

AGENDA
City of Brookings
Special Council Meeting
Brookings City Hall Council Chambers
898 Elk Drive, Brookings, Oregon 97415
Monday December 18, 2006 7:00 p.m.

VAULT COPY

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Action Item
 - A. Discussion and possible approval to authorize Mayor Sherman to enter into agreement for services of City Manager Pro Tem.
- V. Public Hearing
 - A. In the matter of File No. **CPZ-2-06**, a Comprehensive Plan zone change from C-3 (General Commercial) to R-3 (Multi-family Residential), located adjacent to Lucky Lane and north of Chetco Avenue; Assessor's Map 41-13-6BD, Tax Lot 2000; Jeffrey McCollum, representative for South Curry Development LLC, applicant. Criteria used to decide this application can be found in Chapter 17.140-Amendments, of the Brookings Land Development Code. [pg. 3]
- VI. Final Order
 - A. Final Order and Finding of Fact in the matter of Planning Commission File No. CPZ-2-06; application for a Comprehensive Plan/Zone Change; South Curry Development, LLC, applicant. [pg. 53]
- VII. Ordinance
 - A. An Ordinance amending the Comprehensive Plan designation on a parcel of land located adjacent to Lucky Lane and north of Chetco Avenue from Commercial to Residential and the zoning from C-3 (General Commercial) to R-3 (Multi-family Residential). [pg. 57]
- VIII. Remarks from Mayor and Councilors
 - A. Mayor
 - B. Councilors
- IX. Adjournment



COUNCIL AGENDA REPORT

To: Mayor and City Council

From: Dianne ~~E. Snow~~

Date: Dec. 7, 2006

Re: Planning Commission Recommendation on Comprehensive Plan and Zone Change File CPZ-2-06, Applicant South Curry Development, LLC.

Subject: Request for Comprehensive Plan change from Commercial to Residential and zone change from Tourist Commercial (C-4) to Multi-family Residential (R-3) on property located adjacent to Lucky Lane and north of Chetco Ave.; Assessor Map 41-13-06BD, Tax lot 2000.

Background /Discussion: After reviewing the attached staff report, applicant's findings, and testimony at their December 5, 2006 hearing, the Planning Commission recommends approving a "qualified" Comprehensive Plan and Zone Change with one condition of approval. The condition is as follows:

- Prior to the issuing of a building permit for any development, the property owner shall submit engineered analysis of sewer, water, and storm drainage needs for the specific proposal. This analysis shall also determine the adequacy of the existing infrastructure to be used to transport sewer, water, and storm drainage. Any increase in capacity needed by the proposed development must be engineered, constructed, and paid for by the property owner. The City must review and approve all plans.

The applicants also own parcels to the east of Lucky Lane that are presently zoned R-3. If this application is approved the applicant will have a total of approximately 5 ½ acres zoned for multi-family dwellings and have discussed preliminary plans for a planned unit development with City Staff. This will involve a public hearing before the Planning Commission to review and approve.

Attached you will find:

- Exhibit A – Map of subject property
- Planning Commission Staff Report, including supplemental packet
- Draft Final Order for CPZ-2-06

Recommendation: The Planning Commission and Staff recommend approval of a qualified Comprehensive Plan and Zone Change for File # CPZ-2-06 and subject to the condition as stated in the Final Order.

Financial Impact(s): None.

City Manager Review and Approval for placement on Council Agenda:

A handwritten signature in black ink, appearing to read "Dale Shaddox", is written over a horizontal line.

Dale Shaddox, City Manager



Zone: C-3 (General Commercial) to R-3 (Multi-family Residential)

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Comprehensive Plan/Zone Change
FILE NO: CPZ-2-06
HEARING DATE: December 5, 2006

REPORT DATE: November 27, 2006
ITEM NO: 8.1

GENERAL INFORMATION

APPLICANT: Jeffery McCollum and Terry Buntin dba South Curry Development, LLC

REPRESENTATIVE: Maize & Associates

REQUEST: Jointly filed applications which seek: 1) to amend the City of Brookings Comprehensive Plan Map by changing the designation of a single parcel from Commercial to Residential, and 2) to change the zoning from General Commercial (C-3) to Multiple Family Residential (R-3).

TOTAL LAND AREA: ±2.21 acres

LOCATION: The property is northwest and adjacent to the Lucky Lane cul-de-sac turn-around north of Chetco Avenue within the corporate limits of the City of Brookings.

ASSESSOR'S NUMBER: 41-13-6BD, Tax Lot 2000

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: Comprehensive Plan: Commercial
Zoning: General Commercial (C-3)

PROPOSED: Comprehensive Plan: Residential
Zoning: Multiple Family Residential (R-3)

SURROUNDING: Residential (R-1-6) to the north; Residential (R-3) owned by Applicant to the east; Commercial (C-4) to the south and west. Residential (R-3) to the east.

LAND USE INFORMATION

EXISTING: Vacant.

PROPOSED: Attached residential housing.

SURROUNDING: Developed single family residential to the north (R-1-6). Developed and partially developed commercial to the south and west (C-4). Vacant multiple family residential land owned by Applicant to the east.

PUBLIC NOTICE:

Mailed to all property owners within 250 feet of the subject site and advertised in the local newspaper; 45-day written Notice to the Department of Land Conservation and Development for the comprehensive plan amendment.

BACKGROUND INFORMATION

The subject property consists of a single parcel owned by Applicant. Applicant also owns adjacent property to the east and has expressed an intent to develop the subject property together with its adjacent land as a Planned Unit Development (PUD). Preliminary plans are contemplated to involve attached housing. The subject property cannot be so developed under the present plan and zoning designations.¹

The property is located north and adjacent to the cul-de-sac terminus of Lucky Lane within the City of Brookings. The parcel has 2.21 acres according to the records of the Curry County Assessor, is vacant and partially covered by a mixture of deciduous and coniferous trees, shrubs and natural grasses. The property is crossed north/south by a seasonal drainage which transports storm waters emanating up-slope through the property to drainage facilities in Lucky Lane. Storm drainage facilities downstream from the subject property are known to be of inadequate capacity. Applicant and representatives of the Brookings Public Works Department have discussed the need to detain and gradually release storm waters as the preferred method to mitigate downstream storm drainage impacts and the same can be made a condition of future development approvals. The property has gentle to moderate slopes ranging, according to Applicant, from approximately four to seven percent.

PROPOSED PLAN and ZONE CHANGE

Amendments to the comprehensive plan and zoning maps are governed by City of Brookings Land Development Code (LDC) Chapter 17.140. LDC 17.140.020 permits the initiation of plan and zoning amendments by the owner of record. The evidence shows that Applicant South Curry Development, LLC is also the owner of record. Applicant has submitted all required information and evidence necessary for the City to properly consider these applications for plan and zoning map amendments and the applications have been deemed complete.

ANALYSIS

In quasi-judicial proceedings such as these and pursuant to LDO 17.140.0650 and Oregon law, the Applicant bears the burden of proof and decisions under the relevant substantive criteria must be based upon substantial evidence. LDO 17.140.050(D) provides that amendments must be shown to conform with the goals and policies of the comprehensive plan and be consistent with the plan's generalized land use map. Here, Applicant seeks to also amend the generalized land use map.² LDO 17.140.050(D) also requires a demonstration of conformance with the Statewide Land Use Planning Goals where these provide a more specific direction than the goals and policies of the comprehensive plan. The various Statewide Planning Goals are implemented by administrative rules adopted by the Land Conservation and Development Commission (LCDC) and contained in Oregon Administrative Rules (OAR) Chapter 660. Some of the administrative rules establish standards which further govern the amendment of acknowledged comprehensive plans. In this instance, the administrative

¹ Residential uses (other than existing dwellings and dwellings located above the ground floor

² The generalized land use plan map is also interchangeably known as the comprehensive plan map or more simply the plan map.

rules that implement Statewide Planning Goals 9 (Industrial and Commercial Development) and 12 (Transportation) apply. The standards of these administrative rules more specifically require:

OAR Chapter 660, Division 9 (INDUSTRIAL and COMMERCIAL DEVELOPMENT))
660-009-0010 Application

(4) Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660-Division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements; and:

(a) Demonstrate that the proposed amendment is consistent with the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to explain the proposed amendment, pursuant 41 to OAR 660-009-0015 through 660-009-0025; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

OAR Chapter 660, Division 12 (TRANSPORTATION PLANNING)
660-012-0060 Plan and Land Use Regulation Amendments

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to 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. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

(2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

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

(d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

PROPOSED FINDINGS OF FACT

1. Applicant which is also the record owner of the 2.21-acre subject property has properly filed complete applications that seek to amend the comprehensive plan map from Commercial to Residential and zoning map from C-3 to R-3. The applications are supported by proposed findings of fact and conclusions of law and evidence submitted by Applicant through its agent, Maize & Associates (**Attachment A**).
2. Proper public notice has been given in accordance with the LDC and law and the Planning Commission is scheduled and will hear these matters in public hearing to be conducted on December 5, 2006. During the public hearing and the time the record of the proceedings are open, all interested parties will be given an opportunity to present evidence and argument.
3. The subject property is within the corporate jurisdiction of the City of Brookings and its Urban Growth Boundary.
4. Other than the provisions of Statewide Planning Goals 9 and 12 and their implementing administrative rules (which are recited verbatim above) these applications involve no other state provisions which produce a substantial burden for Applicant.
5. City of Brookings Public Works Director John Cowan provided a separate staff report dated October 18, 2006 (**Attachment B**) which establishes:
 - A. The property can be served with potable water by way of an existing 8-inch water main in Lucky Lane.
 - B. The property can be served with public sanitary sewer from an existing 8-inch line in Lucky Lane.
 - C. The property will be served by a 12-inch storm drain in Lucky Lane which will require extension to the subject property.

PROPOSED CONCLUSIONS OF LAW

1. The City of Brookings herewith incorporates by reference and adopts the Findings of Fact and Conclusions of Law prepared by Maize & Associates ("Applicant's findings"), dated November 14, 2006, which address relevant goals and policies of the comprehensive plan, and relevant provisions of OAR Chapter 660, Divisions 9 and 12.
2. Regarding goals and policies of the comprehensive plan, according to *Bennett v. City of Dallas*, 17 Or. LUBA 450, 456, aff'd 96 Or. App. 645 (1989) and subsequent cases, the fact that the relevant substantive criteria requires plan map amendments (or zone changes) to comply with the plan's goals and policies do not automatically transform all comprehensive plan goals and policies into decisional criteria. A determination of whether particular plan goals/policies are approval criteria must be based on the language used in the goals/policies and the context in

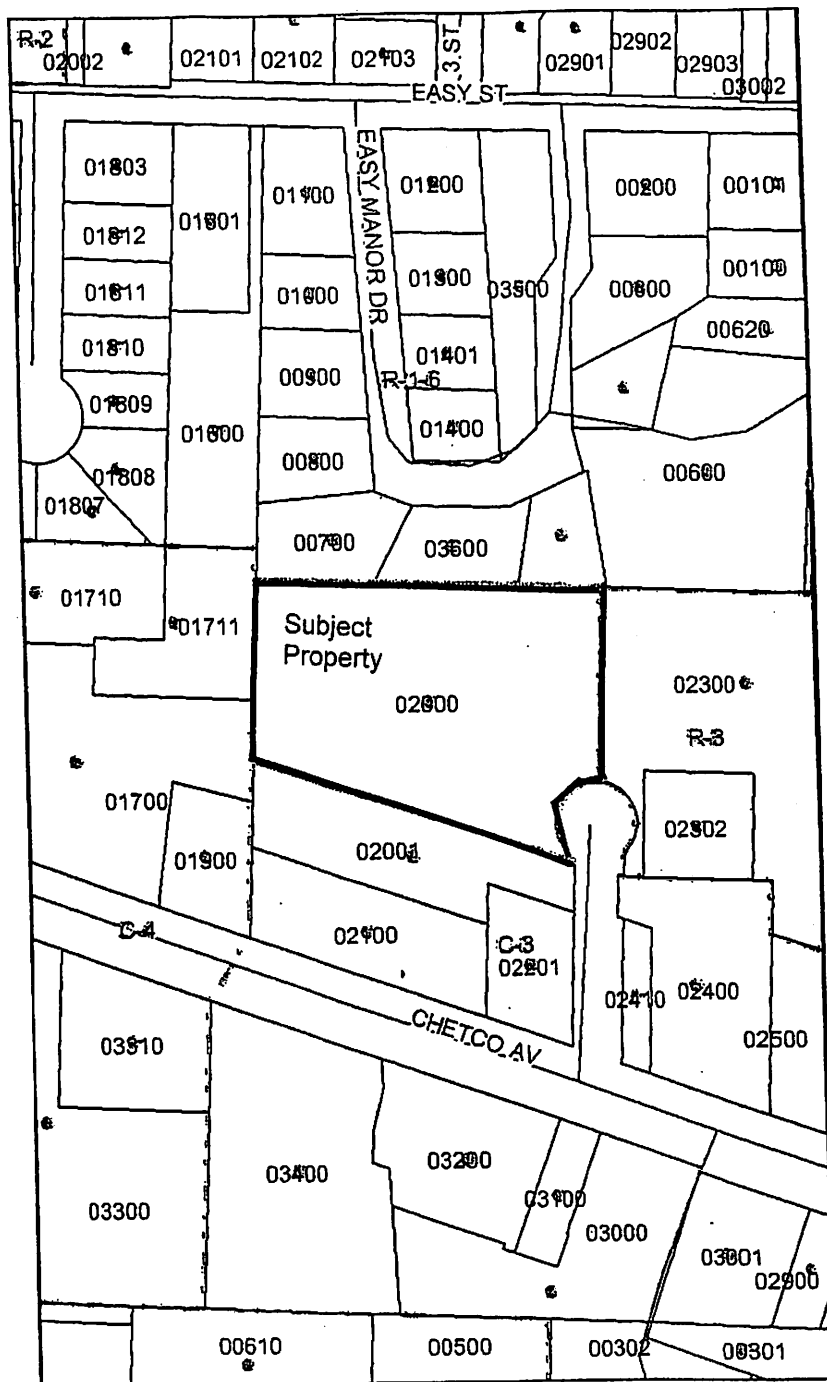
which they appear. The City of Brookings concludes that only the goals and policies of the comprehensive plan which are cited and addressed in the Maize findings were intended by the City to function as independent approval criteria for plan map amendments. Applicant's findings demonstrate consistency with the relevant plan goals and policies in the context of these amendment applications.

3. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 9 (Economic Development) in the context of post acknowledgment plan amendments — OAR 660-009-0010 (4) — the City of Brookings concludes, based upon Applicant's findings, that the proposed amendment will not adversely impact the amount of vacant commercial land needed over the planning period. The amendment will not produce commercial land shortages over this period because (after the change) there will remain sufficient vacant and underutilized acreage planned and zoned for commercial purposes to satisfy the City's commercial requirements. This determination is based upon the existing ratio of developed commercial land to population and a projection of this ratio into the future based upon the City's acknowledged population forecast. Moreover, the City of Brookings takes notice of other comprehensive plan map amendments which have been approved in recent months that more than offsets the reduction in commercial acreage that would result from approval of this amendment. For these reasons the City of Brookings concludes that this application is consistent with OAR 660-009-0010 (4).
4. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 12 (Transportation) in the context of this post acknowledgment plan amendment — OAR 660-012-0060 — the City of Brookings concludes, based upon Applicant's findings, that the proposed plan and zoning map amendments will not significantly affect any existing or planned transportation facility because the amendments will *not*:
 - A. change the functional classification of any existing or planned transportation facility,
 - B. change standards implementing a functional classification system, and
 - C. at the end of the planning period, permit land uses or development that are inconsistent with the functional classification of any transportation facility, reduce the performance of any existing transportation facility below the performance standards in set forth in the Brookings TSP, nor worsen the performance of any existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

The City of Brookings reaches these conclusions of law based upon the analysis in Applicant's findings at page 29 which demonstrate that the potential traffic impacts produced by commercial development of the property will be substantially greater than if the property is developed, as intended, with housing. The City of Brookings also concludes that the analysis of traffic in Applicant's findings properly considers reasonable worst-case impacts in comparing commercial versus residential traffic levels. Therefore, based upon the foregoing findings of fact and conclusions of law, the City of Brookings concludes that the application is consistent with the requirements of OAR 660-012-0060 because the proposed amendment will not significantly affect any existing or planned transportation facility.

RECOMMENDATION

Staff supports a recommendation of **APPROVAL** of Case File No. CPZ-2-06, to the City Council based on the findings of fact and conclusions of law above stated. Appropriate conditions of approval are not required at this time but will be recommended at such time the City considers actual development plans for the property.



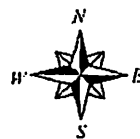
Applicant: South Curry Development LLC

Assessor's No: 41-13-06 BD Tax Lot 2000

Size: 2.15 acre parcel

Location: Lucky Lane

Zone: C-3 (General Commercial) to R-3 (Multi-family Residential)



FINDINGS OF FACT AND CONCLUSIONS OF LAW

BEFORE THE CITY OF BROOKINGS PLANNING COMMISSION
AND CITY COUNCIL

IN THE MATTER OF AN APPLICATION FOR AN)	
AMENDMENT TO THE CITY OF BROOKINGS)	APPLICANT'S
ZONING MAP IN CHANGING THE ZONING FROM)	EXHIBIT "1"
C-3 TO R-3 AND CHANGING THE COMPREHENSIVE)	
PLAN MAP FROM COMMERCIAL TO RESIDENTIAL)	

APPLICANT/ South Curry Development, LLC
OWNER:

APPLICATION: Request for an amendment to the City of Brookings Zoning Map from C-3 (Multiple-Family Residential District) to R-3 (General Commercial District) on a 2.21-acre parcel located at the northwest terminus of Lucky Lane, approximately 200 feet north of Chetco Avenue (U.S. Highway 101).

A. SUBMITTAL REQUIREMENTS:

Chapter 17.140 of the Brookings Municipal Code (BMC) specifies the review procedures and approval process for an amendment to the comprehensive plan map or zoning map, as follows:

17.140.020 *Initiation of amendments*

An amendment to the text of this code or to the zoning map and/or the comprehensive plan map or text may be initiated by:

- A. Motion of the planning commission;*
- B. Motion of the city council;*
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation.*

17.140.030 *Application*

The property owner or his authorized agent may make application for an amendment by filing an application, or a land use application form, with the city manager or his designee for review by the site plan committee pursuant to BMC 17.80.030(B). Upon clearance from the site plan committee, the application will be scheduled for the next available planning commission hearing. Such application shall be accompanied by the following information:

- A. Name and address of the applicant;
- B. Title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application;
- C. Address, legal description and Curry County assessor's tax lot and map number of the subject property;
- D. A map (Curry County assessor's plat) showing the subject property, and surrounding properties and a listing of current property owners within 250 feet of the property subject to this application;
- E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Brookings and each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of an amendment to this code, zoning map or comprehensive plan map and/or text as listed in BMC 17.140.050(D);
- F. The application shall be accompanied by a filing fee in the amount established by general resolution of the city council. No part of the filing fee is refundable.
(emphasis added)

B. RELEVANT APPROVAL CRITERIA:

Chapter 17.140 of the Brookings Municipal Code (BMC) also specifies the relevant decisional criteria that must be met before an amendment to the comprehensive plan, map or zoning map can be approved by the city council:

17.140.050(D) Action by the city council

- D. Except as set forth herein, in order for the city council to adopt an ordinance for an amendment to this code, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and generalized land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan. For amendments to the land development code that are legislative in nature, findings will not be required.
(emphasis added)

CITY OF BROOKINGS COMPREHENSIVE PLAN

GOAL 1 CITIZEN INVOLVEMENT

To provide a citizen involvement process that ensures the opportunity for citizens to be involved in all phases of the planning process.

GOAL 2 LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

- Policy 2. The burden of proving the need for a change in land uses shall be borne by the proponent of the land use request.*
- Policy 4. Planning decisions generally and amendments to this Plan particularly, will be consistent with applicable State Planning Goals.*
- Policy 5. Planning related decisions of the City will be in accord with the policies of the Comprehensive Plan.*

GOAL 3 AGRICULTURAL LANDS

To cooperate with the County in the preservation and maintenance of agricultural lands.

GOAL 4 FOREST LANDS

To support and cooperate with the County in its efforts to protect Forest Lands.

GOAL 5 OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES

To conserve open space and protect natural scenic resources, cultural, and historic areas while providing for the orderly growth and development of the City.

- Policy 5. It is the City's policy to protect the fish bearing streams within the city limits through the establishment of a riparian setback corridor along each.*
- Policy 6. It is the policy of the City to require a cultural (archaeological) survey of any property under application for development, which is known to contain cultural artifacts, suspected to contain cultural artifacts or is of sufficient size to suspect the presence of cultural artifacts.*
- Policy 7. It is the policy of the City to require a biological survey of any property under application for development, which is known to contain endangered species, suspected to contain endangered species or is of sufficient size or contains qualities so as to suspect the presence of endangered species.*

GOAL 6 AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air (including the control of noise pollution), water and land resources of the Brookings area.

- Policy 1. All development within the City of Brookings must comply with applicable state and federal environmental rules, regulations and standards. Development ordinance regulations and development permit approvals will be coordinated with these state and federal standards.*

GOAL 7 AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

To protect life and property from natural disasters and hazards.

- Policy 1. When development is located in areas of known natural hazards, the density or intensity of the development shall be limited by the degree of the natural hazard.*
- Policy 2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken.*

GOAL 8 RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the Brookings area, State and visitors.

GOAL 9 ECONOMY

To diversify and improve the economy of the Brookings area.

2. Commercial Policies

- Policy b. Commercial districts should offer good visibility and access and should generally be located along major arterial streets.*
- Policy c. Commercial districts should result in concentrated groupings of retail, service, and office uses.*
- Policy e. New commercial areas and new development in existing commercial districts shall be designed in a manner that mitigates traffic, noise and visual impacts on surrounding residential uses.*

Implementation 3. The City will utilize the zoning ordinance to provide commercial and industrial lands for development.

GOAL 10 HOUSING

Provision of varied housing types that are safe, sanitary and adequate for all residents of the community.

- Policy 1. City shall not unduly restrict land development thereby artificially inflating the cost of both new and existing housing, but rather provide land in suitable quantities and encourage the construction of new residential units to meet increased demand.*

Policy 2. City shall provide for a variety of housing options and sites and plan for suitable locations. It is recognized the private sector will continue their leadership role in this function.

Policy 3. City shall advance, where possible, the evolution of safe and aesthetically pleasing residential neighborhoods that are efficiently integrated with business and commercial property, schools, parks, public facilities and other urban development.

Policy 8. City shall, in light of increasing demand for multifamily housing, provide suitable and adequate areas for such development.

GOAL 11 PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to provide a framework for urban and rural development.

1. Public Works

Policy b. Water distribution, pumping and storage. New development requiring extension of water mains, pumping and storage facilities will be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Policy e. Wastewater collection facilities. New development requiring extension of sewer mains and new pumping stations will be paid for and constructed by the developer City of Brookings Standard Specifications document dated August 1988.

Policy f. Streets and other infrastructure facilities. The City's Public Works Department will inspect and maintain all public street and subsurface infrastructure facilities. The extension of existing streets for new development shall be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Policy g. Storm drain facilities. New development requiring storm drain systems or the extension of existing systems including provision of retention basins, will be paid for and constructed by the developer pursuant to the provision of the City of Brookings Standard Specifications document dated August 1988.

GOAL 12 TRANSPORTATION

To provide and encourage safe, convenient and economic transportation system.

Policy 3. The City will make provisions for pedestrian traffic in residential areas and provide bike paths and walkways in other appropriate areas.

GOAL 13 ENERGY CONSERVATION

To conserve energy.

- Policy 2. Brookings will encourage the infilling of undeveloped parcels of land within the City as well as the re-use of vacant land to the extent possible. The City will encourage land development practices which conserve energy as well as utilize renewable energy sources whenever possible. The City desires high density development to be located adjacent to major shopping areas and along major transportation routes, as appropriate.*

GOAL 14 URBANIZATION

To provide for the orderly and efficient transition of land within the Urban Growth Boundary from rural to urban uses.

- Policy 1. City shall maintain the livability of Brookings while providing appropriate land-use designation and adequate areas to accommodate expected growth.*
- Policy 4. The extension of water and sewer mains to support future growth shall be funded by the development served by the mains or by the formation of "Local Improvement Districts" which agree to assess property owners within the district for the extension of service.*

GOAL 16 ESTUARINE RESOURCES

To recognize and protect the unique environmental, economic and social values of the Chetco River Estuary and its wetlands.

- Policy 2. To protect the ecosystems of the Chetco River Estuary, including:*
- A. Its natural biological productivity.*
 - B. Unique features.*
 - C. Water quality.*

STATEWIDE LAND USE PLANNING GOALS

Goal 1 Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 2 Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 3 Agricultural Lands

To preserve and maintain agricultural lands.

Goal 4 Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

Goal 6 Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

Goal 7 Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

Goal 8 Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 9 Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Goal 10 Housing

To provide for the housing needs of citizens of the state.

Goal 11 Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Goal 12 Transportation

To provide and encourage a safe, convenient and economic transportation system.

Goal 13 Energy Conservation

To conserve energy.

Goal 14 Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Goal 15 Willamette River Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Goal 16 Estuarine Resources

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

Goal 17 Coastal Shorelands

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Goal 18 Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Goal 19 Ocean Resources

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

BROOKINGS MUNICIPAL CODE

Section 17.140.030(E) requires that findings be submitted showing how each of the applicable provisions of the code, relating to the granting of an amendment to the Comprehensive Plan and Zoning Map, has been met. Those provisions are:

Findings of Fact
Lucky Lane Amendment
City of Brookings
November 14, 2006
Page 8 of 33

Section 17.28.050 Minimum Lot Area "The minimum lot area shall be 6,000 square feet. For each additional dwelling unit, the lot area shall be increased by 1500 square feet."

Section 17.100.020(B) Hazard Building Site Protection Hillside Development Standards
 "... the planning commission shall review land use applications proposed within areas identified as having average slopes of greater than 15 percent grade."

OREGON TRANSPORTATION PLANNING RULE (OAR 660-012-0060)

Transportation Planning – Plan and Land Use Regulation Amendments Section 660-012-0060

1. *Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to 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. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - b. *Change standards implementing a functional classification system; or*
 - c. *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - (A) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

OREGON INDUSTRIAL AND COMMERCIAL DEVELOPMENT
(660-009-0010)

660-009-0010 Application

1. *OAR Chapter 660, Division 9 applies only to comprehensive plans for areas within urban growth boundaries. Additional planning for industrial and commercial development outside urban growth boundaries is not required or restricted by this rule. Plan and ordinance amendments necessary to comply with this rule shall be adopted by affected jurisdictions.*
2. *Comprehensive plans and land use regulations shall be reviewed and amended as necessary to comply with this rule at the time of each periodic review of the plan (ORS 197.712(3)). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-019-0050) prior to the effective date of this rule shall comply with this rule at their next periodic review unless otherwise directed by the Commission during their first periodic review.*
3. *Jurisdictions may rely on their existing plans to meet the requirements of this rule if they:*
 - a. *Review new information about state and national trends and conclude there are no significant changes in economic development opportunities (e.g., a need for sites not presently provided for by the plan); and*
 - b. *Document how existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 through 660-009-0025.*
4. *Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660-Division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements; and:*
 - a. *Demonstrate that the proposed amendment is consistent with the parts of its acknowledged comprehensive plan which address the requirements of this division; or*
 - b. *Amend its comprehensive plan to explain the proposed amendment, pursuant to OAR 660-009-0015 through 660-009-0025; or*
 - c. *Adopt a combination of the above, consistent with the requirements of this division.*
5. *The effort necessary to comply with OAR 660-009-0015 through 660-009-0025 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on local, state and national trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this rule.*

C. PURPOSE AND SCOPE OF THE APPLICATION:

The purpose of the proposed application is to change the zoning on the 2.21-acre subject parcel from General Commercial to Multi-Family Residential. The zone change will require an amendment to the City's Comprehensive Plan Map by changing the land use designation from Commercial to Residential. The applicant has provided findings as part of the application showing that the application is in conformance with the City's Comprehensive Plan and Code, and the State's Planning Goals. It is the property owners' intention upon approval of this request, to assemble the subject property with approximately 3.3 additional acres of property zoned R-3 (Multiple-Family Residential) adjoining to the east, and submit to the City, an application for the development of a multiple-family residential PUD on the approximate 5.5 acre site.

D. PROPERTY INFORMATION:

The subject property, identified as Tax Lot No. 2000 on Assessor's Map No. 41-13-6BD, is located in the western portion of the City of Brookings near Highway 101. The parcel is vacant of structures and is vegetated with both deciduous and evergreen trees and shrubs. The parcel is bisected in a general north/south direction by a drainage swale. The west half of the parcel has an average slope of approximately 7 percent rising from the south property line to the northwest corner of the parcel, while the average slope of the east half is approximately 4 percent rising from the south property line to the northeast corner. The parcel fronts on Lucky Lane, an improved public street.

As shown on Applicant's Exhibit "2", the properties abutting to the west are within a C-4 (Tourist Commercial) zone, with one developed parcel and two vacant parcels. To the north are parcels zoned R-1-6 with existing single-family residences. Abutting the east is a vacant parcel zoned R-3, which is also owned by the applicant. To the south is one parcel also zoned C-3 and is developed with an automobile repair facility.

E. APPLICANT'S SUBMITTALS:

Exhibit "1"	Findings of Fact and Conclusions of Law
Exhibit "2"	Zoning Map showing subject parcel
Exhibit "3"	Assessor's Map showing subject parcel
Exhibit "4"	Geologic Hazard Map of the Cape Ferrelo Quadrangle (Section)
Exhibit "5"	DOGAMI Tsunami Map
Exhibit "6"	Orthographic Map

F. FINDINGS OF FACT AND CONCLUSIONS OF LAW

CONSISTENCY WITH THE CITY OF BROOKINGS COMPREHENSIVE PLAN

The Brookings City Council has considered the following facts that are pertinent to the application requesting approval amendment to the City's Comprehensive Plan Map and Zoning Map.

Goal 1 Citizen Involvement

To provide a citizen involvement process that ensures the opportunity for citizens to be involved in all phases of the planning process.

Findings of Fact

The applicant and the City of Brookings will provide the requisite public notice to affected citizens of the public hearing for the proposed amendment. Citizens will be able to address the applicable relevant criteria during the public hear process.

Conclusion of Law

All citizens will have the opportunity to be involved in the planning process for this proposed amendment to the Comprehensive Plan and Zoning Map.

Goal 2 Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Policy 2. The burden of proving the need for a change in land uses shall be borne by the proponent of the land use request.

Findings of Fact

The applicant has submitted Findings of Fact and Conclusions of Law (Exhibit "1"). That document identifies each of the relevant approval criteria found in Chapter 17.140.050(D) that are required to be met before an amendment to the Comprehensive Plan's land use designation can be approved by the City Council. The Findings of Fact provide factual information showing how each of the approval criteria has been met.

Conclusion of Law

The applicant's application submittals, most particularly the Findings of Fact (Exhibit "1"), provide the proof that the change in land uses is needed by the City of Brookings.

Policy 4. Planning decisions generally and amendments to this Plan particularly, will be consistent with applicable State Planning Goals.

Findings of Fact

The Statewide Planning Goals consist of 19 goals that express the State of Oregon's policies on land use and on related topics, such as citizen involvement, housing, and transportation. Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan, which must be consistent with the Statewide Planning Goals. The Plans are reviewed for such consistency by the State's Land Conservation and Development Commission. The State has "acknowledged" Brookings' Comprehensive Plan as being consistent with the Statewide Planning Goals.

The applicant has reviewed the Goals and Policies of the Brookings Comprehensive Plan, and the Statewide Planning Goals and Policies, and finds that there are no inconsistencies between the two. Additionally, the applicant finds that there are neither Statewide Planning Goals nor Policies that provide a more specific direction than the Comprehensive Plan. Each of the Statewide Planning Goals has been included.

Conclusion of Law

The Findings of Fact show that the proposed amendment is consistent with the applicable Statewide Planning Goals.

Policy 5. Planning related decisions of the City will be in accord with the policies of the Comprehensive Plan.

Findings of Fact

The City Council's approval of the requested amendment to the Comprehensive Plan Map and Zoning Map is based upon the finding that the applicant's proposal is in compliance and conformance with the relevant policies of Brookings' Comprehensive Plan.

Conclusion of Law

The proposed amendment is in compliance and conformance with all relevant policies of the Comprehensive Plan.

Goal 3 Agricultural Lands

To cooperate with the County in the preservation and maintenance of agricultural lands.

Findings of Fact

As the subject parcel is within the corporate limits of the city, it has been determined that the property will be developed as urbanized land, in accordance with its land use designation.

Conclusion of Law

The subject parcel is not designated or zoned for agricultural use.

Goal 4 Forest Lands

To support and cooperate with the County in its efforts to protect Forest Lands.

Findings of Fact

As the subject parcel is within the corporate limits of the city, it has been determined that the property will be developed as urbanized land, in accordance with its land use designation.

Conclusion of Law

The subject parcel is not designated or zoned as forest land nor designated for forest use.

Goal 5 Open Spaces, Scenic and Historic Areas and Natural Resources

To conserve open space and protect natural scenic resources, cultural, and historic areas while providing for the orderly growth and development of the City.

Policy 5. It is the City's policy to protect the fish bearing streams within the city limits through the establishment of a riparian setback corridor along each.

Findings of Fact

There are four fish-bearing streams within the Brookings City Limits (the Chetco River to the east; Ransom Creek to the north; Harris Creek to the north; and Shigh Creek to the north). None of these four streams is proximate to the subject property, so that no riparian corridor will affect the future development on the subject property.

Conclusion of Law

There are no riparian corridors that will affect the future residential development.

Policy 6. It is the policy of the City to require a cultural (archaeological) survey of any property under application for development, which is known to contain cultural artifacts, suspected to contain cultural artifacts or is of sufficient size to suspect the presence of cultural artifacts.

Findings of Fact

The Brookings area has two sites that have been identified in the Comprehensive Plan as cultural areas. Neither area is located on or immediately adjacent to the subject site.

Conclusion of Law

As there is no identified cultural area located on the subject property, an archeological survey is not necessary and has therefore, not been submitted.

Policy 7. It is the policy of the City to require a biological survey of any property under application for development, which is known to contain endangered species, suspected to contain endangered species or is of sufficient size or contains qualities so as to suspect the presence of endangered species.

Findings of Fact

There is not evidence or an indication that the subject property is known to contain any species listed as endangered. The relatively small size of the subject property is not typically conducive to habitation of listed endangered species.

Conclusion of Law

A biological study is not required by the City, as a listed endangered species is not know to reside, suspected to reside, or is of sufficient size, or contains qualities for endangered specie habitation.

Goal 6 Air, Water and Land Resources Quality

To maintain and improve the quality of the air (including the control of noise pollution), water and land resources of the Brookings area.

Policy 1. All development within the City of Brookings must comply with applicable state and federal environmental rules, regulations and standards. Development ordinance regulations and development permit approvals will be coordinated with these state and federal standards.

Findings of Fact

In order to receive building permits on the subject property, the developer will be required, not only to comply with all City of Brookings development standards, but also all applicable State and Federal environmental standards, rules, and regulations.

Conclusion of Law

All development will be coordinated with and will comply with all applicable local, state, and federal regulations.

Goal 7 Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

Policy 1. When development is located in areas of known natural hazards, the density or intensity of the development shall be limited by the degree of the natural hazard.

Policy 2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken.

Findings of Fact

The Statewide Planning Goals No. 7 identifies natural hazards as: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. The City of Brookings has not identified any other natural hazards.

According to Bulletin 90 – Land Use Geology of Western Curry County, produced by the State of Oregon Department of Geology and Mineral Industries (DOGAMI), and the Geologic Hazard Map of the Cape Ferrello Quadrangle (Applicant's Exhibit "4"), the subject property is not located an area that is susceptible to intermediate regional flooding, ocean flooding or within a flood-prone area. Development will be required to abide by all applicable standards.

The subject property is located approximately one-half mile from the nearest stream channel and at its lower elevation, approximately 150 feet above mean sea level and is, therefore above the level of coastal flooding.

The Oregon Department of Geology and Mineral Industries Tsunami Map (Applicant's Exhibit "5") shows the estimated level of impact due to an offshore-generated tsunami, indicated by the solid line at an elevation considerably lower than the subject property.

Bulletin 90 also shows that the subject property is not located in an area susceptible to headland, wind, sea cliff, beach critical stream bank, or slope erosion.

The study clearly shows that the subject property is not in an area susceptible to mass movement due to steep slopes or earth flow and slump topography.

Conclusion of Law

The subject area is not located in an area with know natural hazards and, therefore, the density of the future development will not be limited and the developer will not be required to show that future development will not be endangered by one of the listed hazards.

Goal 8 Recreational Needs

To satisfy the recreational needs of the citizens of the Brookings area, State and visitors.

Findings of Fact

The City endeavors to establish city parks for the recreational needs of the City in locations that are easily accessible by well-traveled public streets.

The subject parcel is only accessible to the public by Lucky Lane, a 200-foot long cul-de-sac.

The City of Brookings' Public Open Space (P/OS) zoning district allows for publicly owned recreation facilities and *"to ensure adequate provision for open spaces consistent with the policies of the city."*

The subject parcel is proposed to be rezoned to Multiple-Family Residential (R-3), which only will allow a recreational use as a conditional use. A use allowed as a conditional use, typically means that there are potential negative impacts that the use may generate upon the surrounding area.

Conclusion of Law

The subject parcel does not provide a good site for recreational purposes as it is only accessible from a single cul-de-sac street, and the parcel is not proposed to be zoned to allow recreation as a permitted use.

Goal 9 Economy

To diversify and improve the economy of the Brookings area.

2. Commercial Policies

Policy b. Commercial districts should offer good visibility and access and should generally be located along major arterial streets.

Findings of Fact

Chetco Avenue (Highway 101) is designated as a major arterial street, with the subject property located approximately 200 north of Chetco Avenue. The access from Chetco Avenue to the subject property is from Lucky Lane, a short improved public street, terminating in a cul-de-sac bulb. Visibility of the subject property from Chetco Avenue is somewhat limited.

Conclusion of Law

The subject property is not located along a major arterial street and does not have good visibility from a major arterial street and, therefore, does not provide a good site as a commercial district.

Policy c. Commercial districts should result in concentrated groupings of retail, service, and office uses.

Findings of Fact

The subject property with its existing General Commercial zoning, as shown on Applicant's Exhibit "2", has an interface with single-family residentially zoned parcels (R-1-6) along its northern property line. Tourist Commercial zoning exists to the west, Multiple-Family Residential zoning to the east, and General Commercial zoning to the south. The existing zoning pattern results in an irregular General Commercial boundary, particularly with its R-1-6 interface.

The impacts upon the single-family residential zone from the permitted commercial uses are generally more intensive than those generated from multiple-family residential development.

The proposed amendment will not only create a more concentrated General Commercial zoning district, but will more importantly eliminate the R-1-6/General Commercial boundary and will replace it with an R-3/General Commercial border.

Conclusion of Law

Approval of the requested amendment and zone change will result in a zoning interface along the northern property line that should result in lesser impacts upon the single-family residential neighborhood, and will create more concentrated grouping of commercial development which can include a "grouping" of retail, service, and office uses.

Policy e. New commercial areas and new development in existing commercial districts shall be designed in a manner that mitigates traffic, noise and visual impacts on surrounding residential uses.

Finding of Fact

If the subject property were to be developed commercially, the Comprehensive Plan recognizes and requires mitigation of impacts on the surrounding residential uses, resulting from the vehicular traffic, noise, and visual aspects generated by that commercial development. The mitigation is required because commercial impacts upon residential uses are typically greater than those generated by those of other residential development.

Implementation 3. The City will utilize the zoning ordinance to provide commercial and industrial lands for development.

Findings of Fact

Chapter 17.140 of the Brookings Municipal Code specifies the review and approval process for an amendment to allow for changes to the City's land designations.

Conclusion of Law

The proposed application, requesting a change of the land use designation from Commercial to Residential follows and meets all applicable provisions of the Brookings zoning ordinance.

Goal 10 Housing

Provision of varied housing types that are safe, sanitary and adequate for all residents of the community.

Policy 1. City shall not unduly restrict land development thereby artificially inflating the cost of both new and existing housing, but rather provide land in suitable quantities and encourage the construction of new residential units to meet increased demand.

Findings of Fact

The proposed amendment will allow for approximately 2 acres of land which can then be developed with multi-family residences in a location that is easily accessible to the downtown area.

Conclusion of Law

The proposed amendment will provide land in a suitable quantity to meet the increased multi-family residential demand in Brookings.

Policy 2. City shall provide for a variety of housing options and sites and plan for suitable locations. It is recognized the private sector will continue their leadership role in this function.

Findings of Fact

The proposed amendment will provide land for multi-family residential development in a location that is easily accessible to the downtown area.

The subject parcel abuts single-family residentially-zoned parcels along its northern boundary. The subject parcel abuts commercially zoned lands along its west and south boundary, and multi-family residentially land along its western boundary.

The existing single-family residential/commercial zoning interface will be replaced with a single-family residential/multiple-family residential zoning interface, upon approval of the proposed application.

The current General Commercial zone allows such varied uses as restaurants, department stores, grocery stores, and community center. The impacts of these permitted commercial uses consist of vehicular and pedestrian traffic, commercial deliveries, outdoor lighting, and general outdoor activity and noise. The impacts upon the single-family residential zone from the permitted commercial uses are generally more intensive than those generated from multiple-family residential development.

Conclusion of Law

The amendment will provide a site for housing options that is in a suitable location.

Policy 3. City shall advance, where possible, the evolution of safe and aesthetically pleasing residential neighborhoods that are efficiently integrated with business and commercial property, schools, parks, public facilities and other urban development.

Findings of Fact

Upon approval of the proposed amendment, it is the property owner's intention to submit an application for a multiple-family residential PUD to the City covering the subject parcel and three adjoining parcels.

Bud Cross Park is located approximately 2 blocks north of the subject parcel. Kalmiopsis Elementary School, Azalea Middle School, and Brookings Harbor High School are located approximately one-half mile east of the subject parcel. The City Hall facilities are located approximately one-quarter mile east of the subject parcel.

Abiding by the City's site requirements, and following the principals of good design, the residential development will provide a multiple-family neighborhood that is attractive and will be easily accessible with the existing and future urban development in the area.

Conclusion of Law

Developed as multiple-family residential land, the subject parcel will provide a safe and aesthetically pleasing residential neighborhood that is efficiently integrated and within a short distance to the downtown business and commercial properties, schools, parks, and other public facilities

Policy 8. City shall, in light of increasing demand for multifamily housing, provide suitable and adequate areas for such development.

Findings of Fact

The proposed amendment will provide land for multi-family residential development in a location that is easily accessible to the downtown area.

Bud Cross Park is located approximately 2 blocks north of the subject parcel. Kalmiopsis Elementary School, Azalea Middle School, and Brookings Harbor High School are located approximately one-half mile east of the subject parcel. The City Hall facilities are located approximately one-quarter mile east of the subject parcel.

The existing single-family residential/commercial zoning interface will be replaced with a single-family residential/multiple-family residential zoning interface, upon approval of the proposed application.

Conclusion of Law

The subject parcel is of sufficient size and in an area suitable for multiple-family residential development.

Goal 11 Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to provide a framework for urban and rural development.

1. Public Works

Policy b. Water distribution, pumping and storage. New development requiring extension of water mains, pumping and storage facilities will be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Findings of Fact

There is an existing 6-inch water main in the Lucky Lane right-of-way. Water lines will be extended from that main to the subject property at the time of development.

Conclusion of Law

All water facilities to serve the subject property will be constructed by the developer in accordance with the City of Brookings Standard Specifications.

Policy e. Wastewater collection facilities. New development requiring extension of sewer mains and new pumping stations will be paid for and constructed by the developer City of Brookings Standard Specifications document dated August 1988.

Findings of Fact

There is an existing 8-inch sanitary sewer line in the Lucky Lane right-of-way. Sanitary sewer lines will be extended to the subject property at the time of development. There is also an 8-inch sanitary adjacent to the west property line.

Conclusion of Law

All wastewater collection facilities to serve the development will be constructed by the developer in accordance with the City of Brookings Standard Specifications.

Policy f. Streets and other infrastructure facilities. The City's Public Works Department will inspect and maintain all public street and subsurface infrastructure facilities. The extension of existing streets for new development shall be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988.

Findings of Fact

The subject property has frontage on Lucky Lane, an improved public street, that intersects Chetco Avenue (Highway 101) and runs north to terminate in a cul-de-sac bulb at the subject property. It is anticipated that all access to the subject property will be taken from the existing Lucky Lane right-of-way, with no additional street extensions required.

Conclusion of Law

All street extensions, if required at the time of development, will be paid for and constructed by the developer in accordance with the City of Brookings Standard Specifications.

Policy g. Storm drain facilities. New development requiring storm drain systems or the extension of existing systems including provision of retention basins, will be paid for and constructed by the developer pursuant to the provision of the City of Brookings Standard Specifications document dated August 1988.

Findings of Fact

There is an existing 12-inch storm drain line in the Lucky Lane right-of-way, which may need to be extended, in conjunction with any future development, to gather all storm drainage from the property. There is also an existing 18-inch storm drain line, which transects the subject property from north to south.

Conclusion of Law

All storm water facilities to serve the development will be constructed by the developer in accordance with the City of Brookings Standard Specifications.

Goal 12 Transportation

To provide and encourage safe, convenient and economic transportation system.

Policy 3. The City will make provisions for pedestrian traffic in residential areas and provide bike paths and walkways in other appropriate areas.

Findings of Fact

Lucky Lane, the street that provides public access to the subject parcel, has existing concrete sidewalks along both sides that connect with public sidewalks along Chetco Avenue (Highway 101).

Conclusion of Law

The existing public sidewalks along Lucky Lane will provide for pedestrian traffic from the residential development on the subject parcel.

Goal 13 Energy Conservation

To conserve energy.

Policy 2. Brookings will encourage the infilling of undeveloped parcels of land within the City as well as the re-use of vacant land to the extent possible. The City will encourage land development practices which conserve energy as well as utilize renewable energy sources whenever possible. The City desires high-density development to be located adjacent to major shopping areas and along major transportation routes, as appropriate.

Findings of Fact

The subject property is located near the center of Brookings, and is encircled on three sides by parcels that are already developed. The undeveloped parcel to the east will be consolidated with the subject parcel to provide a site for a multi-family residential development.

All new multi-family residential development will be constructed in accordance with the current standards of the City of Brookings and those of all entities that will provide energy to the development.

The proposed change from C-3 to R-3 will allow for a consolidation of land resulting in approximately 5.5 acres. It is the property owners' intention to submit an application for Site Plan approval of a multi-family residential development on these parcels. This development will be adjacent along its south and west sides with commercially zoned (C-3, General Commercial and C-4, Tourist Commercial) parcels. The General Commercial zone allows uses that are found in major shopping areas.

The major transportation route through Brookings, Highway 101 is a relatively short 200 feet south of the subject property.

Goal 14 Urbanization

To provide for the orderly and efficient transition of land within the Urban Growth Boundary from rural to urban uses.

Policy 1. City shall maintain the livability of Brookings while providing appropriate land-use designation and adequate areas to accommodate expected growth.

Findings of Fact

The last amendment to the City of Brookings Urban Growth Boundary added lands to provide for the City's projected growth for the planning period to 2015. The City of Brookings has recognized that the newly established ratio between industrial, commercial, and residential lands was affected by a number of variables that are involved in determining the amount of commercial land a given community should have and no specific formula could account for all of the variables. The formula used for the UGB expansion was based on the per-capita income and thus the aggregate buying power of the community. The City of Brookings staff realized that the formula did not necessarily provide an accurate determination of commercial land needs.

Staff has stated that the loss of small amounts of commercially zoned land that is located in an area that is not particularly suitable for commercial use will not place the city or community in jeopardy of commercial shortage in the future. In addition, the City of Brookings has increased lands within the Commercial land use designation by approximately 3 acres with the approval of two recent changes.

The proposed amendment will provide land for multi-family residential development in a location that is easily accessible to the downtown area and is located close to public facilities, such as schools, parks, and City Hall.

Conclusion of Law

The proposed amendment will provide an area that is adequate to accommodate multiple-family development. The land-use designation is also appropriate for the planned use.

Policy 4. The extension of water and sewer mains to support future growth shall be funded by the development served by the mains or by the formation of "Local Improvement Districts" which agree to assess property owners within the district for the extension of service.

Findings of Fact

In order for permits to be issued for the residential development of the subject parcel, provision will need to be made for the extension of water and sewer mains to serve the subject parcel. The property owner will be responsible for providing those services to the future development.

Conclusion of Law

The developer will extend the necessary water and sewer mains to serve the subject parcel, or will participate in a Local Improvement District that will provide for the extension of those public services.

Goal 16 Estuarine Resources

To recognize and protect the unique environmental, economic and social values of the Chetco River Estuary and its wetlands.

Policy 2. To protect the ecosystems of the Chetco River Estuary, including:

- A. Its natural biological productivity.*
- B. Unique features.*
- C. Water quality.*

Findings of Fact

The subject property does not contain nor is adjacent to an estuary, including the Chetco River Estuary, or its wetlands.

Conclusion of Law

This goal does not apply to the proposed application.

Goal 17 Coastal Shorelands

Findings of Fact

The subject property does not contain, nor is adjacent to coastal shorelands.

Conclusion of Law

This goal does not apply to the proposed application.

Goal 18 Beaches and Dunes

Findings of Fact

The subject property does not contain, nor is adjacent to beaches or dunes.

Conclusion of Law

This goal does not apply to the proposed application.

STATEWIDE LAND USE PLANNING GOALS

Section 17.140.050(D) states that, *"It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan."* A comparison of the Statewide Planning Goals with Brookings' Comprehensive Plan indicates that there are no relevant Statewide Planning Goals that give a more specific direction than those of the Comprehensive Plan. A discussion of each of the Statewide Goals is not, therefore necessary in accordance with the above cited Code section.

CONSISTENCY WITH THE BROOKINGS MUNICIPAL CODE

Section 17.28.050 Minimum Lot Area *"The minimum lot area shall be 6,000 square feet. For each additional dwelling unit, the lot area shall be increased by 1500 square feet."*

Findings of Fact

The size of the subject parcel is 2.21 acres or approximately 96,267 square feet, which meets the 6,000 square-foot minimum size. Subtracting 6,000 square feet, the resulting 90,267 square feet will allow area up to an additional 60 dwelling units, or a maximum of 61 dwelling units on the subject parcel.

Conclusion of Law

The proposed amendment on the subject parcel will in conformance with the minimum lot area standard of Section 17.28.050.

Section 17.100.020(B) Hazard Building Site Protection Hillside Development Standards *"...the planning commission shall review land use applications proposed within areas identified as having average slopes of greater than 15 percent grade."*

Findings of Fact

The average slope on the western half of the subject parcel is approximately 7 percent, while the average slope on the eastern half is approximately 4 percent.

Conclusion of Law

As the average slope of the subject parcel is less than 15 percent, the Hazard Building Site Protection Hillside Development Standards do not apply to this amendment.

CONSISTENCY WITH THE OREGON TRANSPORTATION PLANNING RULE
(OAR 660-012-0060)

Chapter 660-012-0060 of the Oregon Administrative Rules function as relevant decisional criteria for Subsection (1) of the criteria in Section 10.227 of the Medford Land Development Code.

Transportation Planning – Plan and Land Use Regulation Amendments Section 660-012-0060

1. *Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to 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. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - b. *Change standards implementing a functional classification system; or*
 - c. *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - (A) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

Findings of Fact

A determination of whether the proposed amendment to Brookings' Comprehensive Plan would significantly affect an existing or planned transportation facility should be based upon the effects that any increase in traffic generated by the amendment would create. In order to make that determination, an analysis of the traffic generation resulting from the predicted maximum commercial and residential build outs, is necessary.

With the current C-3 zoning on the 2.21-acre parcel, the maximum amount of commercial building space can be conservatively estimated at approximately 56,000 square feet, based upon the vehicular parking and maneuvering requirements dictated by the building's size and use. Figuring one parking space per 400 square feet of building space, the 56,000 square foot building will result in approximately 40,000 square feet of area, for a total of 96,000 square feet (2.21 acres). It could be reasonably assumed that development would result in a mix of permitted retail and office uses, conservatively mixed at 75 percent office uses and 25 percent retail uses. Using trip generation factors from the Institute of Transportation Engineers, *Trip Generation*, 6th edition, the following commercial trip generations would occur:

Use	Square Feet	ADT/1000 sq. ft.	Total ADT
Office Use	42,000	11.01	462
Specialty Retail	14,000	40.67	569
Total	56,000		1031 ADT

The City of Brookings does not have a maximum residential density factor for development in the Multiple-Family Residential zone, but based upon Section 17.28.050 of the BMC, a maximum total of 61 dwelling units can be built on the 2.21-acre parcel. Developed as a Residential PUD, the *Trip Generation* manual gives a generation rate of 7.5 ADT per dwelling unit, resulting in the following:

Use	Dwelling Units	ADT/Unit	Total ADT
Multiple-Family Residential	61	7.5	457
Total			457 ADT

Base upon those totals, based on a conservative development scenario for the current General Commercial zoning, and a very high density rate for the proposed Multiple-Family Residential zone, the traffic generation that can be expected from the proposed zone is less than the traffic generation from the proposed zone.

Conclusion of Law

Based upon the above findings, the City Council concludes that that there will not be a significant effect on an existing or planned transportation facility and therefore, the application is consistent with the Oregon Transportation Planning Rule.

CONSISTENCY SECTION OAR 660-009-0010 - INDUSTRIAL AND COMMERCIAL DEVELOPMENT

660-009-0010 Application

1. *OAR Chapter 660, Division 9 applies only to comprehensive plans for areas within urban growth boundaries. Additional planning for industrial and commercial development outside urban growth boundaries is not required or restricted by this rule. Plan and ordinance amendments necessary to comply with this rule shall be adopted by affected jurisdictions.*
2. *Comprehensive plans and land use regulations shall be reviewed and amended as necessary to comply with this rule at the time of each periodic review of the plan (ORS 197.712(3)). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-019-0050) prior to the effective date of this rule shall comply with this rule at their next periodic review unless otherwise directed by the Commission during their first periodic review.*
3. *Jurisdictions may rely on their existing plans to meet the requirements of this rule if they:*
 - a. *Review new information about state and national trends and conclude there are no significant changes in economic development opportunities (e.g., a need for sites not presently provided for by the plan); and*
 - b. *Document how existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 through 660-009-0025.*
4. *Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660-Division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements; and:*
 - a. *Demonstrate that the proposed amendment is consistent with the parts of its acknowledged comprehensive plan which address the requirements of this division; or*
 - b. *Amend its comprehensive plan to explain the proposed amendment, pursuant to OAR 660-009-0015 through 660-009-0025; or*
 - c. *Adopt a combination of the above, consistent with the requirements of this division.*
5. *The effort necessary to comply with OAR 660-009-0015 through 660-009-0025 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on local, state and national trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this rule.*

Findings of Fact

There are no specific provisions of Brookings' acknowledged Comprehensive Plan, which individually address the requirements of Division 9 - Industrial and Commercial Development. However, one of the primary objectives of a city's Comprehensive Plan is to establish sufficient amounts of developable lands within its Urban Growth Boundary for each of the major categories of use, and to assure that those amounts will not be diminished within each category during the planning period.

The City of Brookings recently added lands to its Urban Growth Boundary to satisfy the City's needs for all of its land use categories during the planning period to 2015. The City must find that the reduction of its commercial land supply by 2.21 acres will not reduce that supply below what is necessary to provide lands for commercial development in the planning period.

In order to conclude that the proposed reduction of 2.21 acres of commercially zoned and designated land is consistent with the City's land use needs, a determination needs to be made as to whether a sufficient supply of developable commercially zoned land will remain in the City and its Urban Growth Boundary after the subject property is removed from the commercial land inventory and placed in the residential category.

Based upon the last population figures from Portland State University's Population Research Center, Brookings' 2005 population was estimated to be 6185 persons. The City's Comprehensive Plan's Housing element states that the projected population for the planning period (2015) is 9340 persons.

According to the Curry County Assessor's Department GIS department, there are currently 109.24 acres of commercially zoned (C-3 and C-4) acres of land that is developed. The ratio of commercial land to the 2005 population is approximately .018 acres per person. Applying that ratio to the projected population estimate at the end of the planning period, results in a need for 168 acres of commercial land for the City in 2015. An additional 59 acres of developable commercial land is, therefore, needed in the planning period.

There are 16.44 acres of commercial land that are currently vacant and without improvements in the City's boundaries.¹ In addition, there are several parcels within the City that are not vacant and although have improvements, the value of those improvements in relation to the value of the land, shows that they can be considered as parcels that are likely candidates for redevelopment, or additional development in the near future. They are typically larger parcels that have a small amount of developed square footage and can, therefore, be further developed, or they are parcels that have existing improvements, but the age and condition of those buildings, indicated by their low improvement assessed values in relation to their underlying

A-32

land values, means that they can be considered vacant for purposes of a land supply analysis. In order to determine which of those properties can be considered underutilized, a threshold ratio of 3:1 was used, meaning that parcels whose improvement value was less than one-third of the land value, are considered as developable land. This ratio is utilized by the other cities similar analyses. An analysis of the Curry County Assessor's records shows that there are parcels totaling 26.45 acres in the City that have an improvement to land assessed value ratio of less than 3:1.

Information provided by the Curry County Assessor's GIS Department indicates that there are currently 28.88 vacant acres of commercially zoned land within Brookings' Urban Growth Boundary¹.

The sum of vacant or underutilized commercial land in the City, together with the vacant commercial acreage in the Urban Growth Boundary results in a total of 71.77 acres.

¹ Curry County GIS Department, November 6, 2006

Conclusion of Law

There is a total of 71.77 acres of vacant and underutilized commercial land within the City, and vacant commercial land in the UGB. The City needs 59 acres of developable commercial land for its planning period. There are, therefore, approximately 12.75 acres of developable commercially zoned lands within the City and UGB that are in excess of what the City needs during its planning period. The applicant's proposal of changing the zoning on the 2.21-acre parcel from commercial to residential will not reduce the City's commercial land supply below its determined needs.

There are no provisions of the OAR 660-09-0010 (Industrial and Commercial Development) with which the proposed amendment conflicts.

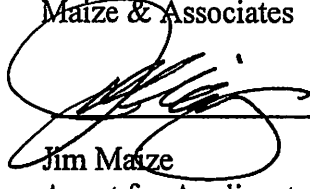
G. ULTIMATE CONCLUSION

Based upon the above Findings of Fact and Conclusions of Law, the City Council concludes that the application for an amendment to the City of Brookings Comprehensive Plan Map and Zoning Map, changing the designation from Commercial to Residential and the zoning from General Commercial to Multiple-Family Residential on the subject property, is consistent with the relevant decisional criteria found in the City of Brookings Municipal Code, the Oregon Statewide Planning Goals, the Oregon Transportation Planning Rule (Section 660-012-0060 of

the Oregon Administrative Rules) and the Industrial and Commercial Development
Section 660-009-0010 of the Oregon Administrative Rules.

Respectively Submitted,

Maize & Associates



Jim Maize
Agent for Applicants,
South Curry Development, LLC

Dated: November 14, 2006



STAFF REPORT

To: Dianne Snow
Planning Department

From: John Cowan
Public Works Director

Date: October 18, 2006

Re: So. Curry Development LLC
Lucky Lane – TL 2000

1. Water can be served to this property through the 8" main in Lucky Lane although there are not meters or service connections to this parcel currently. A separate meter will be required for each unit.
2. Sanitary sewer can be served to this parcel and there is currently a 6" stub to property line. The main line on Lucky Lane is currently an 8" PVC. Although with multiple units it may be necessary to dig in additional services. A separate sewer service will be required for each unit.
3. Storm Drainage. On the west side of the parcel there has been an ongoing issue with flooding of downstream properties. The current storm drainage main in Lucky Lane is a 12" ADS and may have to be extended up to the property to allow all drainage from property to be directed to Lucky Lane main.

From Public Works perspective the major issue with this project will be addressing storm drainage issues.

Prior to future development, the property owner shall submit engineered analysis of sewer, water, and storm drainage needs for the specific proposal. This analysis shall also determine the adequacy of the existing infrastructure to be used to transport sewer, water, and storm drainage. Any increase in capacity needed by the proposed development must be engineered, constructed, and paid for by the property owner. The City will review and approve all plans.


John Cowan, Public Works Director

JC/lz

P:\Public Works\So. Curry Dev. Staff Report.doc

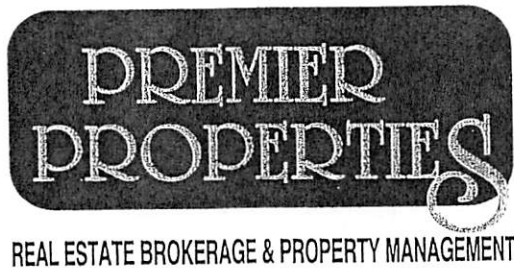
898 Elk Drive
Brookings, OR 97415
www.brookings.or.us

Phone: (541) 469-2163
Fax: (541) 469-3650

**America's
Wild Rivers
Coast.**
101 MILES OF NATURE'S BEST

December 5, 2006
Public Hearing
Planning Commission
Supplemental

Exhibit	Request:	Documentation From:	Address:	Pro or Object:
Exhibit B	CPZ-2-06			
Received:	Letter from:	Address		
			Proponent	Object
12-5-06	Yvonne Dunn, Owner of Premier Properties	P. O. Box 7500 937 Chetco Avenue Ste.A Brookings, OR 97415	X	
12-5-06	Richard Wilson, Century 21	1016 Chetco Ave P. O. 1077 Brookings, OR 97415	X	



RECEIVED
DEC 5 2006
CITY OF BROOKINGS

December 5, 2006

City of Brookings
Dianne Snow, Planning Director
Planning Commission
898 Elk Drive
Brookings, OR 97415

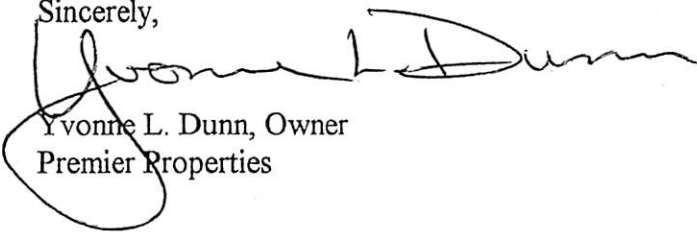
RE: Zone Change from C-3 to R-3
South Curry Development, LLC - Applicant

Dear Ms. Snow:

As a neighboring business, I am in favor of the proposed zone change. This zone change will allow for a gradual "flow" - a "buffer" if you will between Single Family residential use and Commercial use. The existing Single Family residential that currently adjoin the subject property would be buffered by Multi Family if the zone change was permitted.

I feel it is much better to go from Single Family to Multi-Family and then to Commercial as apposed to going from Single Family right into a Commercial use. Again, I am in favor of the proposed Zone change.

Sincerely,



Yvonne L. Dunn, Owner
Premier Properties



Agate Realty

1016 Chetco Ave.
P.O. Box 1077
Brookings, Oregon 97415
Business (541) 469-2143
Fax (541) 469-5438
1-800-637-4682
E-Mail brookings@century21agate.com
www.century21agate.com

RECEIVED
DEC 5 2006
CITY OF BROOKINGS

City of Brookings
Dianne Snow, Planning Director
898 Elk Drive
Brookings, OR 97415

December 5, 2006

RE: South Curry Development LLC
Zone Change from C-3 to R-3

Dear Ms. Snow:

As a neighboring business, I am in favor of the proposed zone change. This zone change will allow for a "buffer" between Single Family residential use and Commercial use. The existing Single Family residential property that currently adjoins the subject property would be buffered by Multi Family use.

Allowing for this zoning would seem beneficial in my opinion. I hope that the planning commission will consider this favorably.

Sincerely,

Richard Wilson
Principal Broker/Owner



**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

**In the matter of Planning Commission File No.) Final ORDER
CPZ-2-06; application for a Comprehensive Plan/) and Findings of
Zone Change; South Curry Development, LLC,) Fact
applicant.**

ORDER approving an application for a Comprehensive Plan designation change from Commercial to Residential and a zone change from C-3 (General Commercial) to R-3 (Multi-family Residential), and subject to conditions of approval as stated in this document, on a 2.21 acre parcel located northwest and adjacent to Lucky Lane and north of Chetco Avenue; Assessor's Map 41-13-06BD, Tax Lot 2000; Zoned C-3 (General Commercial).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with Chapter 17.140, Amendments, of the Brookings Municipal Code; and,
2. The Brookings Planning Commission duly considered the above described application on the agenda of its regularly scheduled public hearing on December 5, 2006; and,
3. Recommendations were presented by Craig Stone, contracted Planner for the City of Brookings, in the form of a written Staff Report dated November 27, 2006, and by oral presentation, and evidence and testimony was presented by the applicant and the public at the public hearing; and,
4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Report and recommended that the City Council approve the request, subject to conditions of approval; and,
5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meeting held on December 18, 2006, and is a matter of record; and,
6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation.

THEREFORE, LET IT BE HEREBY ORDERED that the application for an amendment on the subject parcel is approved. This approval is supported by the following findings and conclusions, and subject to the following condition of approval:

FINDINGS

The applicant has submitted findings to support this application as addressed above in this report and

at the conclusion of the hearing process these findings will be made a part of the Final Order. The following are supplemental findings and conclusions proposed by staff to further support the application.

1. Applicant which is also the record owner of the 2.21-acre subject property has properly filed complete applications that seek to amend the comprehensive plan map from Commercial to Residential and zoning map from C-3 to R-3. The applications are supported by proposed findings of fact and conclusions of law and evidence submitted by Applicant through its agent, Maize & Associates (**Attachment A**).
2. Proper public notice has been given in accordance with the LDC and law and the Planning Commission is scheduled and will hear these matters in public hearing to be conducted on December 5, 2006. During the public hearing and the time the record of the proceedings are open, all interested parties will be given an opportunity to present evidence and argument.
3. The subject property is within the corporate jurisdiction of the City of Brookings and its Urban Growth Boundary.
4. Other than the provisions of Statewide Planning Goals 9 and 12 and their implementing administrative rules (which are recited verbatim above) these applications involve no other state provisions which produce a substantial burden for Applicant.
5. City of Brookings Public Works Director John Cowan provided a separate staff report dated October 18, 2006 which establishes:
 - A. The property can be served with potable water by way of an existing 8-inch water main in Lucky Lane.
 - B. The property can be served with public sanitary sewer from an existing 8-inch line in Lucky Lane.
 - C. The property will be served by a 12-inch storm drain in Lucky Lane which will require extension to the subject property.

PROPOSED CONCLUSIONS OF LAW

1. The City of Brookings herewith incorporates by reference and adopts the Findings of Fact and Conclusions of Law prepared by Maize & Associates ("Applicant's findings"), dated November 14, 2006, which address relevant goals and policies of the comprehensive plan, and relevant provisions of OAR Chapter 660, Divisions 9 and 12.
2. Regarding goals and policies of the comprehensive plan, according to *Bennett v. City of Dallas*, 17 Or. LUBA 450, 456, aff'd 96 Or. App. 645 (1989) and subsequent cases, the fact that the relevant substantive criteria requires plan map amendments (or zone changes) to comply with the plan's goals and policies do not automatically transform all comprehensive plan goals and policies into decisional criteria. A determination of whether particular plan goals/policies are approval criteria must be based on the language used in the goals/policies and the context in which they appear. The City of Brookings concludes that only the goals and policies of the

comprehensive plan which are cited and addressed in the Maize findings were intended by the City to function as independent approval criteria for plan map amendments. Applicant's findings demonstrate consistency with the relevant plan goals and policies in the context of these amendment applications.

3. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 9 (Economic Development) in the context of post acknowledgment plan amendments — OAR 660-009-0010 (4) — the City of Brookings concludes, based upon Applicant's findings, that the proposed amendment will not adversely impact the amount of vacant commercial land needed over the planning period. The amendment will not produce commercial land shortages over this period because (after the change) there will remain sufficient vacant and underutilized acreage planned and zoned for commercial purposes to satisfy the City's commercial requirements. This determination is based upon the existing ratio of developed commercial land to population and a projection of this ratio into the future based upon the City's acknowledged population forecast. Moreover, the City of Brookings takes notice of other comprehensive plan map amendments which have been approved in recent months that more than offsets the reduction in commercial acreage that would result from approval of this amendment. For these reasons the City of Brookings concludes that this application is consistent with OAR 660-009-0010 (4).
4. Regarding provisions of Oregon Administrative Rules which implement Statewide Planning Goal 12 (Transportation) in the context of this post acknowledgment plan amendment — OAR 660-012-0060 — the City of Brookings concludes, based upon Applicant's findings, that the proposed plan and zoning map amendments will not significantly affect any existing or planned transportation facility because the amendments will *not*:
 - A. change the functional classification of any existing or planned transportation facility,
 - B. change standards implementing a functional classification system, and
 - C. at the end of the planning period, permit land uses or development that are inconsistent with the functional classification of any transportation facility, reduce the performance of any existing transportation facility below the performance standards in set forth in the Brookings TSP, nor worsen the performance of any existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

The City of Brookings reaches these conclusions of law based upon the analysis in Applicant's findings at page 29 which demonstrate that the potential traffic impacts produced by commercial development of the property will be substantially greater than if the property is developed, as intended, with housing. The City of Brookings also concludes that the analysis of traffic in Applicant's findings properly considers reasonable worst-case impacts in comparing commercial versus residential traffic levels. Therefore, based upon the foregoing findings of fact and conclusions of law, the City of Brookings concludes that the application is consistent with the requirements of OAR 660-012-0060 because the proposed amendment will not significantly affect any existing or planned transportation facility.

5. To mitigate concerns expressed by the Public Works Department in a letter dated October 18,

2006, stating that existing off-site City infrastructure, which will be used to serve the subject property, may not be adequate, a condition of approval will require engineering analysis and improvements paid for by the applicant, if needed.

CONDITIONS OF APPROVAL

1. Prior to the issuing of a building permit for any development, the property owner shall submit engineered analysis of sewer, water, and storm drainage needs for the specific proposal. This analysis shall also determine the adequacy of the existing infrastructure to be used to transport sewer, water, and storm drainage. Any increase in capacity needed by the proposed development must be engineered, constructed, and paid for by the property owner. The City must review and approve all plans.

LET IT FURTHER BE OF RECORD that the City Council APPROVED the requested Comprehensive Plan and Zone Change subject to the above stated Conditions of Approval.

Dated this 18th day of December, 2006.

Pat Sherman, Mayor

ATTEST:

Dianne L. Snow, Planning Director

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**AN ORDINANCE AMENDING THE
COMPREHENSIVE PLAN DESIGNATION ON)
A PARCEL OF LAND LOCATED ADJACENT)
TO LUCKY LANE AND NORTH OF CHETCO)
AVE. FROM COMMERCIAL TO)
RESIDENTIAL AND THE ZONING FROM C-3)
(GENERAL COMMERCIAL) TO R-3 (MULTI-)
FAMILY RESIDENTIAL).)**

ORDINANCE NO. 06-O-578

Sections:

Introduction.

Section 1. Comprehensive Plan designation to Residential.

Section 2. Zoning Map amendment to Multi-family Residential.

WHEREAS, a public hearing was held on December 5, 2006 before the Brookings Planning Commission for the purpose of considering a request for a Comprehensive Plan change from a Commercial designation to a Residential designation and a zone change from C-3 (General Commercial) to R-3 (Multi-family Residential) on a 2.21 acre parcel of land located on adjacent to Lucky Lane and north of Chetco Ave.; identified as Assessor's Map No. 41-13-06BD; Tax Lot 2000.

WHEREAS, following closure of the public hearing after considerable evidence and testimony was presented by proponents and opponents, the Planning Commission directed the Planning Director to prepare a recommendation, with findings, to the City Council, for approval of the request; and

WHEREAS, the Brookings City Council, at its meeting of December 18, 2006 did conduct a public hearing on this matter, during which hearing considerable testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from and presented by Craig Stone, contracted Planner for the City of Brookings; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to grant the applicant's request and instructed staff to prepare a Final Order to that effect;

The city of Brookings ordains as follows:

Section 1. Amendment to the Comprehensive Plan to designate property Residential. The Comprehensive Plan of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is designated as Residential.

Section 2. Amendment to the Zoning Map to designate property R-3 (Multi-family Residential) Zoning Map of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is zoned R-3 (Multi-family Residential)

(See Attachment A and B)

First Reading: December 18, 2006

Second Reading: December 18, 2006

Passage: December 18, 2006

Effective Date: January 18, 2006

Signed by me in authentication of its passage this 18th day of December, 2006.

Pat Sherman, Mayor

ATTEST:

Paul Hughes, Finance Director/Recorder

EXHIBIT A

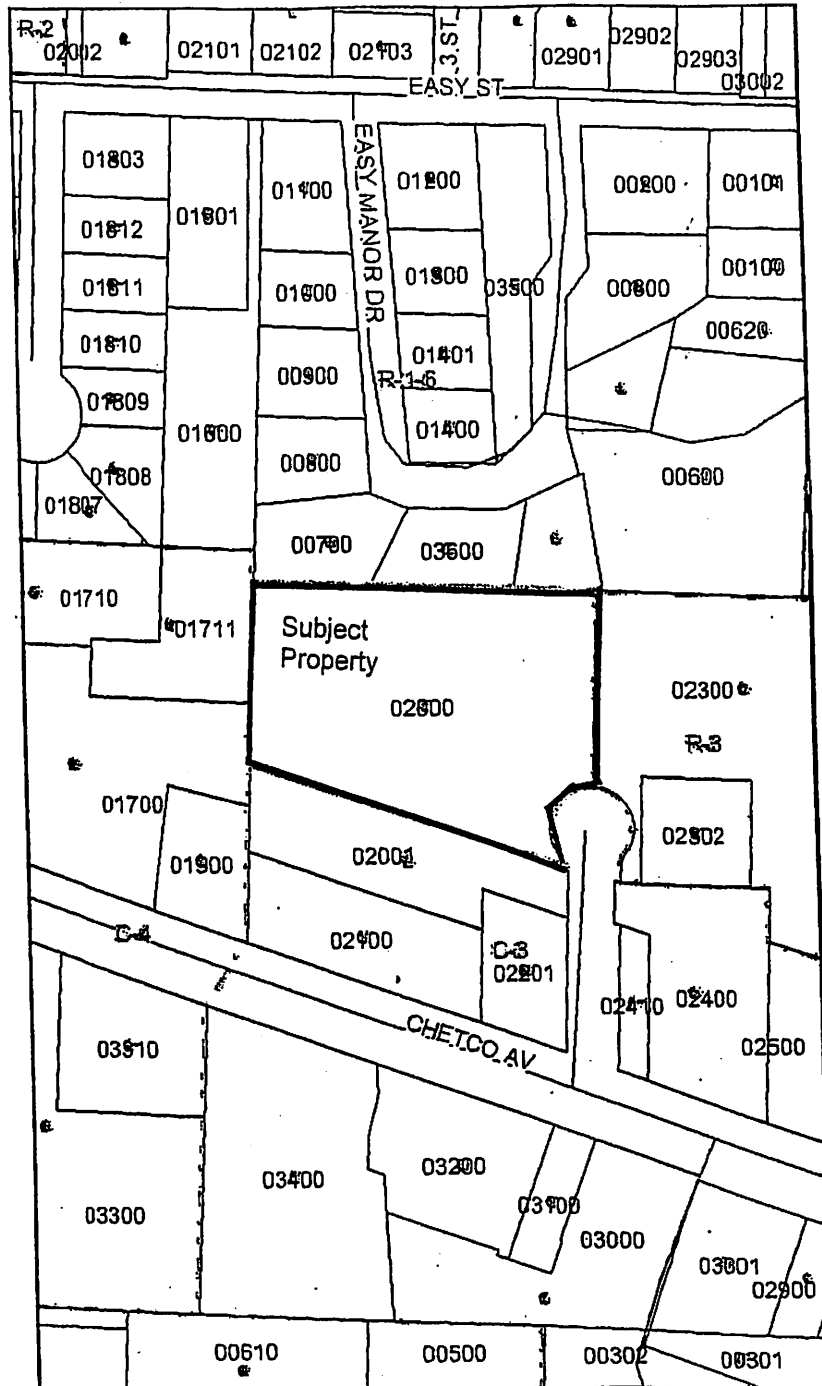
Real property in the County of Curry, State of Oregon, described as follows:

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 41 SOUTH, RANGE 13 WEST, WILLAMETTE MERIDIAN, IN THE CITY OF BROOKINGS, OREGON, BEGINNING AT A POINT WHICH BEARS WEST A DISTANCE OF 15.0 FEET FROM THE NORTHEASTERLY CORNER OF THE BROOKINGS SUPPLY, INC. PROPERTY AS DESCRIBED IN VOLUME 71, PAGE 682, DEED RECORDS OF CURRY COUNTY, OREGON, SAID POINT BEING NORTH 494.7 FEET AND WEST 594.7 FEET FROM THE INTERIOR CENTER QUARTER SECTION CORNER OF SAID SECTION 6; THENCE NORTH $72^{\circ} 54'$ WEST, FOLLOWING THE NORTHERLY LINE OF SAID BROOKINGS SUPPLY, INC. PROPERTY, A DISTANCE OF 398.7 FEET; THENCE NORTH, A DISTANCE OF 198.1 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF THE ALDRICH MANOR SUBDIVISION, AS RECORDED IN PLAT BOOK 1, PAGE 27, CURRY COUNTY RECORDS; THENCE EAST, FOLLOWING THE SOUTH LINE OF SAID ALDRICH MANOR SUBDIVISION, A DISTANCE OF 381.1 FEET (RECORD DISTANCE IS 367.0 FEET); THENCE SOUTH, A DISTANCE OF 315.3 FEET MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 2.25 ACRES, MORE OR LESS;

EXCEPTING THEREFROM THAT PORTION CONVEYED BY DEDICATION DEED TO CITY OF BROOKINGS IN INSTRUMENT NO. 2004-6125 CURRY COUNTY OFFICIAL RECORDS.

Tax Parcel Number: R21806

EXHIBIT B



Applicant: South Curry Development LLC

Assessor's No: 41-13-06 BD Tax Lot 2000

Size: 2.15 acre parcel

Location: Lucky Lane

Zone: C-3 (General Commercial) to R-3 (Multi-family Residential)

