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OCT 19 1989

BOOK **141** PAGE **300**

County Clerk
Lane County, Oregon
James D. Bois
DEPUTY

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 971

-) IN THE MATTER OF AMENDING THE
-) LANE COUNTY RURAL COMPREHENSIVE PLAN:
-) TAKING AN EXCEPTION TO GOAL 3 FOR A
-) RAILROAD SPUR CROSSING LAND
-) DESIGNATED AGRICULTURAL AND RUNNING
-) WESTERLY FROM THE SOUTHERN PACIFIC
-) RAILROAD TO THE 200 ACRE SPECIAL HEAVY
-) INDUSTRIAL SITE NORTH OF AWBREY LANE;
-) AND ADOPTING A SAVINGS AND SEVERABILITY
-) CLAUSE.

WHEREAS, on February 25, 1987 the Eugene City Council initiated an amendment to the Eugene-Springfield Area Metropolitan General Plan to consider including 200 acres of the Awbrey/Meadowview property within the urban growth boundary, and this amendment necessitated an exception to Goal 3 and an amendment to the Rural Comprehensive Plan because of a railroad spur crossing agricultural land to the above 200 acres; and

WHEREAS, since February 25, 1987 the planning commissions and city councils of Eugene and Springfield have conducted numerous public hearings and meetings to consider the above mentioned amendments, and the city councils of Eugene and Springfield have now tentatively agreed upon this amendment and related amendments; and

WHEREAS, on August 18, 1987 and September 22, 1987 the Lane County Planning Commission conducted public hearings with the planning commissions of Eugene and Springfield to consider the above mentioned amendments, and on December 1, 1987, during a public meeting, the Lane County Planning Commission adopted its recommendation in regards to the above mentioned amendments; and

WHEREAS, on August 9, 1989, the Lane County Board of Commissioners conducted the First Reading of this Ordinance and on August 30, 1989, conducted the Second Reading and held a public hearing to review this Ordinance and amendments contained therein; and

WHEREAS, based upon the above record and findings (Exhibit "B"), the Board of County Commissioners concludes that the amendments specified below are consistent with the Statewide Goals and with the Lane County Rural Comprehensive Plan, and should be approved;

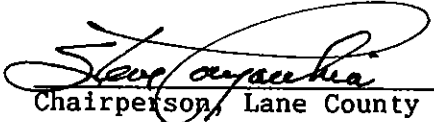
NOW, THEREFORE, the Board of County Commissioners of Lane County ordains as follows:


1. The Lane County Rural Comprehensive Plan is amended to include the exception to Statewide Planning Goal 3 as shown in Exhibit "A".
2. If any section, subsection, sentence, clause, phrase, or portion

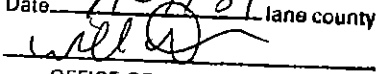
of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remaining portions hereof.

While not part of this Ordinance, findings in attached Exhibit "B" are adopted in support of this decision.

DATED this 18th day of October, 1989.

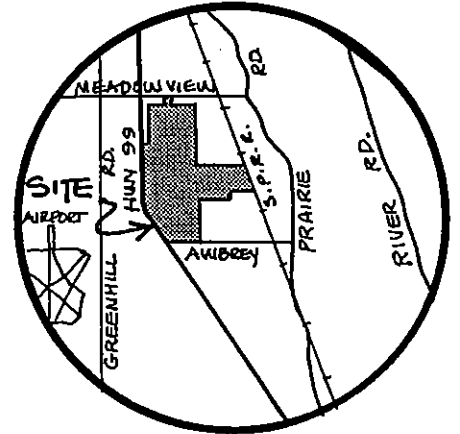

Chairperson, Lane County Board of Commissioners


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
Date 7/31/89 lane county

OFFICE OF LEGAL COUNSEL

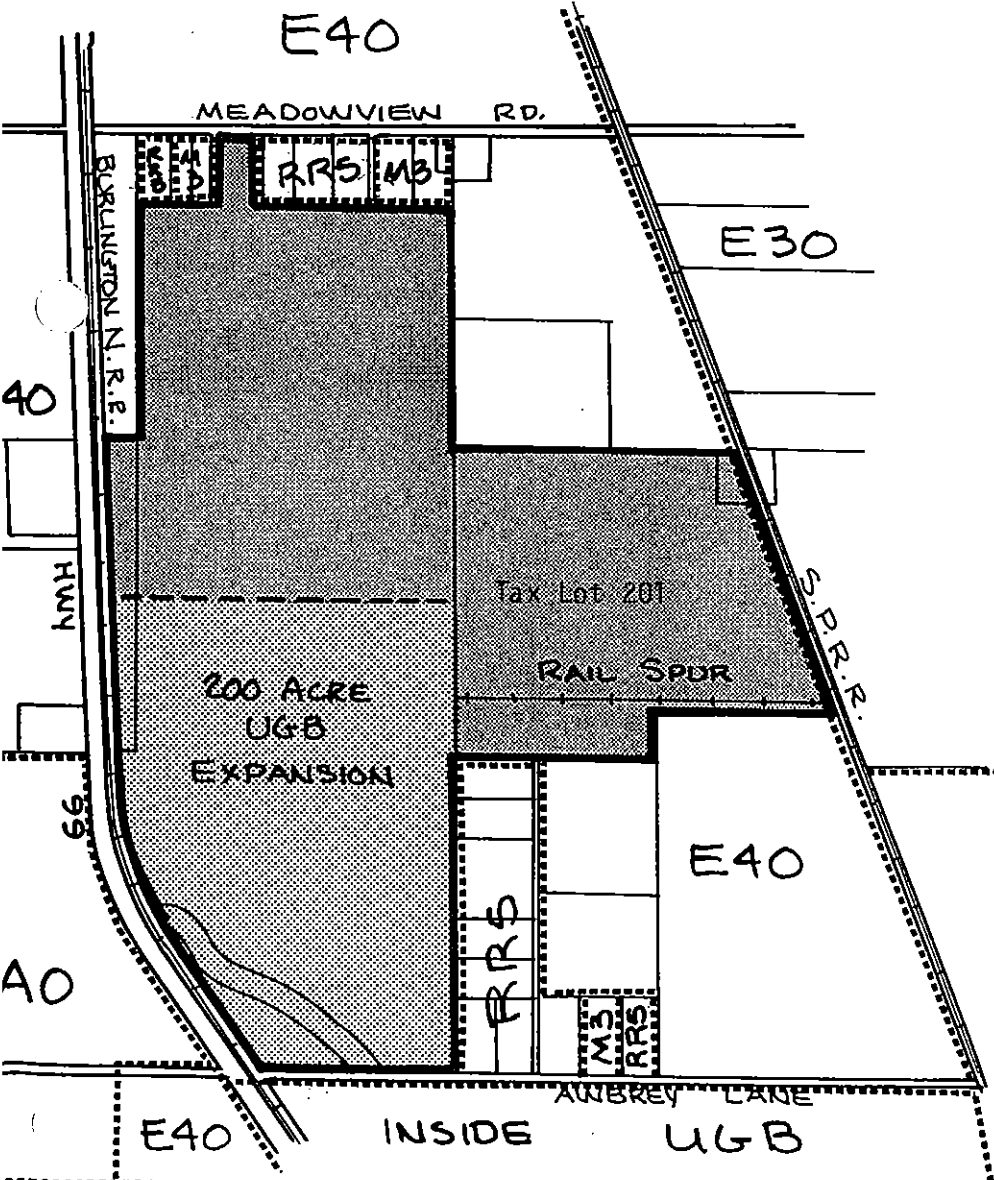
Plot No.: 296

Map No.: 16-04-33/Tax Lot 201



VICINITY MAP

NO SCALE



▶ "NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER." ◀

FOR ANY INFORMATION ON THE PROPOSAL, CONTACT LAND MANAGEMENT DIVISION / COURTHOUSE - PUBLIC SERVICE BUILDING / 125 E. 8TH AVENUE / EUGENE, OREGON 97401 / PHONE (503 687-4061)

Exhibit "B"

ORDINANCE NO. PA 971

Contents

1. May 10, 1989 Findings, pages 1 and 2
2. SUPPLEMENTAL FINDINGS, pages 1 through 6

FINDINGS

***Southern Pacific Railroad
Spur to Awbrey/Meadowview Site**

May 10, 1989

FINDINGS

SOUTHERN PACIFIC RAILROAD SPUR TO AWBREY/MEADOWVIEW SITE

INTRODUCTION

To provide rail access from the Southern Pacific railroad to the 200-acre special heavy industrial site north of Awbrey Lane, a spur would have to be extended westward across an agricultural area to the site. Such an extension across agricultural land requires an exception to Statewide Goal #3, Agricultural Lands. The area to be traversed is composed of Class IIw and IVw agricultural soils. The area is designated agricultural in the Lane County Rural Comprehensive Plan as acknowledged by LCDC in September 1984. The area is currently zoned EFU 40, Exclusive Farm Use with a 40-acre minimum parcel size.

STATEWIDE GOAL EXCEPTION CRITERIA AND EVALUATION

Goal 2--Land Use Planning: A local government may adopt an exception to a goal when a) the land is built-upon or already developed, b) the land is irrevocably committed to non-resource uses because adjacent uses and other factors make resource use impracticable, or c) specific standards are met. In this case, the land is neither built upon or committed and can not be justified under the first two types of exceptions. Below are the four standards this exception must meet and a brief analysis.

1. Reasons justify why the state policy embodied in the applicable goals should not apply.

The property that the railroad spur will cross over is composed of Class IIw and Class IVw soil and is currently in agricultural use. Statewide Goal 3, Agricultural Lands, is the applicable goal. The proposed railroad spur would provide rail access from the Southern Pacific Railroad to the proposed 200 acre Special Heavy Industrial Park north of Awbrey Lane. (Refer to the attached map). The information provided under the analysis of the urban growth boundary expansion proposal indicated that the 200-acre site was needed to meet economic diversification goals related to heavy industrial uses. That analysis included examination of larger sites within the urban growth boundary and concluded that there were not existing sites designated industrial or otherwise which could meet the industrial park requirements related to size and railroad access. In fact, the total number of parcels within the urban growth boundary which have direct rail access is limited.

Information contained in the UGB expansion analysis also referenced the Alternative Industrial Growth Areas Study which evaluated alternative sites for large-scale industrial uses with rail access around the periphery of the urban growth boundary. The Awbrey/Meadowview site was one of two highly rated sites in that study.

The State of Oregon's rail team composed of representatives from the Public Utility Commissioners' Office, the Oregon Department of Transportation, and the Oregon Economic Development Department indicated that this site is the

only site in Lane County and one of only two or three sites in western Oregon outside the Portland region which had potential access to two competing rail lines. Rail transportation was demonstrated as a requirement of several firms which have contacted either the Oregon EDD or the Metropolitan Partnership looking for sites in the Willamette Valley or the Eugene-Springfield metropolitan region. An industrial park located on this site would have a comparative advantage over other sites served by the competing rail lines. Access to both lines would provide a wider market area for goods and products manufactured in the industrial park.

2. **Areas which do not require a new exception cannot reasonably accommodate the use.**

The proposed spur is located on land under the same current ownership as the proposed industrial park. The alignment of the spur runs westerly from the existing SPRR line to the site. By so doing, it skirts the northerly boundary of the Metropolitan Wastewater Sludge site and existing development along Brown Lane. The spur cannot be located further to the south without intersecting existing development. Siting the spur further north would take more area in right-of-way out of agricultural production. As indicated in the analysis of the previous standard, the industrial site cannot be located within the urban growth boundary and the proposed urban growth boundary expansion is located on the best alternative site outside, but adjacent to, the existing urban growth boundary. It is not reasonable to relocate the spur to any other location.

3. **The long-term environmental, economic, social, and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.**

The need for the rail spur is directly related to the proposed special heavy industrial park. The rail spur cannot be located at an alternative site and still serve the proposed industrial site.

4. **The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.**

The rail spur alignment results in about 15 acres of agricultural land to the south of the spur and about 300+ acres north of the spur. The minimum parcel size recognized by Lane County for productively farming a field crop is 160 acres. It is foreseeable, however, that the parcel of land south of the spur could be farmed along with the parcel of land to the north thus minimizing the adverse impacts of the spur. The rail spur will not present any conflicts for the sludge treatment site to the south.

Conclusion: Based upon the above findings, the council concludes that Statewide Goal 2 standards for an exception to Statewide Goal 3 are met to allow a rail spur from the Southern Pacific railroad to the Awbrey/Meadowview site.

**SUPPLEMENTAL FINDINGS
SOUTHERN PACIFIC RAILROAD SPUR TO AWBREY/MEADOWVIEW SITE
RURAL COMPREHENSIVE PLAN COMPLIANCE**

Introduction

A railroad spur from Southern Pacific's main line is planned to extend to the 200-acre Awbrey/Meadowview site being included within the urban growth boundary. The distance between the main line and the site is approximately 3,200 feet. Assuming a 30-foot width for the railroad spur, the maximum land area affected is 96,000 square feet or 2.2 acres. It is more likely that the spur would occupy a strip 20 feet in width. In that case, it would only affect 64,000 square feet or 1.47 acres of property.

The railroad spur crosses land that is zoned E-40 and classified as agricultural land under Lane County's Rural Comprehensive Plan. The following findings address conformity of the proposed railroad spur with the Rural Comprehensive Plan and supplement the findings justifying an exception to Goal #3 to allow the railroad spur.

Applicable Elements of the Rural Comprehensive Plan

The following elements of the Rural Comprehensive Plan are applicable to the railroad spur extension:

1. Land Use Planning Element (Goal Two), policies #6 and #9;
2. Agricultural Lands Element (Goal Three), policies #1, #3, #7, #8 and #13;
3. Economy of the State Element (Goal Nine), policies #2 and #6;
4. Transportation Element (Goal Twelve), policy #1; and
5. Urbanization Element (Goal Fourteen), policies #1, #3 and #5.

No other elements or policies of the Rural Comprehensive Plan are considered applicable to the railroad spur extension.

Land Use Planning Element

Policy #6 of the Land Use Planning Element provides that: "The revised General Plan shall have primary jurisdiction in all areas of the County outside the incorporated City Urban Growth Boundaries and the Plan Boundary shown on the Eugene-Springfield Metropolitan Area Plan Diagram (which includes UGB plus additional territory)." The area occupied by the proposed railroad spur is located outside of the Plan Boundary of the Metropolitan Plan; consequently it is subject

to the Rural Comprehensive Plan. The findings provided below address relevant elements of the Rural Comprehensive Plan.

Policy #9 provides that: "Exception to LCDC Goals (i.e., a determination that it is not possible to apply an appropriate goal to a specific property) shall be in accordance with OAR 660-04-000 (Goal 2 Exception Process) and shall only be taken at times of Plan adoption or amendment." An exception to allow the railroad spur has been taken in accordance with the requirements of OAR 660-04-000. The exception is being taken at a time of amendment to the Rural Comprehensive Plan. In this instance, the Rural Comprehensive Plan is being amended in two ways: (1) The 200-acre Awbrey/Meadowview tract is being removed from the jurisdiction of the Rural Comprehensive Plan and placed under the jurisdiction of the Eugene/-Springfield Metropolitan Area General Plan by virtue of its inclusion within the urban growth boundary of Eugene; and (2) an exception is being taken within the context of the Rural Comprehensive Plan to allow this railroad spur to serve the 200-acre site.

Agricultural Lands Element

Since an exception to Goal Three has been separately justified to allow placement of the rail spur on agricultural land, there may be some question as to whether any policies in this element of the Rural Comprehensive Plan are relevant. The following policies are addressed in case they may be considered relevant.

Policy #1 of this element states: "Encourage agricultural activities by preserving and maintaining agricultural lands through the use of an exclusive agricultural zone which is consistent with ORS 215."

An exception to Goal #3 is being taken to allow placement of this railroad spur on land zoned for exclusive farm use. Placement of the railroad spur does not affect the basic zoning applied to the subject property or any adjoining land designated for exclusive farm use. Rail lines throughout the County extend through land zoned for exclusive farm use. Examples in the immediate vicinity include the Rio Grande-Southern Pacific main line to which this spur links and the former Burlington Northern main line to the west.

Policy #3 provides the following statement: "Reserve the use of the best agricultural soils exclusively for farm use." The soils on the property are interlaced with approximately equal amounts of Class IIw and Class IVw soils. The interlaced soil pattern dictates that the site be farmed as Class IVw soils which are typically used for grass seed production and that has been the historical use of this property. (See UGB Amendment findings, page 35, for substantiation of the soil information provided here.) Class IVw soils do not constitute the "best" agricultural soils in Lane County.

Policy #7 indicates that: "Some agricultural land in the County is not suitable or available for agricultural use by nature of being built upon, committed to or needed for nonagricultural uses. The County shall plan and zone such lands for nonagricultural uses by using applicable comprehensive plan policies and the exceptions process of LCDC Goal 2, Part II." The subject property is neither built

upon nor irrevocably committed to nonfarm use; however, it is needed for a nonagricultural use (see railroad spur exception findings, pages 1-2). In this instance, it is not necessary to change the zoning of the property because railroad lines and spurs extend through land zoned for exclusive farm use in other parts of the County.

Policy #8 states: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, that conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities." The following findings are relevant to this policy:

1. The eastern 1,510 feet of the railroad spur are parallel to and contiguous with the northern property line of the Metropolitan Wastewater Management Commission's sludge treatment facility. This location minimizes disruption to agricultural activities by placing the spur between the sludge treatment facility and agricultural activities. The sludge treatment facility is not a commercial agricultural enterprise.
2. The western 1,690 feet of the railroad spur crosses open farm land. However, the person farming that property has submitted a written statement indicating his intent to continue farming on both sides of the railroad spur and stating that the spur would not disrupt farm use (see UGB Amendment, Finding #1 at page 36; see also, Record, Index #89, Exhibit "G" to Saul letter of 2/8/88).
3. Railroad lines and spurs cross agricultural land in multiple places in Lane County. There is no evidence of significant conflict between railroad operations and agricultural uses. Railroad operations have less potential for conflict that residential uses identified in this policy.

Policy #13 of the Agricultural Lands Element provides that: "No County policy shall be construed to exclude permitted and specially permitted nonfarm uses, as defined in ORS 215.213, from EFU zones." ORS 215.213(1)(d) allows "utility facilities necessary for public service" in any area zoned for exclusive farm use. A rail spur may be considered a type of utility facility. Access to the Southern Pacific rail line was certainly considered a necessity when the amendment to the add the 200-acre Awbrey/Meadowview site to the urban growth boundary was approved since that access is affirmatively required by the text of the special heavy industrial designation applied to the Awbrey/Meadowview tract.

Economy of the State Element

Policy #2 of this element of the Rural Comprehensive Plan indicates that: "The County's primary responsibility in economic development shall be to ensure the necessary land area is available throughout the County and appropriate levels of service can be obtained, consistent with the needs of industry and commerce, the area and other County policy."

A separate determination has been made to expand the urban growth boundary of the Eugene/Springfield Metropolitan Area General Plan to add 200 acres for

industrial use (see UGB Amendment findings, incorporated here by reference). Part of the rationale for changing the urban growth boundary involved the need to provide additional property with rail access (e.g., see UGB Amendment findings, pages 37-40). A key element in the analysis of that urban growth boundary change involved the fact that the Awbrey/Meadowview tract had access to two railroad lines, a very unusual circumstance (see UGB Amendment findings, pages 13-14 and Record, Index #43). However, the only way the Awbrey/Meadowview has access to the Southern Pacific rail line is through the spur line, granted the decision to limit the area of urban growth boundary expansion to 200 acres rather than including the entire tract.

The cities of Eugene and Springfield have concluded that the urban growth boundary should be expanded and industrial development in the expansion area should be served by two rail lines. Lane County concurs in that determination. Therefore, approval of the rail spur that ensures dual rail access is consistent with Policy #2 of the Economy of the State Element.

Policy #6 of this element states that: "The County shall work closely with incorporated city governments to improve local economic conditions, including land and service provisions." In this instance, the City of Eugene initially determined that it needed to increase its industrial land inventory to improve local economic conditions. The City of Springfield agreed with that determination. One aspect of service provision for this industrial area involves extension of rail service from the Southern Pacific line which is located east of the expansion area. Approval of the rail spur to provide that service is consistent with the direction provided in Policy #6 of the Economy Element, which directs the County to work with cities to improve provision of services.

Transportation Element

The Transportation Element of the Rural Comprehensive Plan makes no direct reference to rail service. However, Policy #1 states that: "Lane County shall strive for a coordinated and balanced transportation system which complies with LCDC Goal 12 and is responsive to economic, social and environmental considerations . . ." Goal 12 identifies rail service as one of the transportation modes to be addressed in a transportation plan.

One of the objectives cited in Policy #1 is to encourage "A transportation system responsive to changing needs and conditions." Evidence provided in the proceeding concerning urban growth boundary expansion included the following factors that are pertinent to this objective:

1. Information was provided indicating that a large number of firms in Eugene and Springfield presently use rail (see UGB amendment findings, page 13).
2. Information was provided showing that little consideration was given to the availability of rail access when industrial land allocations were developed for the original version of the Metropolitan Plan (see UGB

Amendment findings, page 13 and Record, Index #11, #88 - page 6, and Index #35).

3. The Metropolitan Partnership submitted data showing that a number of its recruitment cases specified that rail access was necessary (see UGB Amendment findings, page 13 and Record, Index #89-I).
4. Both the Oregon Department of Transportation and Public Utility Commission submitted written testimony that access to two railroads provided distinct competitive advantages (see UGB Amendment findings, page 13 and Record, Index #43).

Allowance for this rail spur will help meet needs identified since initial adoption of the Metropolitan Plan. The allowance is also consistent with the objectives of Policy #1 of the Transportation Element as discussed above by helping meet the need for a balanced transportation system that includes provision for rail access for industrial sites.

Urbanization Element

Policy #1 of this element indicates that: "Lane County shall encourage new residential, commercial and industrial development to locate within existing incorporated cities or rural communities." This amendment, considered in its entirety, involves provision for industrial development within the incorporated City of Eugene. The only relevance to the Rural Comprehensive Plan involves a rail spur intended to serve development within the incorporated area. No industrial development in a rural area will occur as a result of the rail spur extension. Transportation facilities in the form of both rail and roads traverse rural areas to serve incorporated areas. Therefore, the rail spur conforms with the intent of Policy #1 cited here.

Certain amendments to the descriptions of industrial land categories provided in the Metropolitan Plan were adopted at the same time this urban growth boundary was approved. One of those amendments specifically provides that: "Annexation shall occur prior to development. Upon annexation, the City of Eugene shall apply the appropriate industrial zoning specifying the minimum parcel size and setting forth performance standards." This requirement assures that the property to be served by the rail spur will be within an incorporated area.

Policy #3 states that: "The County shall provide for a cooperative UGB management process between the County and cities in the County in the following: (a) The establishment and periodic revision of urban growth boundaries and the planning and implementation of common policies and procedures within the boundaries; and (b) the planning and implementation of city policies for lands inside city boundaries which may affect the County." In the case of the Awbrey/meadowview plan amendment, the County is a participant in the revision of the urban growth boundary since it jointly adopts the Metropolitan Plan with Eugene and Springfield. The City of Eugene has required, as a matter of policy, that development of the Awbrey/Meadowview tract be served with dual rail access.

Approval of the rail spur is necessary to meet that policy requirement. Therefore, it is consistent with Policy #3 for the County to cooperate in implementing the City of Eugene's requirement that access to the Southern Pacific rail line be provided.

Policy #5 provides that: "The County will seek agreement with each city to commonly determine the location of urban growth boundaries and the interim and long-term land use designations and public improvement project designations within the growth boundaries." This policy has some relevance in the following respects. Lane County and Eugene and Springfield have jointly agreed that the 200-acre Awbrey/Meadowview tract should be included within the urban growth boundary of Eugene. Further, while not strictly a public improvement project, the County has agreed that access to the Southern Pacific rail line should be provided for the 200-acre tract. Approval of the rail spur is the only way to provide that access, granted to location of the tract vis-a-vis the main rail line. Consequently, approval of the rail spur is consistent with the cooperative approach encouraged by this policy of the Rural Comprehensive Plan.

Conclusion

Extensive evidence was provided in conjunction with the findings supporting the urban growth boundary amendment showing that access to both the Burlington Northern and Southern Pacific rail lines was a key factor supporting inclusion of the Awbrey/Meadowview tract within the urban growth boundary. The amendment actually requires, as a prerequisite to development of the property, that dual access be provided.

An exception for the rail spur to cross agricultural land has been separately justified. The amount of land area affected by the rail spur is minor, involving at most 2.2 acres. The spur is located to provide the least disruption to agricultural activities on adjoining lands. Finally, numerous policies encourage the County to cooperate with the planning and economic development activities of the various cities within the County. Since Eugene requires extension of the rail spur, it is consistent with those policies for the County to cooperate by making the extension possible. The proposed rail spur conforms with applicable elements and policies of the Rural Comprehensive Plan.