*
- vii. effect on resource lands.*

Appropriate consideration of the above factors has been made, based on the information provided within the previous findings.

Goal 2, Policy 16 states “. . . *New rural public facility, commercial, and industrial development within the Cost Fork of the Willamette Watershed and the Middle Fork of the Willamette Watershed shall be located inside unincorporated communities or outside unincorporated communities in developed and committed exception areas that were planned and zoned for public facility, commercial or industrial purposes on June 15, 2005. An exception to this policy shall be for plan amendments or zone changes adopted pursuant to Policy 27 Conformity Determinations, and legislative actions adopted by the Board of County Commissioners during a Periodic Review Work Program (PRWP) or concurrently as post-acknowledgement plan amendments resulting from the PRWP Work Tasks . . .*”.

This plan amendment and zone change is the result of the data and inventory compiled during Work Task 5 of the Lane County Periodic Review Work Program and is a concurrent post-acknowledgement plan amendment resulting from the PRWP Work Task.

Goal 9, Policy 7 addresses new industrial development, which is not reflected in this application as it involves existing industrial development. However, it does provide general policy guidance applicable to this request.

Policy 7. New industrial development shall normally take place within adopted Urban Growth Boundaries, unless such development:

- a. Is clearly rural oriented;*
- b. Is necessary for the continuation of existing industrial operations, including plan or site expansion;*
- c. Will be located in an area either built upon or committed to nonresource use where necessary services can be provided;*
- d. The industrial activity is dependent on a unique site-specific resource;*
- e. The use is too hazardous or is incompatible in densely populated areas;*
- f. The industrial activity creates by-products which are used to a significant level in resource activities in the immediate area; or*
- g. Where a significant comparative advantage could be gained in locating in a rural area. Any development approved under this policy that requires a plan amendment shall be justified by an exception to applicable Statewide Planning Goals.*

Policy 7.b. supports rural industrial designations when they are needed for the continuation of existing operations. This request is needed for the continuation of the existing rural industrial use of the subject property by removing its nonconforming status. Policy 7.c. supports rural industrial designations when they are located in an area either built upon or committed to nonresource use where necessary services can be provided. As shown in previous findings, 7.13 acres of the subject properties are built-up and committed to nonresource use, and is and will continue to be provided with necessary services which are appropriate for rural areas and rural uses.

Goal 9, Policy 8 specifies that: *Existing industrial and commercial uses shall be designated on the plan diagram. Uses so identified shall be zoned to allow for continued operation and routine expansion commensurate with their character, provided significant conflicts with other land uses (existing or planned) do not result.*

As discussed in previous findings, significant existing and future conflicts with adjacent and nearby uses can be avoided, given existing site characteristics and the application of the site review standards and criteria of LC 16.292(4) to the subject properties.

- (dd) For Minor Amendments as defined in Lane Code 16.400(8) (a), the Plan amendment or component is compatible with the existing- structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.*

The Board finds this Plan amendment is consistent with the RCP intent to choose between competing uses. As stated in the record, the majority (21 acres) of the subject tract is undeveloped and will remain in the Impacted Forest Lane designation (F2). 7.13 acres are developed with and irrevocably committed to rural industrial uses, and been for over six years. These rural industrial uses require a RI zone. This RCP amendment is consistent with unamended portions or elements of the Plan.

Lane Code 16.400(8)

(a): Amendments to the Rural Comprehensive Plan shall be classified according- to the following criteria:

- (i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.**

The Board finds that the proposed plan amendment is limited to a change of the RCP diagram from Forest Land to Industrial Land. A portion of the soils on the subject acreage are classified by the SCS as having either farm or forest capability. For this reason, a physically developed lands exception to Statewide Planning Goals 3 and 4 is required. This application qualifies as a Minor Amendment.

C. Findings and Conclusions Relating to Lane Code 16.252 Rezoning Criteria.

Lane Code 16.252

- (1) Purpose. As the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be required. Such amendments shall be made in accordance with the procedures of this 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 to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning' Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.**

1. The Board finds the proposed RI zoning designation implements the proposed Industrial Land plan designation. The Board further finds the proposed RI zone is consistent with the general purpose of Chapter 16, specifically LC 16.003(1), (2), and (3).

LC 16.003(1) states development should conform to site characteristics and be in the public interest. This RCP amendment and rezoning request recognizes existing development and existing site characteristics completed for these uses. The subject property has adequate buffering for its existing uses and available public services to serve the public interest, while recognizing the existing rural industrial nature of the site.

LC 16.003(2) Protect and diversify the economy of the County supports economic development activities. Approval of this request will facilitate the continued operation of rural industrial uses on the property that presently assists the interests of the resource management base in Lane County and diversifies the economy of the County.

LC 16.003(3) supports the effort to Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth. Approval of this request will remove the nonconforming RCP designation and zoning on the subject property, and provide for the continued use of the site for rural industrial purposes. Use of the standards included in LC 16.292(4) for all new development on the subject property acts to

ensure its future use will continue to have impacts that are rural in scale and minimal for neighboring properties.

2. The Board finds the proposed RI zoning appropriately implements applicable RCP policies which have been addressed in previous findings. The *Purpose* of the RI Rural Industrial Zone is *The purposes of the Rural Industrial Zone (RI, RCP) are: to implement the policies of the Lane County Rural Comprehensive Plan (RCP); 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 continued operation of existing industries; and to provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP.*
3. The Board finds the proposed RI zone accurately reflects the existing rural industrial use of the 7.13 acres of the subject properties and is the most appropriate zone for the site. The Board further finds the compatibility of the rural industrial use on the site with surrounding resource lands will be maintained by buffers created by existing improvements, such as 1-5 and Sears Road, a County road classified as a Minor Collector; natural features such as a creek and dense vegetation; and by applicable site review procedures as specified in LC 16.292(4).

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. The properties subject to the proposed zone change are currently designated as resource land and require an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for it to be rezoned to a nonresource designation.

The following findings of facts support the general findings of fact in **II. Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The Purpose statement in 660-004-018(1) “. . . explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

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

The exception and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject properties, tax lot 1301 (4.10 acres) and a 3.03-acre portion of tax lot 1202 of Assessor’s map TRS 19-03-35. In addition, the actions are an acknowledgment that the currently existing uses on the subject properties is similar to the development in other D&C Exception Areas and that are commonly located elsewhere in other rural settings within the Coast Fork of the Willamette River Watershed of Lane County.

Tax lots 1202 and 1301 were designated as Impacted Forest Land (F2), a resource zone, in as part of the adoption of the Rural Comprehensive Plan in August 1984. Prior to that time, the

properties were designated Farm-Forest 20 (FF20). Tax lot 1202 was developed with a residence in 1984 as authorized by mobile home placement permit BP 93-84 and sanitation permit SI 79-384. In 1992, the residence was removed and a replacement was established on tax lot 1301 as authorized by BP 210-92. In 1996 the current owners of the subject tract established the logging equipment storage and sales enterprise on the tract. This proposed zone change would bring the existing industrial uses into conformance with uses allowed in the Rural Industrial Zone as provided for in LC 16.292(3)(c), (e) and (l).

(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 south of D&C Exception Area No. 417-1, east of D&C Exception Area No. 417-2, and north of D&C Exception Area No. 418-1. AS the subject properties are not contiguous with an existing D&C boundary, this action will create a separate D&C exception are, No. 417-I ("I" – Industrial). The properties receive a rural level of police and fire protection and rely on water and sewerage facilities on the property that is essential to the protection of resource and nonresource uses and development in a rural setting. The proposed rezoning designation will more closely fit the actual current use on the properties

(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 properties are a small triangular-shaped tract blended into the landscape defined by transportation corridors (Interstate 5 to the west and Sears Road to the east), the Willamette River to the north, and a quarry mining operation and forest resource management to the east and southeast.

Lands to the east and north are zoned Nonimpacted Forest Land (F-1) and Parks and Recreation (PR). The subject use was established in 1998. Any conceivable impacts from the development on the subject property to the surrounding resource lands has been present since that time. The subject property has operated without conflict with the nearby resource uses for six years and no new impacts are foreseeable.

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

The existing uses and structures have been on location since 1998. Any additional development on the subject property would require compliance with setbacks and site review standards of LC 16.292(4), possible modifications to the subsurface disposal systems under DEQ standards, and utilization of the existing domestic water source. Adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

The heavy industrial equipment sales and storage operation on the subject properties support the surrounding quarry and logging industries

Public services such as fire protection have been available to the subject property since the initial residential development in 1984 and the industrial development in 1998.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*
- (2) *Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*

The applicant's property is developed with a graveled storage area approximately 5.5 acres in size and provides storage and sales display for a variety of logging and construction heavy equipment as depicted in the site photographs in this report.

The subject property is irrevocably committed to and physically developed with a use in support of resource management of forest, farm and quarry operations.

c. OAR 660-004-0028 – Exception Requirements for Land Irrevocably Committed to Other Uses.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:*
 - (a) *A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;*
 - (b) *For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;*
 - (c) *An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*
- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*
 - (a) *The characteristics of the exception area;*

The subject properties being considered for a "committed and developed" exception is identified as a 3.03-acre portion of tax lot 1202 of TRS 19-03-35 and the 4.10-acre tax lot 1301 of TRS 19-03-35.

Services are provided to the proposed Exception Area No. 417-3 by:

Electricity: Emerald Peoples Utility District
Fire: South Lane Fire and Ambulance District
Ambulance: South Lane Fire and Ambulance District
School: Creswell School District No. 40
Lane Community College
Lane Education Service District
Police: Lane County Sheriff
Oregon State Police

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

Exception Area No. 417-2 to the west across the Interstate 5 freeway includes 11 parcels developed with residences.

Exception Area No. 417-1 to the north includes 61 parcels developed with 63 residences.

Exception Area No. 418-1 to the southwest includes six parcels with nine residences and one parcel with industrial uses.

Exception Area No. 418-2 to the southeast includes 20 parcels with 12 residences.

The four exception areas sit across the valley floor that is traversed by Sears Road, Interstate 5, Highway 99, and the Willamette River, all on north-to-south axis.

The proposed new Exception Area No. 417-3 for the subject properties is situated approximately in the center of the four existing exception areas referenced above. The 7.13 acres is separated from resource lands to the south, west and east by public right-of-ways and partially to the north by the Willamette River.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

The industrial use of the 7.13 acres of the subject properties was established in 1998. The residential use on the same acreage dates from 1984.

Residential development cited in the four exception areas above, were predominantly established prior to the 1970's.

Some grass seed production was evident in the river bottom lands to the west in decades past with some of the land now used for hay production and seasonal grazing. Forest lands to the east of Sears Road are managed by timber operations and small wood lot owners. State-owned lands in the Parks and Recreation designation to the north (tax lots 100 and 600, TRS 19-03-35) are managed primarily as open space. Further to the north of the state-owned lands within D&C Exception Area 417-1 is the Riverwood Mobile Home Park with 124 spaces in a Rural Residential RR5 designation.

(b) Existing public facilities and services (water and sewer lines, etc.);

The residence within the subject acreage boundaries proposed for D&C No. 417-3 is served by on-site well and subsurface sewage disposal system. Electrical power is provided by Emerald Peoples Utility District. Fire protection is provided by South Lane Fire and Ambulance District. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Creswell by the School District #40 facilities.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The total acreage of the subject tract of tax lots 1202, 1300 and 1301 is 28.67 acres. The contiguous properties are a approximately 70 percent grass lands and 30 percent mixed conifers and deciduous trees species. Refer to Exhibit "G", which is an enlarged aerial photograph of the site. The closest EFU properties are located across Interstate 5 and the Willamette River to the west of the subject property. Only the 7.13 acres of the tract that have been impacted with the existing gravel-based storage yard and associated residential uses are being considered for amendment and zone change.

The soils present on the 7.13 acres are 80 percent Dixonville-Philomath-Hazelair DPH (43C) 3-12 % slopes and 20 percent McBee Silty Clay Loam (79). With the existing storage area with the established industrial uses and the residential area, there are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the properties under Goal 3. The remaining 21+ acres are being retained in the Impacted Forest Zone (F2) for continuation of the current owners pasture and woodlot operations.

Al though the soils have agricultural capability ratings of 3 and 4, the development of an agricultural use on the subject tract's undeveloped 21+ acres with other EFU properties in the region is impracticable due to the intervening transportation corridors and river. Development of the impacted 7.13 acres as an agricultural use is impracticable due to the past excavation of the site, depth of compacted gravels, and existing industrial development.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

DPH (43C) soils have a 63 cu. ft./year /acre productivity rating and McBee do not have a productivity rating. The extensively developed 7.13-acre site could produce approximately 315 cubic feet of fiber annually if the land were reclaimed and replanted. Values for continued development of the 7.13 acres as a sales and storage yard for logging and farm equipment far exceed the potential for management in consolidation with adjacent lands across Sears Road to the east as a forest unit. The 7.13 acres is small, primarily sloped-grassland separated by public roads from nearby forest units, developed with nonresource uses, and the soils have limited productivity potential.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

“660-06-025(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;”

Commercial forest practices on the 7.13 acres for the reasons stated above in (b) are not practicable.

- (4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.*
- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.*
- (6) Findings of fact for a committed exception shall address the following factors:*

(a) Existing adjacent uses;

Refer to Findings of Fact above in response to OAR 660-004-0028(2)(b), above.

(b) Existing public facilities and services (water and sewer lines, etc.);

The subject property is served by a water system and a subsurface sewage disposal system onsite.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm

use zone cannot be used to justify a committed exception for land adjoining those parcels;

The subject acreage has been committed to residential use since 1984 (21 years) and industrial use since 1998 (6 years). Refer to Exhibit "G" (aerial photo) and the site photographs earlier in this report. The new exception area will be single property, 7.13 acres in size.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

State-owned land and the Willamette River to the north, Willamette River and Interstate 5 to the west, Sears Road to the east and south, isolate the tract of 28+ acres from management with other resource lands under separate ownership in the area. Small woodlot management and grazing operations are still an option within the subject tract's 21+ acres. The applicants are only requesting a rezone of the impacted industrial site of 7+ acres, one-quarter of their 28-acre ownership.

(d) Neighborhood and regional characteristics;

Exception Areas 417-1, 417-2, 418-1 are residential clusters along the transportation corridors between the City of Creswell and the unincorporated rural community of Saginaw. The subject properties are located within the clustered, north-south, development pattern along the eastern edge of the valley floor and western toe of the forested foothills.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Interstate 5 and the Willamette River separate the triangular-shaped tract from the EFU lands to the west and Sears Road separates the tract from the F2 and F1 lands to the east. The quarry mining operation to the southeast and the State of Oregon park land to the north also impede consolidation of the subject tract from nearby resource lands.

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Refer to above Findings of Fact and site photographs above, and Exhibit G - Aerial photographs.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos.

The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Refer to Exhibit “G” – Aerial Photograph

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

d. 660-004-0030 – Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the city or county governing body adopts the comprehensive plans or plan amendment. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

The proposed “developed” exception and the proposed amendment to the zoning designation are a portion of the Lane County adopted and acknowledged Periodic Review Work Program Work Task 5 for the Coast Fork of the Willamette Watershed.

e. Lane Code 16.292 – Rural Industrial (RI)

Lane Code 16.292(1) notes that one of the purposes of the Rural Industrial Zone is “. . . 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 continued operation of existing industries; . . .”

While the potential impacts of the existing logging and farm equipment storage and sales use and a conditionally allowed use pursuant to LC 16.292(3) and (4) appear to be the consistent with the livability and appropriate development of the surrounding area, future uses to which the properties could be put is unknown at this point. This application does not include a compatibility analysis of all conditional uses in the Rural Industrial Zone (RPF). To provide a level of comfort for the surrounding resource properties, the special use permit process of LC 16.294(3) and the site review criteria of Lane Code 16.294(4) will be used to achieve this end. The RI zone provides for the requirements of LC 16.292(4) site review criteria to be completed prior to development of any of the uses allowed in LC 16.292(3).

The "public interest" must be considered, as such, but for the purposes of this decision it will be assumed that any of the proposed uses allowed in LC 16.292 will not have an adverse impact on surrounding uses and it will not be contrary to the public interest.

III. CONCLUSIONS

The Board finds that the subject 7.13 acres qualify for a Rural Comprehensive Plan (RCP) designation as Industrial Land with a RI Rural Industrial zoning designation.

The Board finds the facts presented accurately conclude the subject acreage is not forest or farm land as defined by Statewide Planning Goals 3 and 4, nor is required for protection by those Goals; and that the proposed redesignation is consistent with RCP policies and the approval standards, addressed in these findings.

The Board finds the subject 7.13 acres is developed with rural industrial uses and will not adversely affect surrounding lands, either with its existing rural industrial uses or with future uses, through imposition of applicable site review provisions in LC 16.292(4).

The Board concludes that based upon the findings provided, the Plan amendment and zone change conform with all applicable standards to allow redesignation from Forest Land to Industrial Land and rezoning from F-2 Impacted Forest Land to RI Rural Industrial.

IV. RECOMMENDATIONS

That the Nash Enterprises application PRZC Control No. 11 of Ordinance No. 1226 for the plan amendment of tax lot 1301 (4.10 acres) of Assessors Map 19-03-35, and 3.03 acres of tax lot 1202 of Assessors Map 19-03-35 from Forest Land (F) Industrial (I), be conditionally approved.

That the Nash Enterprises application PRZC Control No. 11 of Ordinance No. 1226 for the rezoning of tax lot 1301 (4.10 acres) of Assessors Map 19-03-35, and 3.03 acres of tax lot 1202 of Assessors Map 19-03-35 from Impacted Forest Land (F2) to Rural Industrial (RI), be approved subject to compliance with the Condition of Approval 1, below:

1. Prior to any new development or expansion of existing industrial uses on the 7.13 acres of land re-designated as Rural Industrial (RI), the legal owners of the two subject properties, tax lot 1301 and 1202 of TRS 19-03-35, shall record a property line adjustment survey and applicable property line adjustment deeds in the Lane County Deeds and Records Office consolidating the entire 7.13 acres into a revised tax lot 1301 metes and bounds description.

V. EXHIBITS

- A. Plan Map, Plot No. 417
- B. Zoning Map, Plot No. 417
- C. Assessor's Map 19-03-35
- D. Nash Enterprises – advertisement of equipment.
- E. Enlargement of Assessor's Map 19-03-35 depicting subject properties and lands within tax lots 1301 and 1202 proposed for designation as Rural Industrial (RI).
- F. Aerial Photograph BLM 3.66 1-12 (5-18-2000).
- G. Enlargement of Aerial Photograph BLM 3.66 1-12 (5-18-2000) depicting subject properties and development.

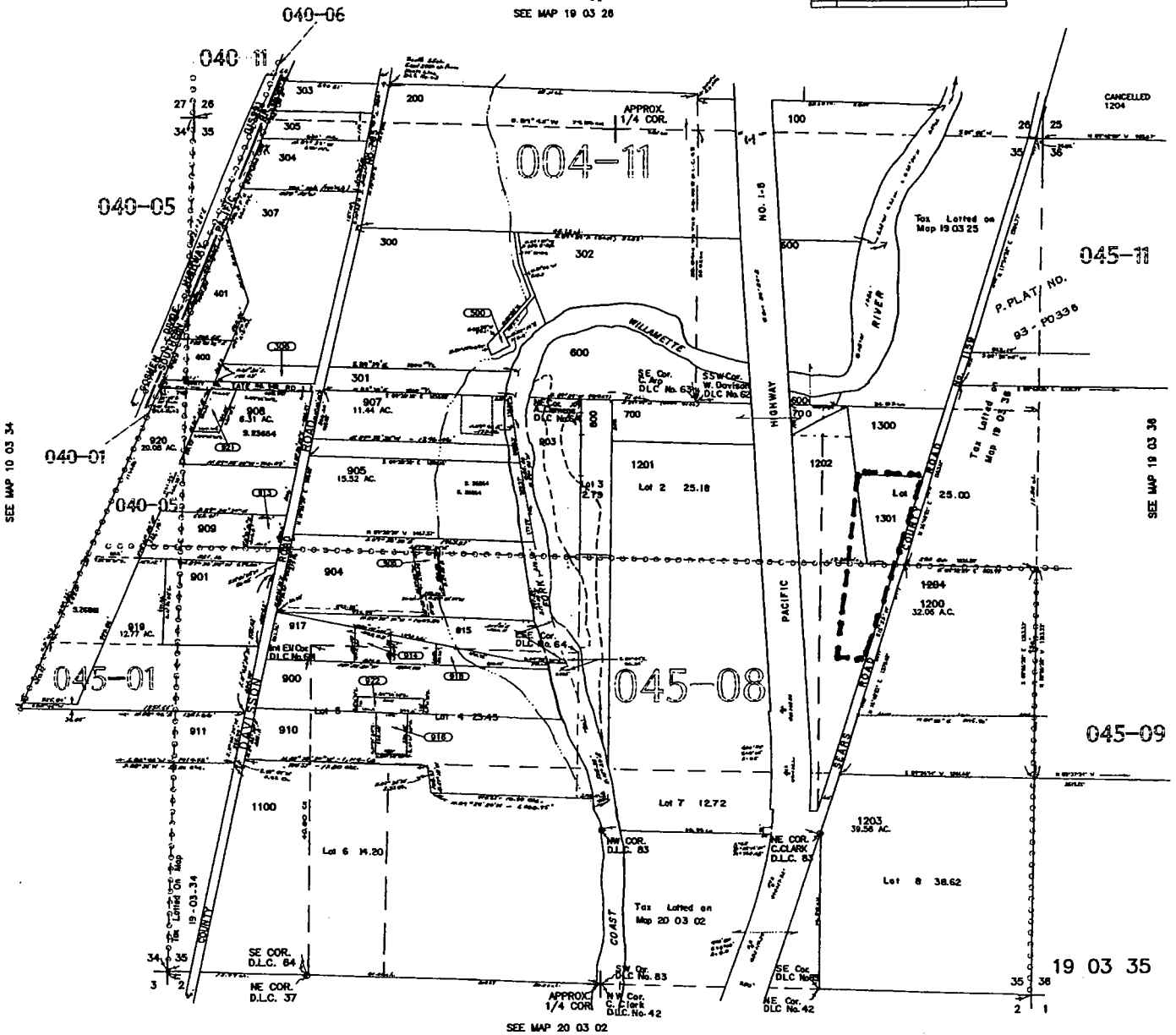
FOR ASSESSMENT
AND TAXATION
ONLY

SECTION 35 T.19S. R.3W. W.M.
LANE COUNTY

SCALE 1" = 400'

SEE MAP 19 03 28

DATE	REVISION	BY
12/21/91	REVISED FOR 19 03 35	WJG
11/15/91	REVISED FOR 19 03 28	WJG
10/15/91	REVISED FOR 19 03 25	WJG
09/15/91	REVISED FOR 19 03 22	WJG
08/15/91	REVISED FOR 19 03 19	WJG
07/15/91	REVISED FOR 19 03 16	WJG
06/15/91	REVISED FOR 19 03 13	WJG
05/15/91	REVISED FOR 19 03 10	WJG
04/15/91	REVISED FOR 19 03 07	WJG
03/15/91	REVISED FOR 19 03 04	WJG
02/15/91	REVISED FOR 19 03 01	WJG



SEE MAP 10 03 34

SEE MAP 19 03 38

CANCELLED
1204

045-11

045-09

19 03 35

SEE MAP 20 03 02

Nash Enterprises



Gary W. Nash
81510 Sears Rd
Creswell Or 97426

Logging - Construction - Farming Equipment
New & Used Parts

Sud-N-Shine Car Wash
235 Davidson Ave.
Cottage Grove OR

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Mobile: 541-729-8320
Fax: 541-895-5350
WWW.nashenterprises.com

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81510 Sears Rd. • Creswell, OR 97422

Interstate 5 - Exit 176 (Saginaw) or Exit 182 (Creswell) to Sears Rd.

PETERSON MODEL CS 1000 MOBILE CHIP SCREEN PLANT



New Cummins Diesel 3-axle carrier, exc. cond., Video avail., mid '90's year . . . **\$139,000**

'03 32-Ft. END DUMP

Brand New, New Tires and New Chrome wheels

\$29,500



PETERSON 5000 MODEL G WOOD CHIPPER

Totally self contained, good working, fair rubber, another Mdle avail. . . **\$115,000 or \$119,000**

H150H HYSTER FORKLIFT

17 1/2 ft. height, 6-cyl. Perkins, side shift, 15,000 lb., 1/2 cab with good glass.

\$18,500



DART K 80 LOG STACKER

Newer style, good working machine, fair rubber

\$39,500

(Another earlier model avail. \$35,000)



HYSTER H150H FROKLIFT

Has 6 cyl. Perkins Diesel eng., SNCOO7P 1993, Attachment shift, ss650-76, Load Height 212.5", 6355 Hrs. **\$18,500**



2 CAT 988B LOADERS

• 1-50W3966 • 1-50W8698
\$75,000 Each



Cat 980B Gen. purpose bucket, 3rd valve hydraulic and lob forks . . . **\$32,500**

40-TON LB TRAILER, 2-axle Hyster. All plumbed and ready for a booster, deck ext., hyd. gooseneck powered by a Techumsa Eng **\$15,000**

'65 NAEBOR 40' DROP DECK TRAILER

Single Axle, 33' Load Deck, 7' Gooseneck **\$3,500**

PIERCE 3-AXLE DETACHABLE GOOSE NECK LOWBOY Hydraulic Detach. with 14-in.

Ext., 18'10" Load Deck, 10.00 x 22 rubber, fair cond.

Overall Length 51'6" **\$17,500**

BEVERAGE TRAILER, Single Axle, Exc. Condition **\$2,500**

'77 TRAILMOBILE 42-FT. FLATBED

Outside Frame **\$4,500**

CEC PORTABLE

SCREENING PLANT

Double screen, feed hopper,

2 axle carrier, good paint,

early 90's year . . . **\$89,900**



NEW WATER TRUCK TANKS, NEW DUMP BOXES AND ALL TYPES OF SHAMROCK ATTACHMENTS NOW AVAILABLE...

CALL FOR DETAILS!!!

- CAT 46AD8 \$27,500
- FMC Link-Belt LS580TL . . . \$20,000
- Allis-Chalmers HD9 Dozer . . \$5,500
- Komatsu FG15-11 \$4,500
- Clark Y50 \$4,000
- Piloted Wheels, 11 24.5 . . . \$50ea.
- John Deere Hyd. Winch \$2,500
- Log Splitters From . \$600 to \$1,000
- Gearmatic Hyd. Winch P.O.R.

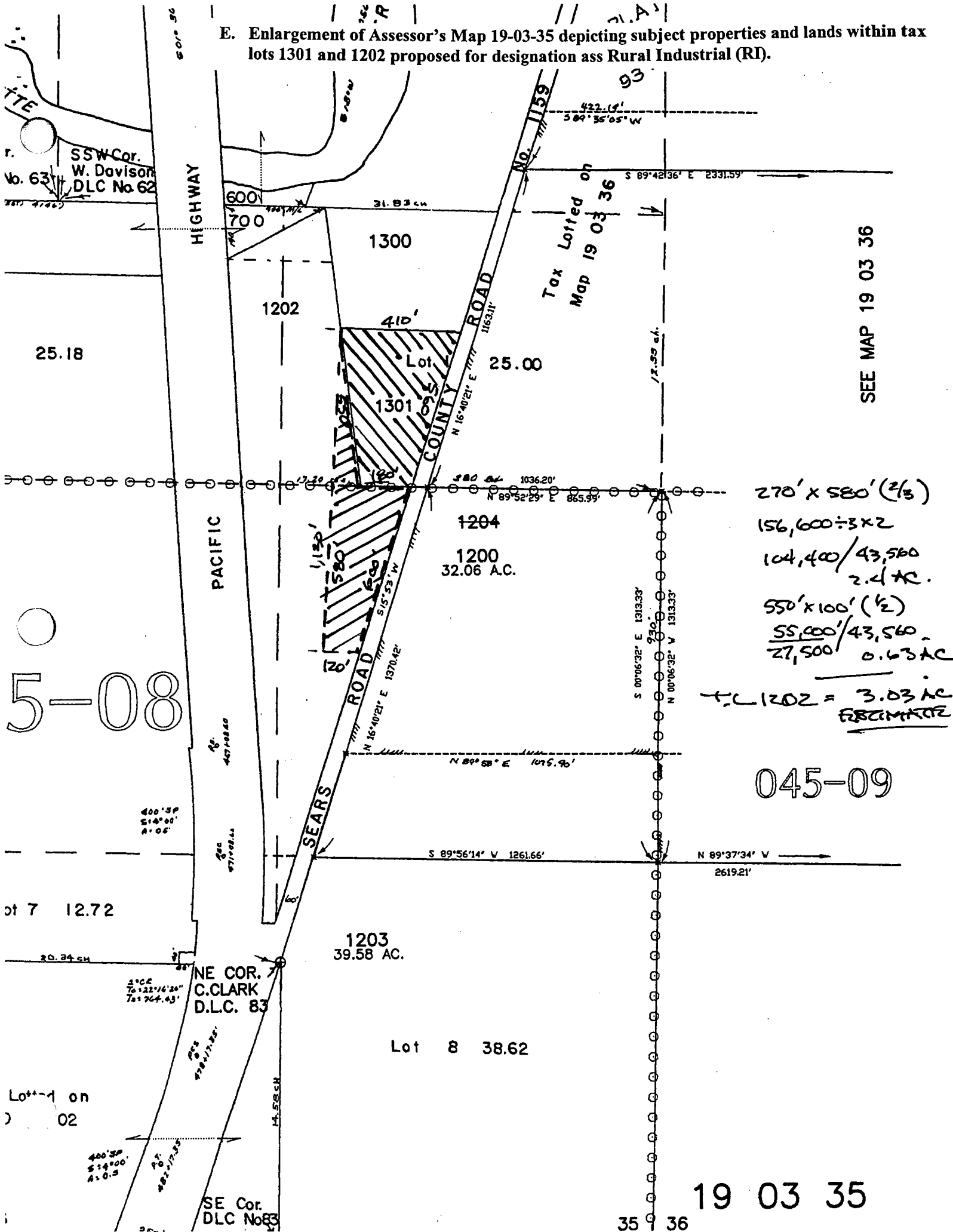


- Plus Many, Many More Items -



Out of State: **1-877-856-0601** • Business: **541-895-5244**
• Fax: **541-895-5350** • Mobile: **541-729-8320**

E. Enlargement of Assessor's Map 19-03-35 depicting subject properties and lands within tax lots 1301 and 1202 proposed for designation as Rural Industrial (RI).



$270' \times 580' (\frac{2}{3})$
 $156,600 \div 3 \times 2$
 $104,400 / 43,560$
 2.4 AC.
 $550' \times 100' (\frac{1}{2})$
 $55,000' / 43,560$
 1.26 AC.
 3.66 AC.
 $\text{t.c. } 1202 = 3.03 \text{ AC.}$
 0.63 AC.

045-09

19 03 35

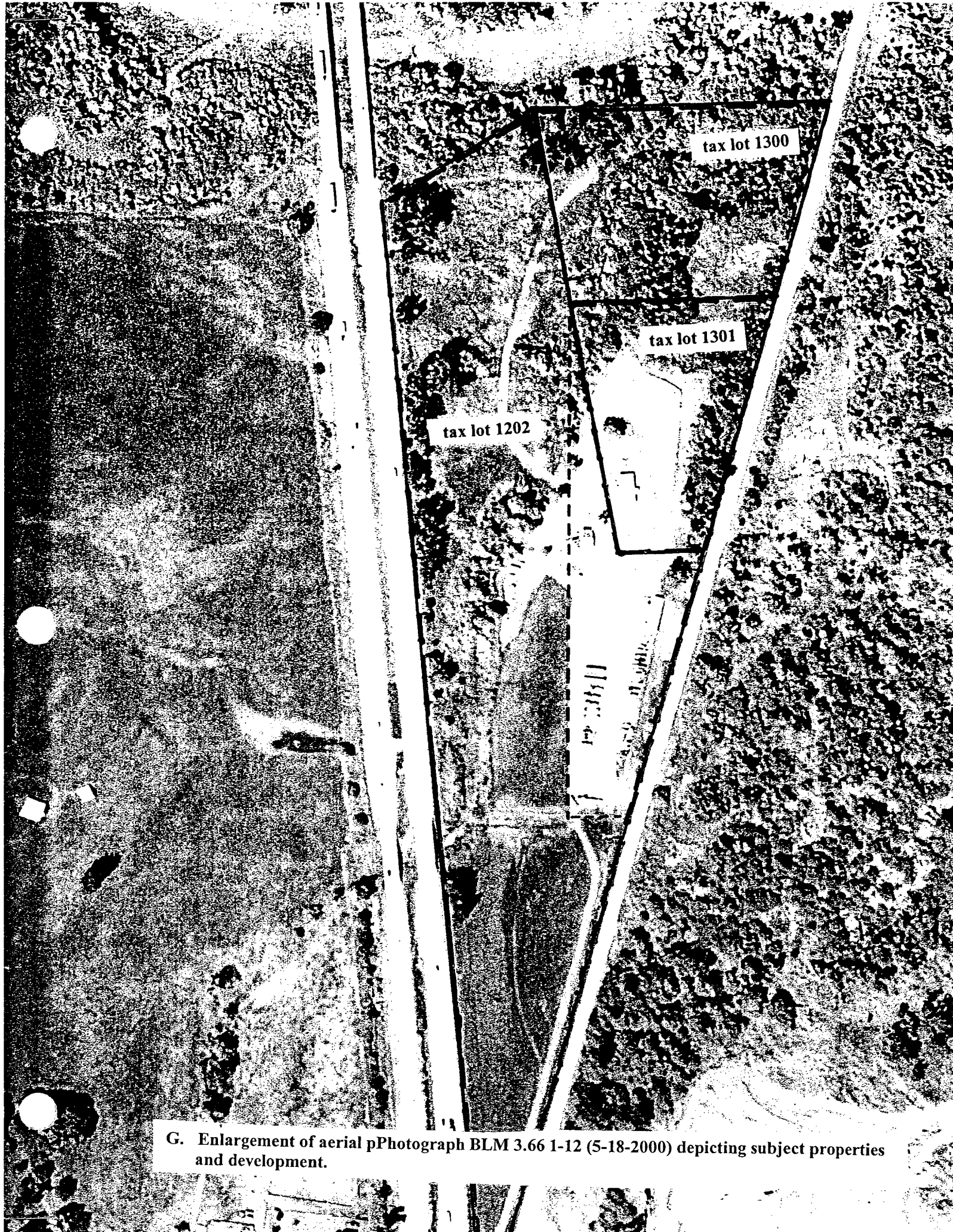
5-18-2000

2:04

0-00-EGG 3-56 1-12

tax lot 1300
tax lot 1301
tax lot 1202

F. Aerial Photograph BLM 3.66 1-12 (5-18-2000)



G. Enlargement of aerial pPhotograph BLM 3.66 1-12 (5-18-2000) depicting subject properties and development.

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

**Developed and Committed Exception Area No. 420-R3
and
Developed and Committed Exception Area No. 421-R1**

Plan Amendment and Zone Change for:

**Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);**

TRS	Tax lot	Acreage	From	To
21-03-02.2.1	501	0.55	Rural Residential (RR5)	Rural Industrial (RI)
21-03-02.2.1	200	0.065	Rural Residential (RR5)	Rural Industrial (RI)
21-03-35	9300	<u>0.138</u>	Rural Residential (RR5)	Rural Industrial (RI)
		0.753		

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 properties subject to this application, hereinafter referred to as the "subject properties," are located south of Mosby Creek Road, approximately 4700 feet west of Quaglia Road, approximately 3/4ths of a mile southeast of the urban growth boundary of the City of Cottage Grove, and within the Developed & Committed Exception Areas No. 420-1 and 421-1.

The subject properties can be identified as:

- Tax lot 501 (0.55 of-an-acre) of Map 21-03-02.2.1 (Plot No. 421).
Lawfully created parcel per PA04-5837, utilized as a log storage yard in conjunction with existing saw mill operation on contiguous property tax lot 200, Map 21-03-02.2.1.
- 0.065 of-an-acre (146’x143’x 35’ triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421).
Lawfully created parcel per PA05-5010, developed with a driveway providing legal access to the separate legal lot status for the larger portion of tax lot 200 and the saw mill to the south.
- 0.138 of-an-acre (40’x 150’ strip) of tax lot 9300, Map 20-03-35 (Plot No. 420).
A 40-foot wide strip of land along the eastern boundary of tax lot 9300 planned for the creation of a 40-foot wide access driveway from Mosby Creek Road to the saw mill on tax lot 200 to the south. Parent parcel, tax lot 9300, is a lawfully created parcel per PA05-5007.

2. All of the subject properties have a Plan designation of Rural and zoning designation of Rural Residential (RR5). The larger portion of tax lot 200 south of the triangle portion of tax lot 200 is designated Industrial and Rural Industrial, respectively.
3. The subject properties are part of the contiguous ownership by the Wilson Revocable Living Trust, a family trust, which has operated a saw mill on the adjacent property to the south, tax lot 200 of TRS map 21-03-02.2.1, for several decades. The saw mill operation dates back to the 1940’s when it was operated as the Emery Harris Lumber Company. Refer to Attachment “E” Aerial Photograph (Oblique angle) circa 1940’s. The saw mill is presently operated as the John W. Wilson & Son mill specializing in contract wood products.

The industrial uses have legal access from Mosby Creek Road and include the following structures associated with the existing saw mill:

Mill	20’ x 40’	800 sq. ft.
Shed	20’ x 20’	400 sq. ft.
Trim shed	12’ x 30	360 sq. ft.
Lumber building	40’ x 60’	2,400 sq. ft.

Shop

40' x 60'

2,400 sq. ft.

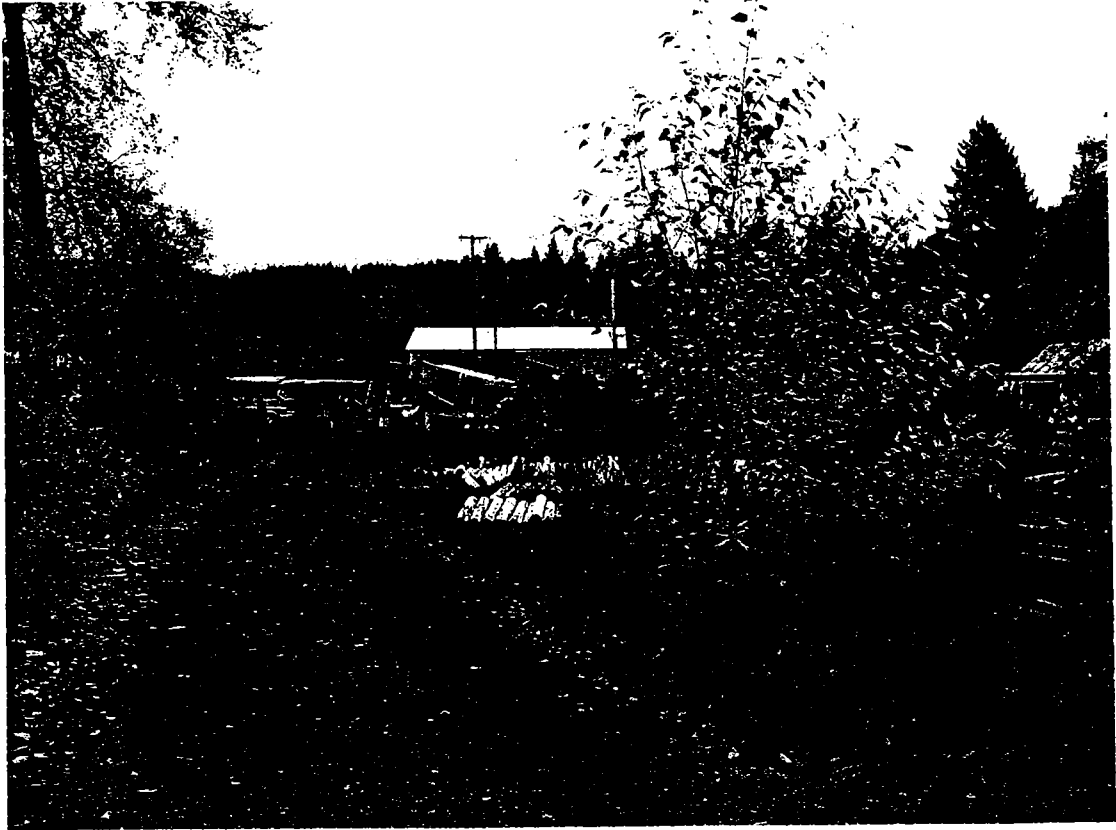
6,360 sq. ft.

4. The property owners, John and Shirley Wilson, seek to redevelop the access point in the right-of-way of Mosby Creek Road (tax lot 9401), widen the access road to 40 feet, and acknowledge the past and continuing industrial use of tax lot 501 and the triangle-shaped portion of tax lot 200, in conjunction with the saw mill operation on majority of the acreage of tax lot 200 that is designated Rural Industrial (RI). The goal of this rezoning is to have all industrial uses on the contiguously owned land in one compatible and appropriate Rural Industrial (RI) zoning designation.

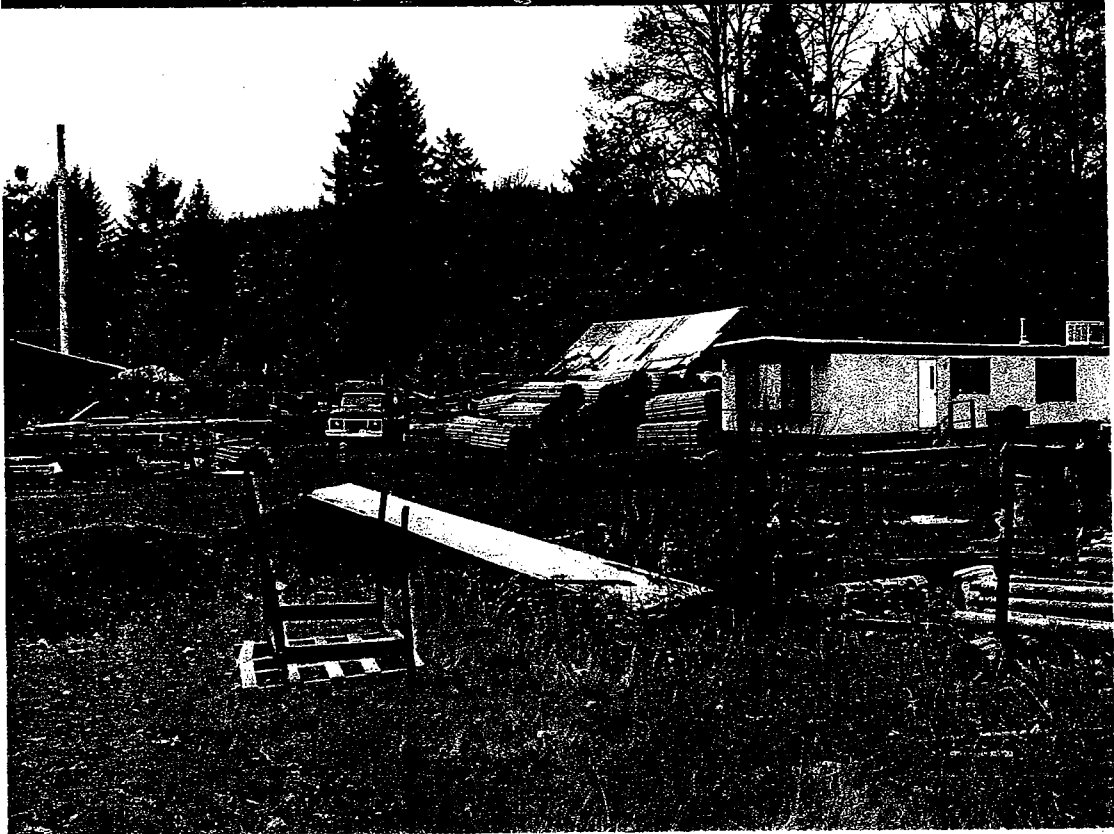
Photograph below: Existing access driveway, looking north towards Mosby Creek Road along the eastern boundary of tax lot 9300.



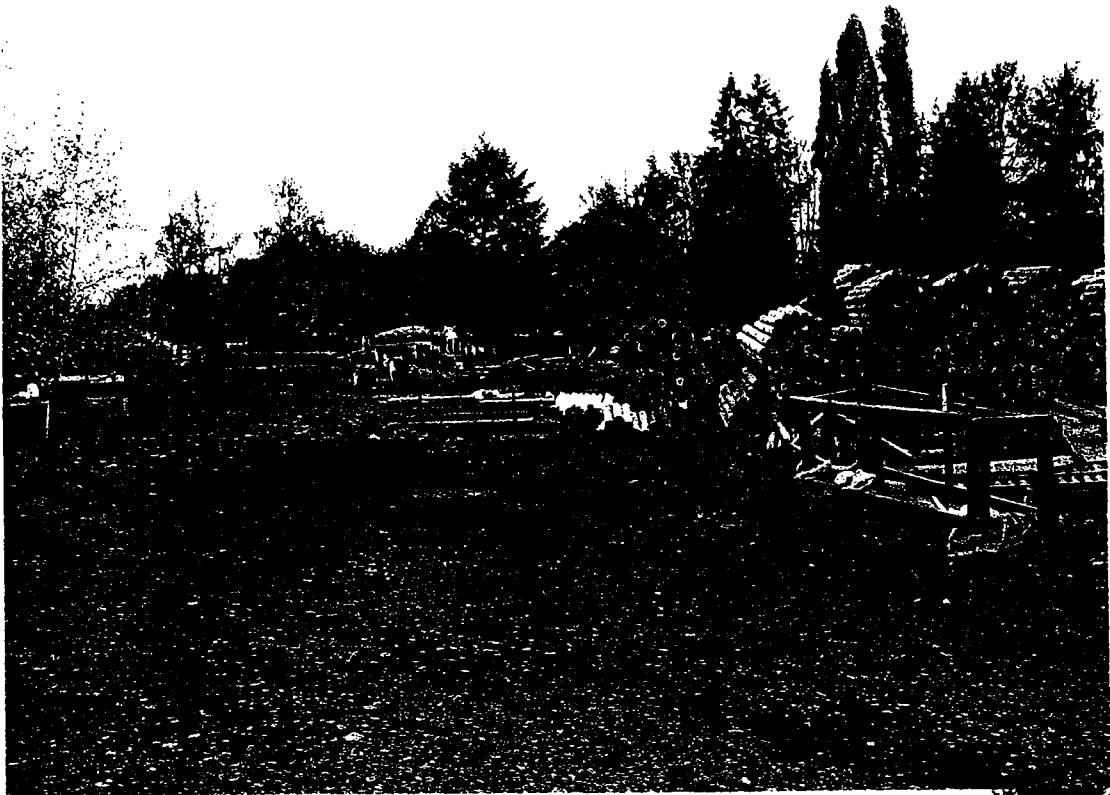
Access driveway – looking south towards saw mill operation. Bottom: tax lot 501 to the west.



Existing saw mill on the majority of tax lot 200 that is currently zoned Rural Industrial (RI).







- Looking north through the small triangle of tax lot 200 and along the eastern side of the existing driveway parallel to the common boundary between tax lots 9300 and 9400.



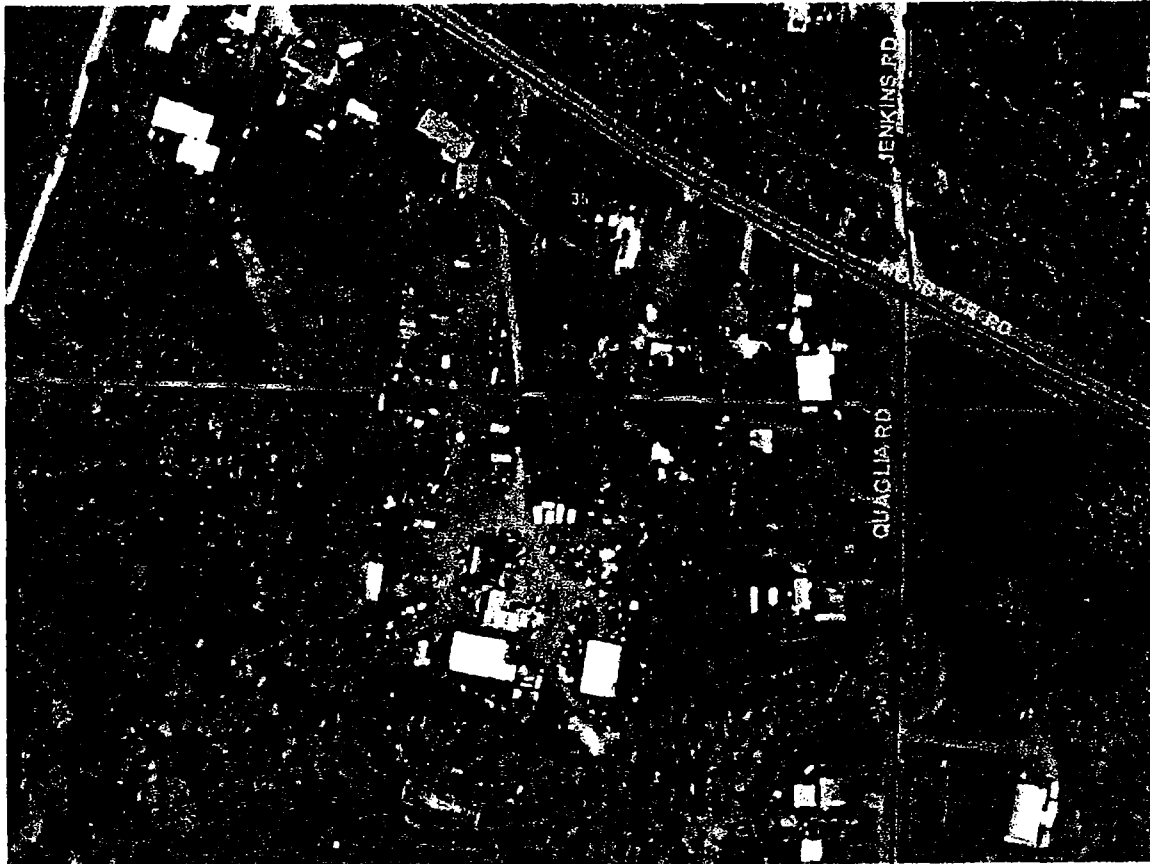
5. The request for the change of zone is to bring the existing uses of the subject properties into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the subject properties in connection with the industrial activities is inconsistent with the Rural Residential Zone (RR). The existing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

(a) The primary processing of forest or farm products or natural resources that require a location in proximity to the rural resource in order to operate. This activity may occur outside a building or in one or more buildings of any size . . .

(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.*

The change of zone for the subject properties from Rural Residential (RR) to Rural Industrial (RI) would facilitate the applicant's desire to continue with the processing of specialty forest products and recognize the combined 0.753 of-an-acre of the subject properties as a long-standing component of the 5.02 acres currently designated as RI..



Aerial photograph of the subject properties at the north end of the Wilson mill site that is located in the center of the photograph.

5. The existing industrial uses on tax lot 200 and 501 use complies with the *Purpose* statement of LC 16.292(1) *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 continued operation of existing industries; . . .
6. There is no record of any historical compatibility issues occurring between the existing industrial use on the subject properties and its neighbors since the saw mill was established circa 1940s. Nor is there any record of complaints from any surrounding property owners regarding compatibility issues or conflicts with the industrial activities or the current use of John W. Wilson and Son saw mill.
7. The operating saw mill on tax lot 200 lies within a section (20-03-35) identified as a “water quantity limited” area in Lane Manual 13.010. The mill site and the other uses on the contiguously owned properties are developed with wells that provide adequate domestic water for the existing uses.
8. The subject properties receive the following public services: South Lane School District #45J (schools); Emerald People’s Utility District (electrical power); South Lane Fire & Rescue District (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. Lands to the south and east are designated Rural Residential (RR5), part of D&C Exception Area No. 421-1, and developed with residences. The subject property to the north, tax lot 9300, located south of the Mosby Creek Road right-of-way are owned by the applicants and tax lot 9300 is developed with the applicant's residence. The applicants also own tax lots 9400 and 9401 to the east which are not part of this application. Lands north of Mosby Creek Road include the Oregon Pacific & Eastern railroad right-of-way are also zoned Rural Residential (RR5). RR5 lands lie to the west of the subject properties. Lands to the west of the five acres of tax lot 200 that are currently zoned RI, are designated Impacted Forest Land (F2).

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

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 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 existing industrial uses on the subject properties in conjunction with the operation of the existing saw mill that have been integrated into the surrounding rural area for over 60 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 minimal public services and is not necessary or intended for urban use.

The subject properties are located approximately 5,000 feet southwest along Mosby Creek Road from the urban growth boundary of the City of Cottage Grove. The properties receive a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject properties which have existed on the subject properties and other contiguous lands for 60+ 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 forest lands (F2) adjacent to the western boundary of the five acres of tax lot 200 that was designated as Rural Industrial (RI) in 1984. The F2 lands include a mixed stand of deciduous and conifer trees and wetlands along a creek. The industrial use on the applicant's and prior ownerships' saw mill are related to the timber industry and have co-existed with the forest lands to the west for six decades without committing them to nonresource uses.

There are no Exclusive Farm Use lands adjacent to the subject property and the nearest (E40) are located approximately 2,500 feet to the southeast.

No activities associated with the industrial uses have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses. Its past and current role can be viewed as being complimentary and beneficial to the forest products resource base.

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

The existing use of the subject properties has been compatible with the adjacent properties and nearby farm or forest uses without known conflicts since the 1940s.

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 properties are located in "developed and committed" exception area numbers 420-1 and 421-1 of Lane County. They are proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and zoned Rural industrial (RI). 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 are relatively flat with no identified hazards due to slope or terrain features. Development was been orderly and preceded land use regulations. The resulting industrial 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 zones: Lane Code 16.292 (RI).

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

Re-designation of the subject properties will acknowledge historical industrial uses, 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 subject properties subject to this rezoning request are collectively small, slightly less than one acre (0.753), and developed in its current state in the same manner as for the past 60 years. It is buffered by road corridors and nonresource-zoned properties from nearby forest and agricultural (E25) land. Continued use of the subject properties will not affect the conservation of those F2 or E40 lands within the region surrounding the properties.

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 current industrial uses on the subject properties are served by the on-site wells and existing subsurface disposal systems. Therefore, the uses will not alter the volume or availability of local groundwater that is currently provided to the existing structures.

In the event that a more intensive or different use is proposed for of the subject properties, 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 use on the subject properties has co-existed since the 1940s with the agricultural industry in the surrounding area. The nearest EFU (E25) resource lands are buffered by Rural Residential (RR5) and an intervening distance of 2,500 feet. Any expansion or intensification of the use 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. However, there are delineated wetlands identified on the Cottage Grove SE4 quad of the National Wetlands Inventory within tax lot 200 and south of the existing mill site. The 0.832 of-an-acre proposed for re-designation to RI is located approximately 500 feet north of the wetlands boundary. No known impacts have occurred from the existing uses on the wetland area. The continuation of the industrial use on the subject properties to the north 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 log and finish products storage and access elements of the industrial development for the past 60 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 properties are not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2095F 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 industrial use in this area.

- c. Lane Code 16.292

Lane Code 16.291(1) states that *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 continued operation of existing industries; . . .*

The proposed rezoning and uses on the subject properties 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 small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the water supply resource as well as the 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:

- Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
- 0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
- and
- 0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);

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. 12 of Ordinance No. PA 1226, amending the Official Plan Maps No. 420-1 and 421-1 for:
 - Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
 - 0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
 - 0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);from Rural (R) to Industrial (I); and
2. Approval of PRZC Control No. 12 of Ordinance No. PA 1226, amending the Official Zoning Maps No. 420-1 and 421-1 designations for:
 - Tax lot 501 (0.55 of an acre) of Map 21-03-02.2.1 (Plot No. 421);
 - 0.065 of an acre (146'x143'x 35' triangle) of tax lot 200, Map 21-03-02.2.1 (Plot No. 421);
 - 0.138 of an acre (40'x 150') of tax lot 9300, Map 20-03-35 (Plot No. 420);from Rural Residential (RR5) to Rural Industrial (RI).

V. EXHIBITS

- A - 1. Plan Map No. 420 with proposed plan change depicted.
 - A - 2. Plan Map No. 421 with proposed plan change depicted.
 - B - 1. Zoning Map Plot No. 420 with proposed zone change depicted.
 - B - 2. Zoning Map Plot No. 421 with proposed zone change depicted.
 - C - 1. Lane County Assessor's Map TRS 21-03-02.2.1
 - C - 2. Lane County Assessor's Map TRS 20-03-35
 - D. Description of area for RI rezoning.
 - E. Aerial photograph (oblique angle) circa 1940's.
 - F. Site diagram with structures.
-
-

FOR ASSESSMENT
AND TAXATION
ONLY

DATE	REVISION	BY

NE/4 NW/4 SECTION 2 T.21S. R.3W. W.M.
LANE COUNTY

SCALE 1" = 100'

SEE MAP 20 03 35

21 03 02 21

C.A.D. SYS.

NOTE: DIMENSIONS OF BOUNDARY SET THE ONLY LINE OF RECORD. ALL TO BE MADE AS SHOWN - BEARS FROM AC.

MOSBY CREEK RD.
21-03-02-N/4 RD.

CANCELLED

SEE MAP 21 03 02

045-08

SEE MAP 21 03 02

600
26.16 AC

501
0.53 AC

301
0.87 AC

100
0.85 AC

200
4.81 AC

201
1.49 AC

900
2.29 AC

601
9.39 AC

1000
0.56 AC

CHAGLIA ROAD
(CO. RD. 1063)

SEE MAP 21 03 02

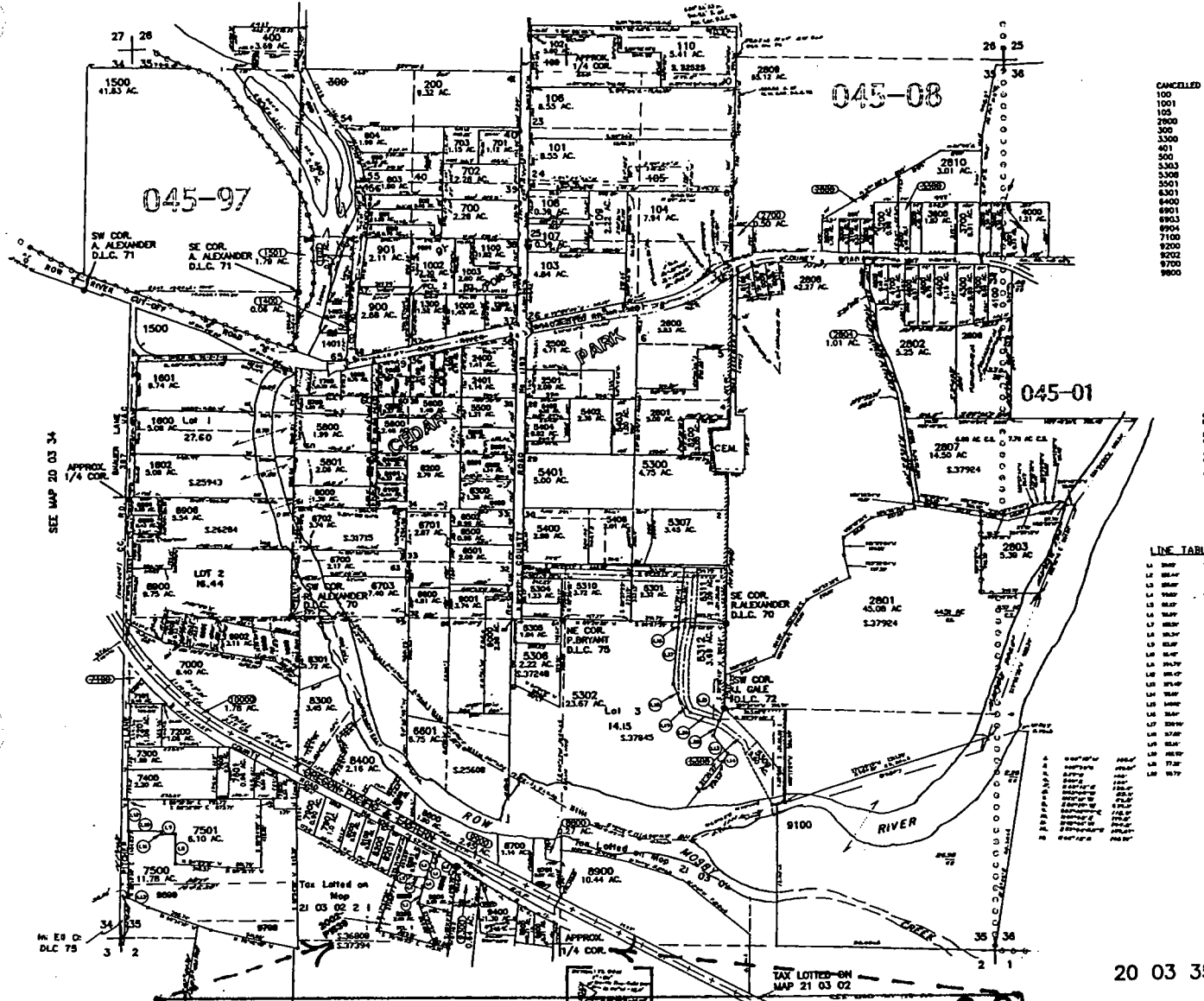
21 03 02 21

FOR ASSESSMENT
AND TAXATION
ONLY

SEC. 35 T.20S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'

SEE MAP 20 03 28

TRACT	AREA	OWNER	DATE
100	1.00 AC.
101	1.00 AC.
102	1.00 AC.
103	1.00 AC.
104	1.00 AC.
105	1.00 AC.
106	1.00 AC.
107	1.00 AC.
108	1.00 AC.
109	1.00 AC.
110	1.00 AC.

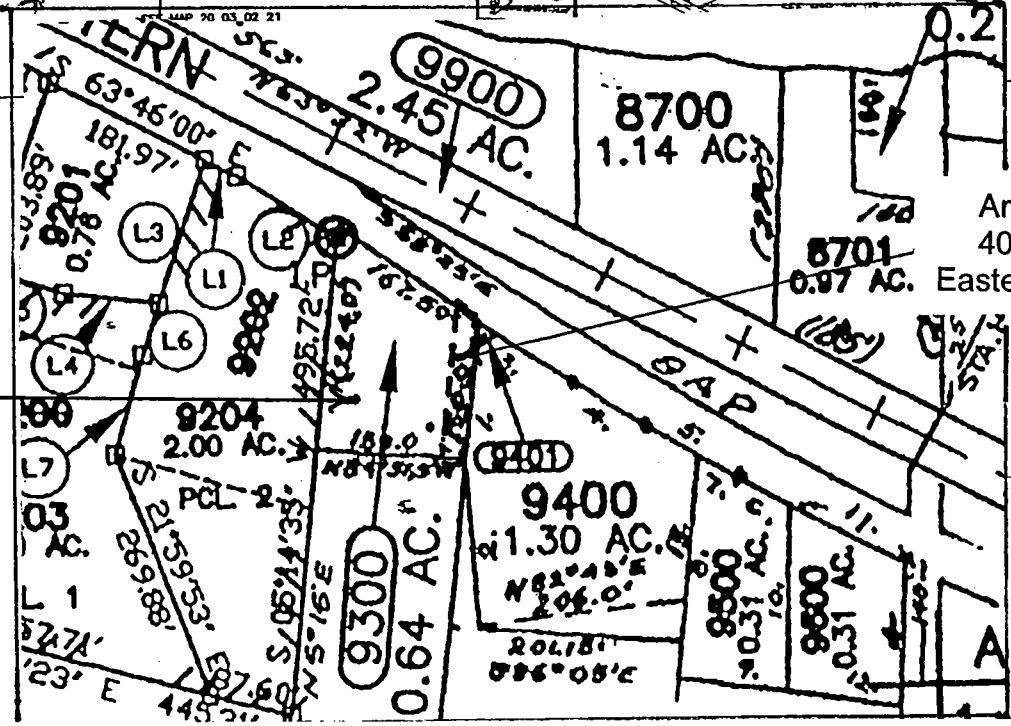


- CANCELLED
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 - 200

LINE TABLE

LINE	DESCRIPTION	AREA
L1
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L3
L4
L5
L6
L7
L8
L9
L10
L11
L12
L13
L14
L15
L16
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20 03 35

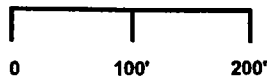


Area being considered:
40-foot wide strip along
Eastern boundary of property

Subject parcel
Tax lot 9300



North
Scale: 1" = 100'



December 28, 2004

Description of areas for RI Zoning

- 1. Map 21-03-02-21: Tls 501 & 200
- 2. Map 20-03-35:

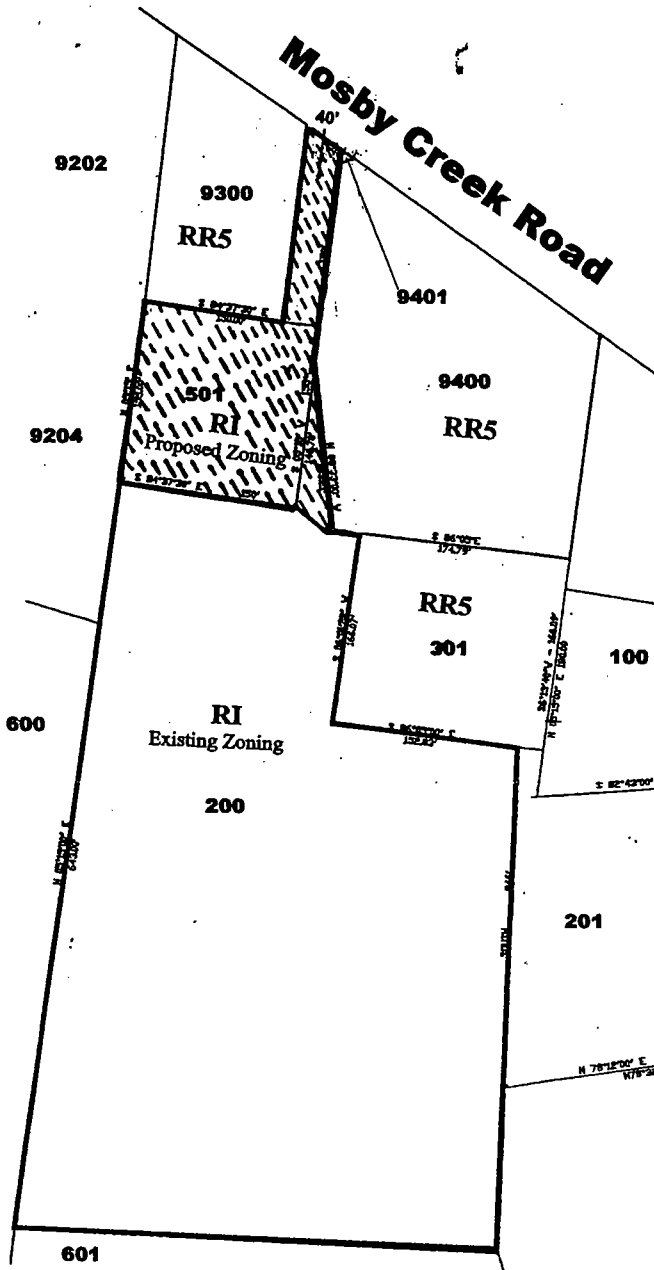
- easterly 20' of TL 9300

The areas for the RI zone, described above, are shown within the red outlines on this map.

The RI zoned areas will encompass Tls 501 and 200 that have been continuously used for lumber milling from a time that predates the rural zoning.

The RI zoned areas of TL 9300, will be partially used as access for the lumber mill to Mosby Creek Road.

This application of the R1 zoning corresponds to the existing industrial use of the property & will allow the continuation of industrial uses of the property as permitted uses.



Plan Amendment & Zone Change Map for John & Shirley Wilson
 Tax Lots 9300, of Map 20-03-35
 Tax Lots 501 & 200 of Map 21-03-02.21

Prepared By James A. Mann LLC
 P.O. Box 51081 Eugene, OR 97405 541-514-3051 jamannllc@comcast.net

Owners: John & Shirley Wilson
 78084 Mosby Creek Road, Cottage Grove, OR 97424 541-942-4684



E . Aerial photograph (oblique angle) circa 1940's.

12

EMERY HARRIS LUMBER CO.
COTTAGE GROVE, OREGON

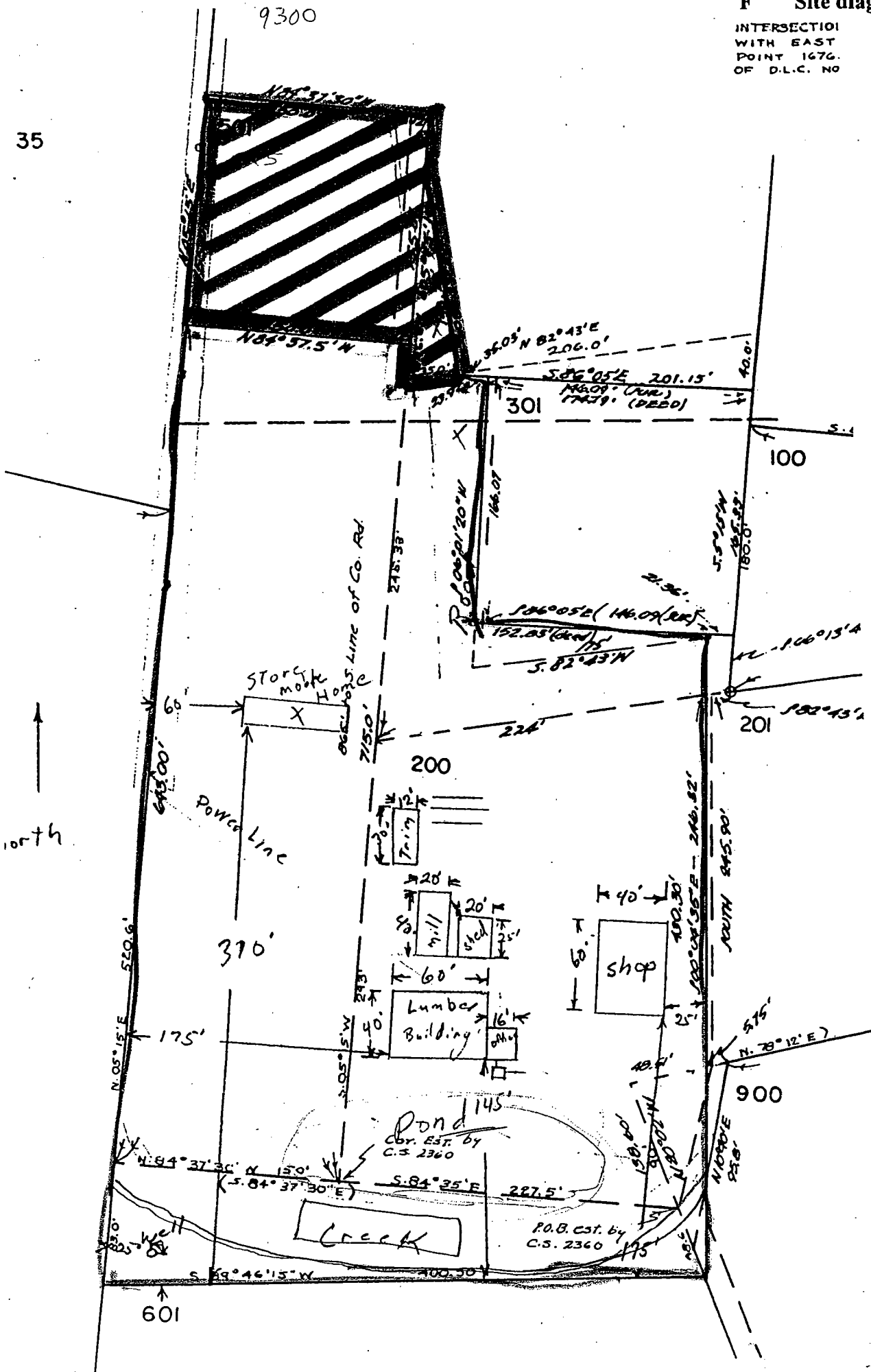
John W. Wilson & SON
78084 MOSBY RD
D R D A 11111

9300

F Site diagram with structures.

INTERSECTION
WITH EAST
POINT 1676.
OF D.L.C. NO

35



North ↑

Exhibit No. C-13

PRZC Control No. 13

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

Developed and Committed Exception Area No. 429-2

**Plan Amendment and Zone Change for
Tax Lot 2901 of Assessor's Map 19-03-13**

Tax lot	Acreage	From	To
2901	1.98	Exclusive Farm Use (E30)	Rural Public Facility (RPF)

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Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-04-018, 020, 025, and 028 – *Exception Requirements*
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 16.294 – *Rural Public Facility Zone (RPF)*
Lane Code 16.212 – *Exclusive Farm Use (E30)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

This amendment to the Official Plan Map and Zoning Maps Plot No. 429 would revise the Plan and Zoning designations of one property to provide for the continued use of the existing public service on the property. The amendment would take an exception to Goals Three and Four, amend the plan diagram from Agricultural to Public Facility and re-designate tax lot 2901 from Exclusive Farm Use (E30) to Rural Public Facility (RPF).

II. FINDINGS OF FACT

The property subject to plan amendment and zone change in this application is:

TRS 19-03-13, tax lot 2901, 1.98 acres.

Property Owner: City of Creswell

Proposed change in zoning designation from Exclusive Farm Use (E30) to Rural Public Facility (RPF).

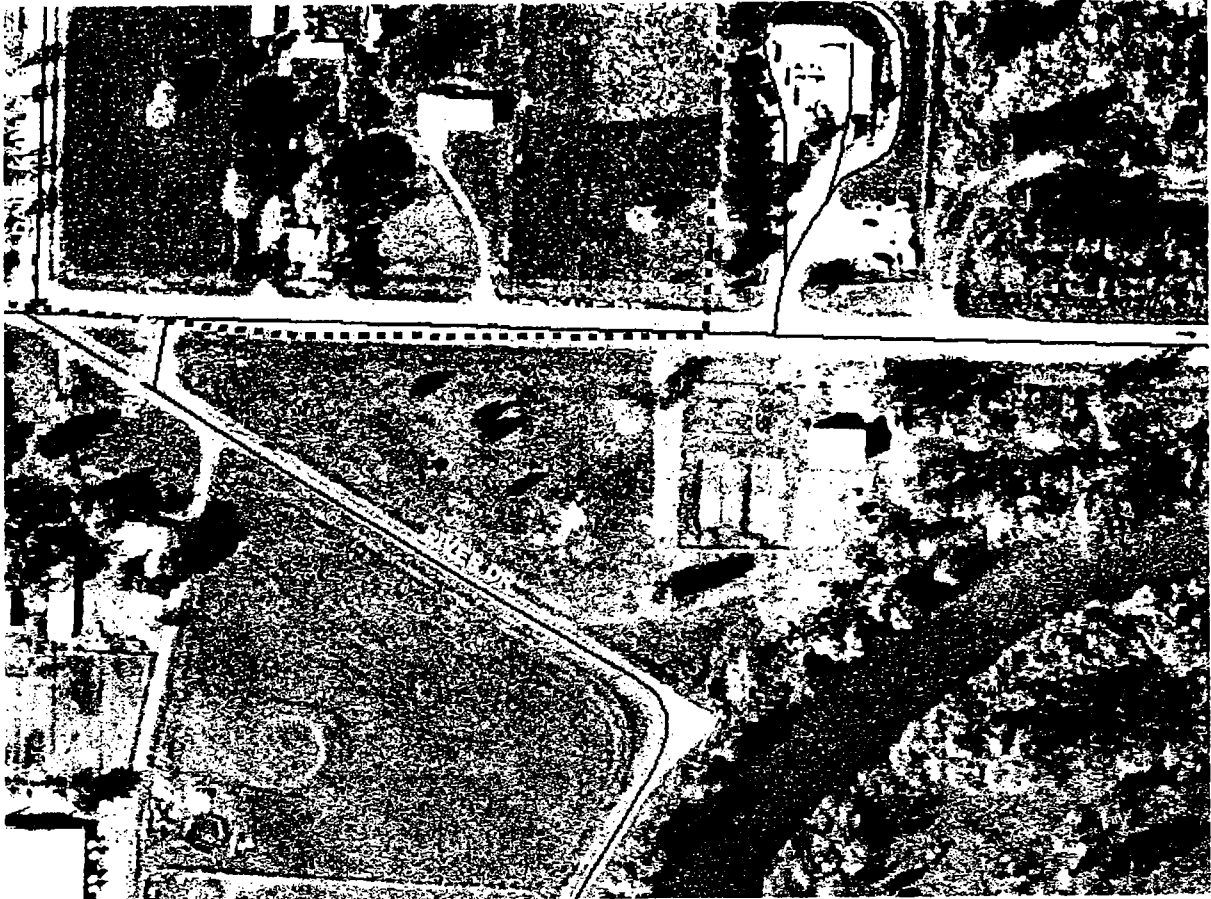
The following findings of fact and conclusions act to support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change. These findings are divided into the following three sections:

- A. General Findings Relating to the Subject Property.**
- B. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.**
- C. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.**

A. General Findings Relating to the Subject Property.

1. The property subject to this application, hereinafter referred to as the "subject property," can be identified as tax lot 2901, 1.98 acres in size, of Lane County Assessor's map TRS 19-03-13. The triangular shaped property is situated south of Cloverdale Road, east of the intersection of Cloverdale and Dale Kuni Road, and north River Drive and northwest of the Coast Fork of the Willamette River. The subject property's access point is from Cloverdale Road and has an assigned rural address of 34226 Cloverdale Road, Creswell, OR 97426.
2. The subject property is part of a contiguous, two-property tract that includes tax lot 2402 (2.98 acres) to the west. The subject tract is level to gradually sloping towards the Coast Fork along the south to southeast boundary.

3. The applicant is proposing a Minor Plan amendment to the Lane County Rural Comprehensive Plan (RCP) from Agricultural (A) to Public Facility (PF), with an exception to Statewide Goal 3 - Agricultural Lands and Goal 4 - Forest Lands, concurrent with a zone change from E30 Exclusive Farm Use to RPF Rural Public Facility.
4. This request is required to recognize an existing land use on the subject property since 1989 (16 years) and to remove the nonconforming use status created by the current E30 zone.



5. The subject property (right half of the triangle formed by Cloverdale Road, River Drive and the Coast Fork) is developed with a 40' x 60' water treatment building within a graveled parking area and approximately one-quarter of the area of two backwash holding (settling) ponds surrounded by a security fence. These improvements impact or occupy approximately 0.6 of-an-acre of the tract. The nonimpacted area, approximately 1.38 of-an-acre, of the subject property is located along the southeastern portion parallel to the river. This portion of the subject property is not suitable for development due to the riparian corridor habitat setback, Willamette Greenway area setback and the flood hazard areas parallel to the Coast Fork – Willamette River. The contiguous property to the west is developed with three-quarters of the surface area of the holding ponds and the subsurface sewage disposal system for the water treatment facility.
6. In 1989, the Lane County Hearings Official approved a Willamette Greenway development permit (PA 0953-89) to allow construction of the water treatment plant on the two contiguous properties. Construction was accomplished per building permit BP 3416-89 and the water plant has a capacity of about one million gallons per day.