

PASSED

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1205 ) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE  
) PLAN TO REDESIGNATE LAND FROM "RURAL COMMERCIAL" TO  
) "RURAL, COMMUNITY" AND REZONING THAT LAND FROM "RC/C-  
) RCP, RURAL COMMERCIAL" TO "RR-2/C-RCP, RURAL RESIDENTIAL";  
) AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (file PA 03-  
) 5200; Finney)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in March 2003, application no. PA 03-5200 was made for a minor amendment to redesignate tax lots 1200, 1203, 1301, and 1304 of map 17-35-10.1, from "Rural Commercial" to "Rural, Community" and concurrently rezone the property from "RC/C-RCP, Rural Commercial" to "RR-2/C-RCP, Rural Residential "; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearings of January 20, 2004, and recommended approval of the proposed amendment and rezoning; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

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

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lots 1200, 1203, 1301, and 1304 of map 17-35-10.1 from " Rural Commercial" to "Rural, Community", such territory depicted on Plan Plot 608 and further identified as Exhibit "A" attached and incorporated herein.

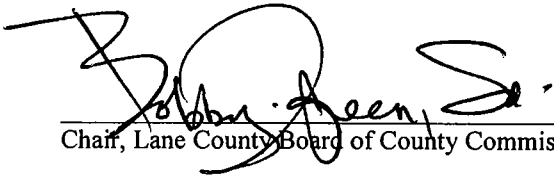
Section 2. Tax lots 1200, 1203, 1301, and 1304 of map 17-35-10.1, is rezoned from "RC/C-RCP, Rural Commercial" (Lane Code 16.291) to "RR-2/C-RCP, Rural Residential " (Lane Code 16.290), such territory depicted on Rural Zoning Plot 608 and further identified as Exhibit "B" attached and incorporated herein.


FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "C" attached, in support of this action.

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

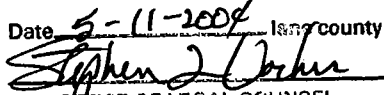
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the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

ENACTED this 2<sup>nd</sup> day of June, 2004.

  
\_\_\_\_\_  
Chair, Lane County Board of County Commissioners

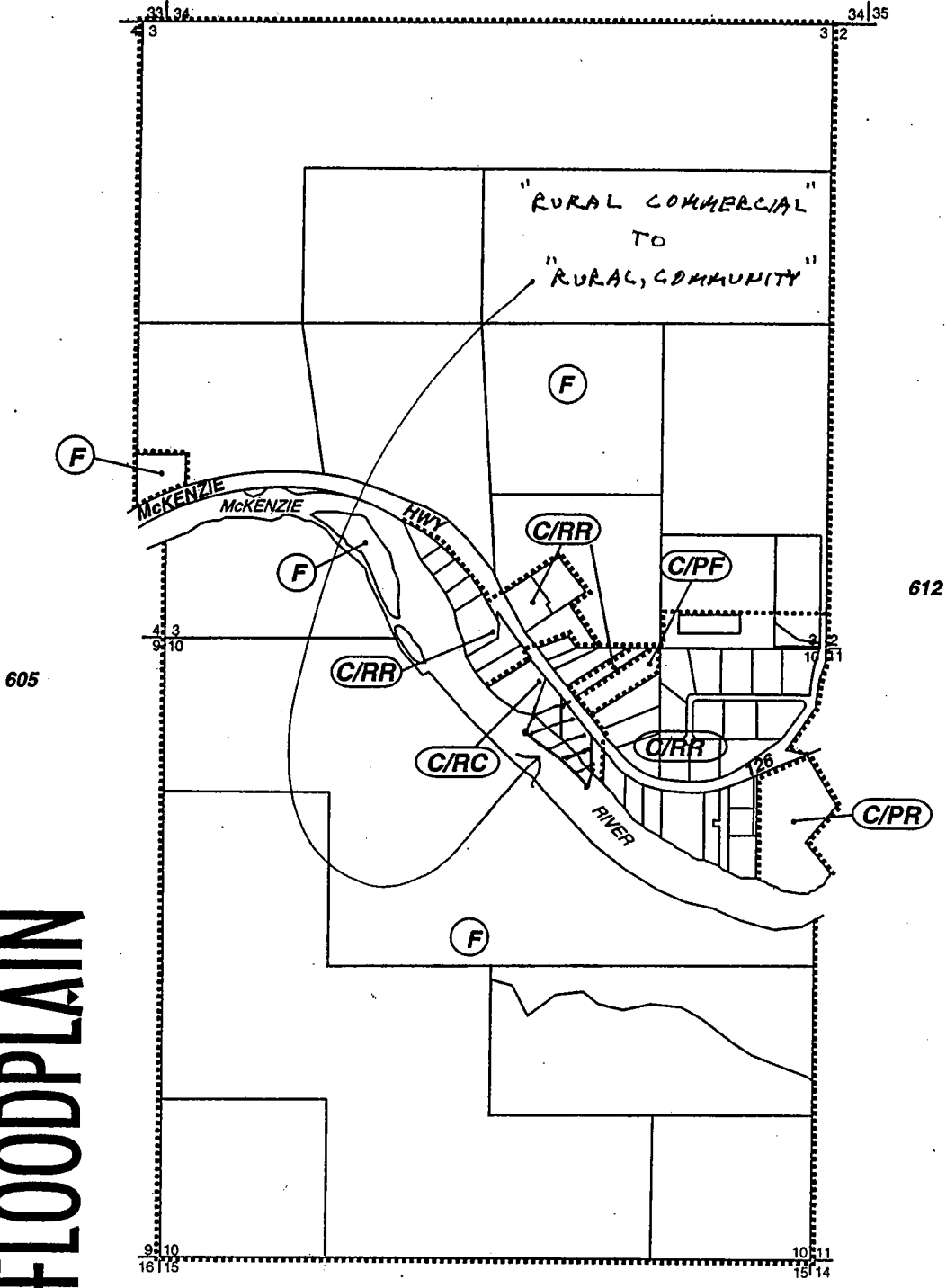
  
\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 5-11-2004 lan county  
  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

NIMROD

FLOODPLAIN



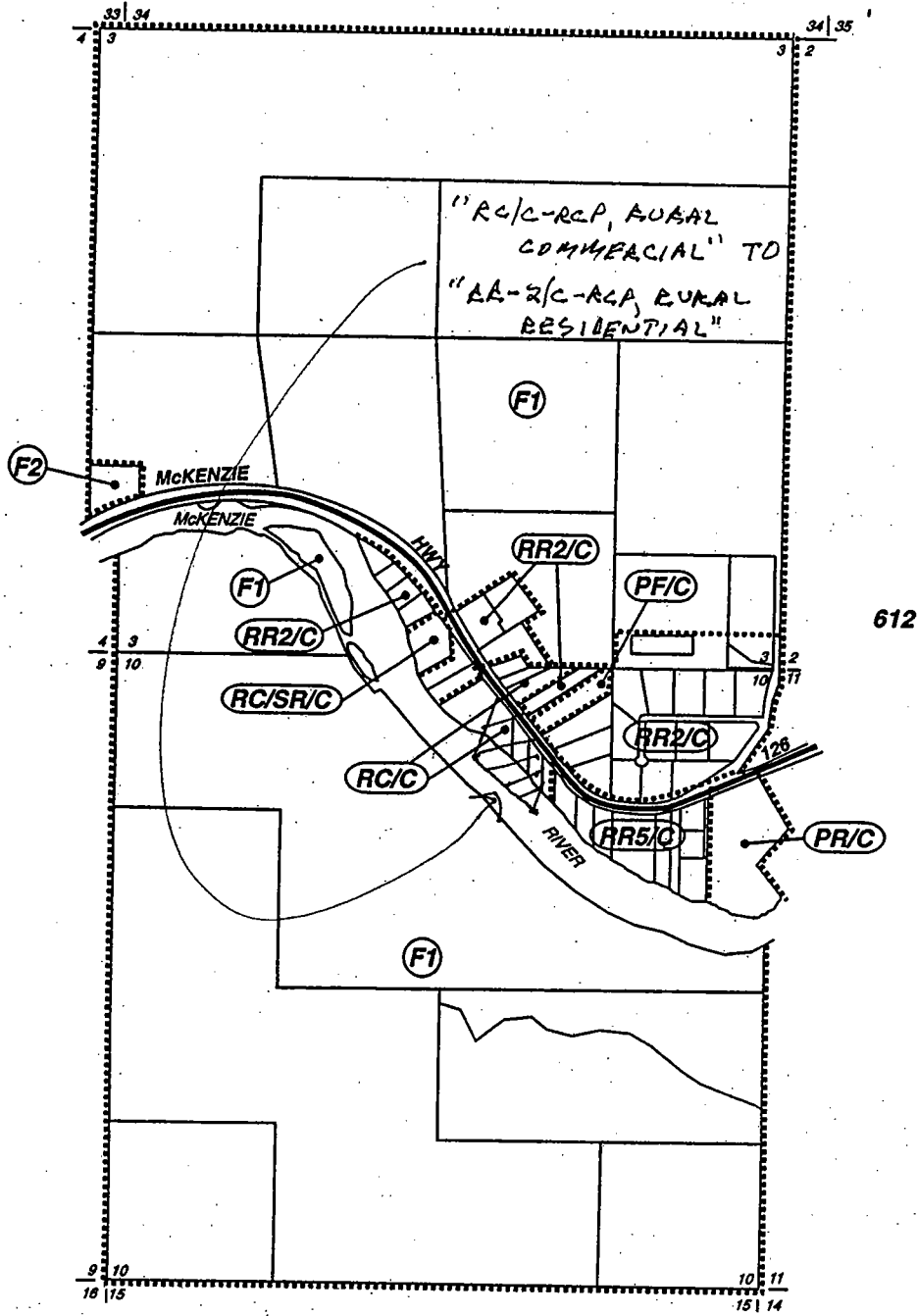
605

612

	<b>OFFICIAL PLAN MAP</b>		<b>PLOT #608</b>
	Township Range Section 17 35 03 / 17 35 10		
ORIGINAL ORD. # <u>PA 884</u>	DATE <u>2/29/1984</u>	FILE # _____	
REVISION # _____	ORD# <u>PA 1168</u>	DATE <u>4/17/02</u>	FILE # <u>CN16,17,18</u>

NIMROD

FLOODPLAIN



The RR zones on this map are changed as follows:  
 FROM: RR LC 16.231 TO: RR LC 16.290  
 The RR zone parcel size remains the same.

lane county



OFFICIAL ZONING MAP

PLOT #608

Township Range Section

17 35 10

17 35 16

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # \_\_\_\_\_

REVISION # \_\_\_\_\_ ORD# PA 1168 DATE 4/17/02 FILE # CN16,17,18

**FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF A  
MINOR PLAN AMENDMENT AND ZONE CHANGE**

**From**

**NEIGHBORHOOD COMMERCIAL (CR/C, RCP)**

**To**

**RURAL RESIDENTIAL (RR-2/C, RCP)**

**FILE NO. PA 03-5200**

**JAMES B. FINNEY, TRUSTEE, APPLICANT**

The following findings of fact and conclusions of law support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change for the "Subject Property as described below.

- I. Summary of Proposal
- II. General Findings Regarding the Subject Property
- III. Lane Code 16.400 Plan Amendment Criteria
- IV. Findings and Conclusions Relating to the Statewide Planning Goals
- V. Findings and Conclusions Relating to the Lane Code 16.252 Zone Change Criteria

**I. SUMMARY OF PROPOSAL**

These combined applications propose to change the Lane County Rural Comprehensive Plan ("RCP") designation from Commercial Lands to Residential Lands and the Zoning Designation from CR/C, RCP, to RR-2/C, RCP, for four legal lots located in the unincorporated community of Nimrod. The applicant seeks to build residences on each of the lots.

**II. GENERAL FINDINGS REGARDING THE SUBJECT PROPERTY**

**A. Location, Land Use Designation and Site Description**

**Location:**

The property subject to this application ("Subject Property") is identified as Tax Lots 1200, 1203, 1301, and 1304 on Assessor's Map No. 17-35-10-10 (Lots 5, 6, 7, and 8 of Eagle Rock as platted and recorded in 1937 in Book 10 of Plats, Page 23, in the records of Lane County Oregon as revised by the Declaration of Property Line adjustment found at Document No. 99093505 and shown on a

Property Line Adjustment Survey found at CS File No. 36319). See attached Exhibits 1 and 2.

The Subject Property lies between the McKenzie Highway and the McKenzie River just east of the Eagle Rock Lodge (49198 McKenzie Highway) in the community of Nimrod. See Exhibit 3. Nimrod has been acknowledged by the Land Conservation and Development Commission as a “developed and committed exception area” designated as an Unincorporated Rural Community.

**Land Use Designation:**

Zoning History: On March 6, 1990, the zoning of what is now Tax Lots 1200, 1203, 1301, and 1304 was changed from RR-2 to Rural Commercial. This zone change also included Tax Lot 1201 to the west where the Eagle Rock Lodge is located. The decision, staff report and application for that zone change (PA 3435-89) all indicate that the primary reason for the zone change was to recognize the existing commercial use and apply the appropriate zoning to the site. At that time the Subject Property and the Eagle Rock Lodge parcel were in one ownership. Eagle Rock Lodge is a fully developed, eight-unit, commercial recreation property. The Subject Property has never been developed.

By Ordinance PA 1173, April 17, 2002, the Lane County Board of Commissioners amended several RCP Goal Two policies and revised certain zoning and plan designations in eight unincorporated rural communities in the McKenzie Watershed, including the community of Nimrod. The character “C” was applied after the plan or zone designation to indicate “Unincorporated Rural Community” in conformity with the State Unincorporated Community Rule (OAR Chapter 660, Division 22).

Except for the addition of the character C, most of the zone and plan designations remained the same, including that of the Subject Property. County staff affirmed that no one requested a plan or zone change for the Subject Property during the amendment process, nor did the Board initiate a change on its own motion. As a result, all of the Subject Property, along with the commercially developed property to the west was zoned CR prior to the passage of Ordinance PA 1173.

Tax Lot 1201 containing Eagle Rock Lodge was subsequently sold in 1999, severing the undeveloped Subject Property from the parcel with the developed commercial use.

Current Designations: The Official Zoning Map (#608) incorporated in Ordinance PA 1173 is correct. That map indicates that all of the property north and south of Eagle Rock Lodge and the Subject Property is zoned for rural residential use. The Subject Property has never been used commercially and the applicant seeks a change back to a residential designation in conformity with most of the surrounding property.

### **Site Description:**

The Subject Property borders the McKenzie Highway to the north and the McKenzie River to the south. The four subject lots are characterized by several benches sloping down to the river and are composed primarily (except for a small sliver of Riverwash soil adjacent to the river) of Jimbo silt loam that is described as being suitable for homesite development according to the SCS Soil Survey of Lane County. Vegetation consists of grasses, brush, mixed conifers and other indigenous riparian species.

The subject lots are depicted on Survey 36319 at Exhibit 2. Lot 5 is 1.4 acres, Lot 6 is 1.9 acres, Lot 7 is 1.6 acres, and Lot 8 is 1.4 acres. The entire Subject Property measures 6.3 acres and has 739.21 feet of frontage on the McKenzie River.

### **B. Services**

Tax Code: 068-05

Schools: McKenzie School District 68, Lane ESD, Lane Community College

Fire: McKenzie River Rural Fire Protection District

Police: Lane County Sheriff and Oregon State Police

Sewer: On-site SDS

Water: On-site wells

Access: McKenzie Highway

Power: Lane Electric Co-op

Phone: US Qwest

Solid Waste: Lane Central Receiving Station & franchised haulers

## **III. LANE CODE 16.400 PLAN AMENDMENT CRITERIA**

### **A. Planning Commission Review and Recommendation:**

Pursuant to procedures set forth in Lane Code 16.400(6) (a) to (d), the Lane County Planning Commission voted unanimously to recommend to the Board of Commissioners that they grant final approval of the combined plan amendment and zone change applications as described in and supported by these findings.

### **B. Plan Amendment Criteria at LC 16.400(6) (h) Method of Adoption and Amendment.**

*(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:*

*(aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable*

*requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.*

A minor amendment is one that amends only the Plan Diagram. A major amendment is any other Plan amendment. The change sought by this request is a minor amendment.

This proposal would amend the RCP designation for the Subject Property from Rural Commercial to Rural Residential. This application provides substantial evidence that addresses the applicable requirements of Lane Code, RCP policies, and the Statewide Planning Goals. Specific findings are set forth below.

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

*(i-i) necessary to correct an identified error in the application of the Plan; OR*

The RCP, as amended by Ordinance PA 1173 at Goal Two, Policies 10 and 11, establishes the process for applying land use designations within unincorporated communities in the McKenzie watershed. The practice is to recognize land that is developed with commercial or industrial uses. The Subject Property is, and has always been, undeveloped.

As noted above, the Subject Property was once part of an ownership that included a developed commercial recreational use, Eagle Rock Lodge. Commercial zoning was applied in 1990 to reflect that use (PA 3435-89). The Subject Property is no longer part of that development. While perhaps not correction of an error in the application of the plan, it is consistent with the intent of the Plan to now apply a Residential designation as a reflection of the intended and more appropriate use of the property and its undeveloped state.

*(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*

As discussed below there is no identified need for commercial property within Nimrod.

*(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR*

Not applicable.

*(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR*

See discussion above under (i-i)

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

The proposed request is consistent with past and current planning practice: As noted above, the planning and zoning history of the Subject Property has been tied to the historic use of the Eagle Rock Lodge property. Beginning with the 1984 RCP, the property was designated for residential use. Then, in 1990 it was designated for commercial use to reflect the potential expansion of the lodge. These designations were consistent with applicable RCP policies, as is the current request.

The portion of the property that is the subject of this application, however, was never used commercially and is now in separate ownership from the lodge. Throughout this history, most of the adjacent and nearby property has remained designated for residential use. Approval of this application would not change the commercial zone and plan designation on the Eagle Rock Lodge property.

The proposed request will not adversely affect the commercial viability of Nimrod: The commercial zone and plan designation would remain on the Eagle Rock Lodge parcel. A commercially zoned parcel also lies northwest of the lodge on Tax Lot 1700. This parcel is not adjacent to the Eagle Rock Lodge, but is only about 300 feet away. Tax Lot 1700 is the site of the McKenzie River Inn, which has been in commercial use since 1980 and was the subject of a zone change in 2001 to Rural Commercial. See PA 01-5543. Two other commercially zoned parcels lie across the McKenzie Highway from the Eagle Rock Lodge. Seven other parcels further east in Nimrod are also zoned for commercial use. Within that group there now exists only a small restaurant, an outdoor outfitter's business office and a small lodge. Most of the property is either without structures or with vacant structures.

The Supplemental Study No. 1 of the McKenzie Watershed Periodic Review Work Program published in October of 1999, discussed the adequacy of the rural commercial lands inventory. It states, "One issue that seems to be clear is that parcels are available in the historic cores of the Rural Communities for development by commercial interests." It also states that "...there are numerous vacant or under-utilized commercial parcels available for development ..." Page 4, Supplemental Study No. 1. The 1999 study found seven commercially zoned parcels in Nimrod, five of which were vacant. Despite recent land divisions not reflected on the

zoning map, it appears there are 15 commercially zoned parcels, of which 9 are undeveloped or with vacant structures within the Nimrod Community.

Based on these figures, the Board can conclude that the inventory of lands available for commercial uses in Nimrod is not at apparent risk. Furthermore, as discussed below, the Subject Property is not well suited to commercial use because of topography and access constraints.

For all of the above reasons, and because most of the surrounding properties are zoned for residential use, it is appropriate to re-designate the subject parcels to residential use.

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

This plan amendment application is supported by the following RCP policies. No policies have been identified that conflict with this request.

*Goal 2, Policy 11(a) states:*

*A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:*

*i. existing development pattern and density:*

As discussed above, the Subject Property is adjacent to rural residentially zoned properties to the east as well as to the north directly across the McKenzie Highway. The adjacent parcel to the west is zoned for commercial use (the Eagle Rock Lodge), as are two parcels that lie northwest of the subject parcels and across the highway. One parcel contains a gift shop. One parcel directly across the McKenzie Highway from the north end of the subject property is zoned for heavy industrial uses and is occupied by a machine shop and heavy equipment operation. Rural residential uses predominate in the areas surrounding the Subject Property parcels. A change in use from commercial to residential will decrease the potential intensity of use on the site and will more accurately reflect the surrounding land use.

*ii. on-site sewage disposal suitability, or community sewerage:*

Each of the four subject parcels has been approved for individual sewage disposal sites.

*iii. domestic water supply availability:*

Each of the four subject parcels contains a well. The average yield is approximately 45 gallons per minute. The Subject Property is not located within a water quantity or quality limited area as identified by Lane Code 13.010. An adequate domestic water supply is therefore available.

*iv. access:*

The Subject Property is adjacent to the McKenzie Highway. Access to each lot from the highway is via a common driveway and easements shown on the Property Line Adjustment Survey filed on December 7, 1999 at C.S. File No. 36319 in the Lane County Surveyors Office. See Exhibit 2. A road approach permit for the “lodge and homes” to access the McKenzie Highway was granted on January 28, 1997. The permit appears to cover the existing lodge property plus lots 6 and 7 of Eagle Rock Subdivision. (The lodge is on lot 8.)

The Oregon Department of Transportation (ODOT) agreed that traffic volumes associated with residential use would be less than if the property developed with uses allowed under the current commercial zoning. Also, it was agreed that the likely location for a commercial use would be on the westerly end of the property. That location would put the access closer to a highway curve with a resultant degradation in sight distance. On that basis, no issues affecting this proposal were identified by ODOT.

It was acknowledged by ODOT that access location details, if different from the current permit, would be worked out later as part of a development permit process. ODOT noted that a single access point for the lots would likely be required. That design is consistent with the applicant’s general approach to development of the property.

*v. public services:*

The Subject Property is accessed by the McKenzie Highway and has access to the full range of public services specified for Communities in RCP Goal 11: Public Facilities and Services, Policy 6.f. See section II B. above. Each of the subject parcels has an approved individual septic site as well as a domestic well.

vi. *lack of natural hazards; and*

The Subject Property includes areas located within a designated flood hazard area along the McKenzie River. In 1991 Lane County conducted a floodplain analysis (PA 3627-91). Each of the lots also had Floodplain Verifications conducted in 2000. A recent survey shows all property pin elevations. See Exhibit 2. The Survey and the Floodplain Verifications demonstrate there is ample area for residential development. Any development within a flood hazard area would be subject to the permit requirements of L.C. 16.244.

vii. *effect on resource lands.*

The Subject Property lies within the community of Nimrod. There are no resource lands adjacent to the Subject Property on the north side of the river. Forest lands zoned F-1 lie south of the property but are buffered by the intervening McKenzie River. Because the use will change from commercial to residential, the proposed change would likely have no foreseeable adverse effect on the resource lands across the river.

*Goal 5, Policy 6 (Flora and Fauna) states:*

*Riparian vegetation along Class I streams in the County is recognized as being of high value for many purposes, notably wildlife habitat and stream bank stabilization. Riparian lands shall be defined as the lands within 100 feet of ordinary high water on Class I streams, and shall be considered "Significant" "1C" areas (in the language of OAR 660-16-000/025); "3C" protection of the riparian resource shall be achieved through development setbacks and vegetation management regulations within the riparian strip. The setback distance will vary from 100 feet from ordinary high water in rural resource zones to 50 feet from ordinary high water in rural resource zones to 50 feet from ordinary high water in developed and committed areas; provided a means is made available for review and modification of these requirements where it can be demonstrated that an unduly restrictive burden would be placed on the property owner or that riparian vegetation does actually extend all the way into the 50 foot or 100 foot setback to the location of the proposed improvements.*

Riparian setback declarations were completed on each of the subject properties in 2000. Monuments were set on the ordinary high water line. Any development within a riparian area would be subject to the riparian permit requirements of LC 16.253.

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

This proposed Plan amendment is consistent with the RCP intent to choose between competing uses in unincorporated communities. As previously stated, this amendment is consistent with the RCP policies that provide for designating lands for residential use. Approval of this amendment is consistent with unamended portions or elements of the Plan.

**C. Lane Code 16.400(8)**

*Additional Amendment Provisions. In addition to the general procedures set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components.*

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

This application requests a plan amendment and zone change within the unincorporated rural community of Nimrod. It only affects the Plan Diagram for the Subject Property. No text change to the RCP is proposed. No exception from the Statewide Planning Goals is required because the community of Nimrod is already an acknowledged exception area. This amendment is limited to the Plan Diagram and is, therefore, a minor amendment.

- (c) Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:*
- (i) A complete description of the proposal and its relationship to the Plan.*

The required description is provided in the prior portions of these findings. The proposed use of the property is for rural residential purposes consistent with the density and other standards of Lane Code Chapters 13 and 16. The Plan amendment will change the Plan Designation from Rural Commercial to Rural Residential.

*(ii) An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.*

The required analysis is provided by previous findings.

*(iii) An assessment of the probable impacts of implementing the proposed amendment, including the following:*

*(aa) Evaluation of land use and ownership patterns of the area of the amendment;*

As discussed above, the Subject Property is bordered on the south by the McKenzie River and on the north by the McKenzie Highway. It lies within the unincorporated rural community of Nimrod. Within this community there is a high degree of parcelization along the McKenzie Highway. To the east and north the properties are predominantly in rural residential use. Directly to the west lies the Eagle Rock Lodge. Across the highway is a gift shop, an industrial use and a fire station/forestry office.

*(bb) Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply and sewage disposal;*

As noted above, the Subject Property is served by all of the basic facilities services described in RCP Goal 11, Policy 6. f. for Rural Residential land within communities. These include schools, on-site sewage disposal, electrical service, telephone service, rural level fire and police protection and reasonable access to solid waste disposal services.

*(cc) Impact of the amendment on proximate natural resources, resource lands or resource sites, including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable;*

The only resource land nearby is directly across the McKenzie River. As discussed above, it is likely that a zone change to residential from commercial will lower the potential negative impacts on that resource land. Other than riparian lands, as discussed below, no other designated Goal 5 resources exist on the Subject Property. See previous findings

addressing Goal 5, Policy 6 (Flora and Fauna) and findings addressing Statewide Goal 5 below.

*(dd) Natural hazards affecting or affected by the proposal:*

The Subject Property lies along the McKenzie River in a designated flood hazard area. See previous discussion above under section III. B. Floodplain verifications and maps of the Subject Property show that there is ample room for residential development on each parcel. Any development within a regulated floodplain area would be subject to the Floodplain Permit requirements of Lane Code 16.244

*(ee) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;*

This standard does not apply because the proposed amendment is for a residential designation.

*(ff) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;*

This standard does not apply because the proposed amendment is for a residential designation.

#### **IV. FINDINGS AND CONCLUSIONS RELATING TO THE STATEWIDE PLANNING GOALS**

The Oregon Land Conservation and Development Commission Goals and Guidelines are incorporated herein by reference, except as noted. The following applicable statewide goal statements have been summarized.

*Goal 1 - Citizen Involvement:*

Goal 1 requires that citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Public notification in the form of mailed public notice has been sent by Lane County to affected agencies, including the Department of Land Conservation and Development and owners of record within 250 feet of the site.

*Goal 2 - Land Use Planning:*

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions, and requires development of an adequate factual base to support these decisions. A minor change is one that does not have significant effects beyond the immediate area of change, and is based on special studies or information. The justification for the specific change must be established by substantial evidence in support of the conclusion that the criteria have been met.

Lane County has adopted a comprehensive land use plan amendment process with specific standards that must be addressed to justify a minor change. Substantial compliance with the plan amendment criteria in LC 16.400 constitutes compliance with the applicable provisions. This application provides substantial evidence upon which the Planning Commission and Board may conclude that the criteria have been met.

*Goal 3 - Agricultural Lands:*

Goal 3 strives to preserve and maintain agricultural lands. The Subject Property is part of the unincorporated community of Nimrod. It is in an approved exception area and is no longer available for resource use.

*Goal 4 - Forest Lands:*

Goal 4 requires the preservation and conservation of forest land for forest uses. The Subject Property is in an approved exception area in the unincorporated community of Nimrod and is no longer available for resource use.

*Goal 5 - Open spaces, Scenic and Historic Areas and Natural Resources:*

Goal 5 requires the conservation of open space and protection of natural and scenic resources that include cultural, historic, scenic and wilderness area characteristics. The goal, as amended by OAR 660-23-000, contains policies and procedures for a variety of resources that are listed below. This administrative rule requires evaluation of these resources. OAR 660-23-10 and -20 includes definitions, standards and specific rules applicable to each Goal 5 resource.

Of the Goal 5 resources currently inventoried as part of the RCP, those discussed below are present on the Subject Property.

Riparian corridors, wetlands, and wildlife habitat: The Subject Property lies along the McKenzie River. Because the River is a Class I stream designated for protection in the RCP, it is subject to the Policies of RCP, Goal 5 - Flora and Fauna and the regulations of LC16.253. Riparian

Setback Declarations have been approved and monuments set on the ordinary high water mark. See Exhibit 2.

As noted above, the Subject Property is located within an acknowledged “developed or committed” exception area. According to RCP Goal 5, Flora and Fauna Policy 10, such areas are treated as “Impacted Big Game Range.” Neither the RCP nor Lane Code contain any special requirements for wildlife protection within exception areas.

Groundwater resources: Neither the Subject Property nor the adjacent lands are inventoried by Lane County as part of a critical quantity or quality groundwater area. See Lane Manual 13.010. Groundwater supplies are adequate to serve the intended residential uses.

*Goal 6 - Air, Water and Land Resource Quality:*

Goal 6 is intended to maintain and improve the quality of the air, water and land resources of the State. As it pertains to site-specific development, it requires that adequate protection measures be taken to assure the retention of air, water and land quality. Generally this means that development will be subject to the air and groundwater regulations promulgated by the State Department of Environmental Quality as administered by the Lane County Environmental Health Department and the Lane Regional Air Pollution Authority.

*Goal 7 - Areas Subject to Natural disasters or Hazards:*

Goal 7 is intended to protect life and property from natural hazards. The only identified potential hazard on the subject property is flooding. Flood plain verifications were also performed by the County Planning Staff. The verifications indicate there are adequate building areas above the regulated flood plain. Any development on the Subject Property will be subject to the requirements of LC 16.244.

*Goal 8 - Recreational Needs:*

This goal addresses the recreational needs of the State including visitors. Although Supplemental Study No. 1 of the McKenzie Watershed Periodic Review Work Program (October 1999) forecasts an increase in recreational use of the McKenzie River, there is no identified shortage of land or access points to meet the need in the Nimrod area. For example, the existing Eagle Rock County Park (Tax Lot 2000, Assessor’s Map 17-35-10-10), at 13 acres, has adequate room for anticipated development. Also, it is likely that the Subject Property will be developed with full-time

or seasonal residences that are related to the scenic and recreational characteristics of the site.

*Goal 9 - Economy of the State:*

Goal 9's purpose is to diversify and improve Oregon's economy. This goal is primarily applicable to commercial and industrial development. Approval of this application will change the Subject Property from a commercial designation to a residential designation. As discussed above, there is an adequate inventory of commercially-zoned property in the Nimrod area.

*Goal 10 - Housing:*

Goal 10 is intended to provide for the housing needs of Oregon's citizens. This plan amendment and zone change request would facilitate the construction of housing on the site.

*Goal 11 - Public Facilities and Services:*

The purpose of Goal 11 is to provide for the planning and development of public facilities and services in a timely, orderly and efficient manner in order to support rural and urban development.

The Subject Property has access to the full range of public services specified for Communities in RCP Goal 11: Public Facilities and Services, Policy 6. f. See Section III. B. above. No additional public facilities and services are available or will be required beyond the present level.

*Goal 12 – Transportation:*

Goal 12 is intended to provide and encourage a safe, convenient and economical transportation system. This goal does not address specific land use actions, such as this proposal, but is implemented at the comprehensive planning stage on an area-wide basis.

The Goal 12 administrative rules identify an additional aspect that comes into play if an amendment to an acknowledged comprehensive plan "significantly affects" a transportation facility. (OAR 660-012-0060) A transportation facility is any physical facility that moves or assists in the movement of people or goods. (OAR 660-012-0005[24]) The relevant transportation facility for this application is the McKenzie Highway.

This proposed amendment will not have a significant effect as demonstrated by the following responses to the criteria set forth in the administrative rule at OAR 660-012-0060(2)(a-d):

“(2) A plan . . . amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility;
- (b) Changes standards implementing a functional classification system;
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.”

In response to (2)(a) and (b), no changes in either the functional classification of the street system or the standards implementing the functional classification system are proposed by this application.

In response to (2)(c) and (d), this change will replace the current commercial land use designation with one that allows only residential use. A comparison of trip generation factors as described in the trip generation manuals produced by the Institute of Transportation Engineers indicates that the residential designation will have far less traffic impact than the commercial uses currently allowed. See Table 1 below, which compares typical residential trip generation with uses allowed under the current zoning. The data demonstrates that there would be a decrease in the levels of potential travel or access, and the performance standards of the facility would not be altered.

**Table I**  
**Trip Generation by Use**  
(Trip ends/1000 ft<sup>2</sup>)

<u>Use</u>	<u>Ave. Daily Trips</u>	<u>Peak AM</u>	<u>Peak PM</u>
Rural Residential	10.00*		
Clinic/Medical Office	31.45	3.60	5.18
Video Rental	31.54		
Sit-down Restaurant	89.95	9.27	10.86
Bank	156.48	4.07	33.15
Convenience Store with Service Station	162.78**	10.64**	13.19**
Mini-mart	737.99	65.39	53.73

\* Trips per dwelling

\*\*Trips per pump

Source: Institute of Transportation Engineers, Trip Generation, 6<sup>th</sup> edition (1997)

The Board of Commissioners concludes from this evidence that the proposed amendment will not significantly affect a transportation facility and that no further Goal 12 consideration is required.

*Goal 13 - Energy Conservation:*

This goal requires that land uses maximize conservation of all forms of energy based on sound economic principles. It is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. Any development on the Subject Property will be subject to those rules.

*Goal 14 - Urbanization:*

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. Nimrod has been designated and acknowledged as a rural unincorporated community through the comprehensive planning process. As such, it is an appropriate location for the type of development proposed by this application.

*Goals 15-19 - (Willamette Greenway and Coastal Resources):*

Goals 15 -19 are not applicable to this plan amendment and zone change request because they are geographically oriented to specific areas not located on the site.

## **V. FINDINGS AND CONCLUSIONS RELATING TO LANE CODE 16.252 ZONE CHANGE CRITERIA**

**Lane Code 16.252 provides:**

*(2) Criteria. Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.*

*Consistency with the General Purpose of LC Chapter 16 and not Contrary to the Public Interest:*

This application is consistent with the general purposes of LC Chapter 16 as set forth in LC 16.003 in that:

- 1) In conformity with various development rules discussed above, the property will be developed commensurate with the character and physical limitations of the land and will thus promote the health, safety and general welfare of the built environment;
- 2) It will provide home construction opportunities that will aid the economy;
- 3) It will conserve farm and forest lands by locating residential opportunities within a designated community;
- 4) It will aid the provision of affordable housing that allows reasonable selection of a place to live;
- 5) By its location within a community, it will provide for the orderly and efficient transition from rural to urban lands use and the efficient provision of public facilities and services;
- 6) By the use of a common driveway, and by eliminating the opportunity for traffic-intensive commercial land uses, it will encourage the safety of the transportation system;
- 7) By virtue of regulations discussed above, it will protect the quality of the land, air and water of the county and will protect life and property in areas subject to flooding; and,
- 8) It will meet an incremental part of the recreational needs of the County.

Also, because it is consistent with the policies of the RCP and Statewide Planning Goals, it is not contrary to the public interest. See sections III and IV above.

*Consistency with the Purposes of the Rural Residential Zoning District:*

This application is consistent with the general purposes of LC Chapter 16 in that:

- 1) It provides opportunities for people to live in a rural area;
- 2) It will allow any of the uses permitted in the Rural Residential zoning district;

- 3) It is consistent with the intent of the RCP to guide development onto lands committed to non-resource use; and,
- 4) It will be regulated by measures designed to protect riparian vegetation.

*Consistency with the Rural Comprehensive Plan:*

See Section III above.

*Consistency with Statewide Planning Goals for Unacknowledged Portions of Lane County:*

Because there are no unacknowledged portions of Lane County, this criterion is not applicable.

## **CONCLUSION:**

Based on the substantial evidence presented above, the Board of Commissioners finds and concludes that the subject applications for plan amendment and zone change meet and satisfy all of the relevant criteria and hereby are granted approval.

NE 1/4 Sec. 10 T.17S. R.3E.W.M.  
LANE COUNTY

1" = 200'

See Map 17 35 03

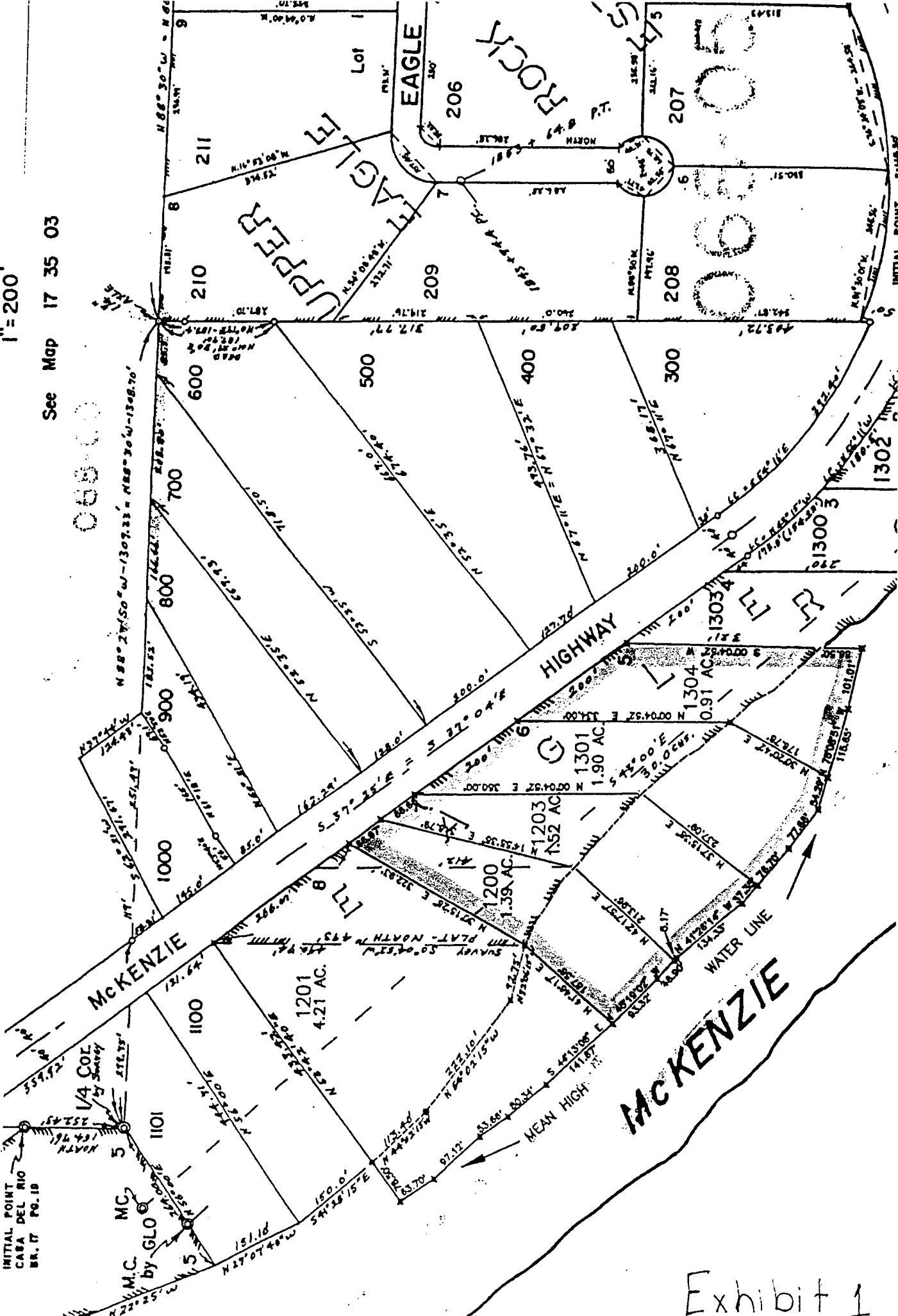
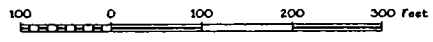


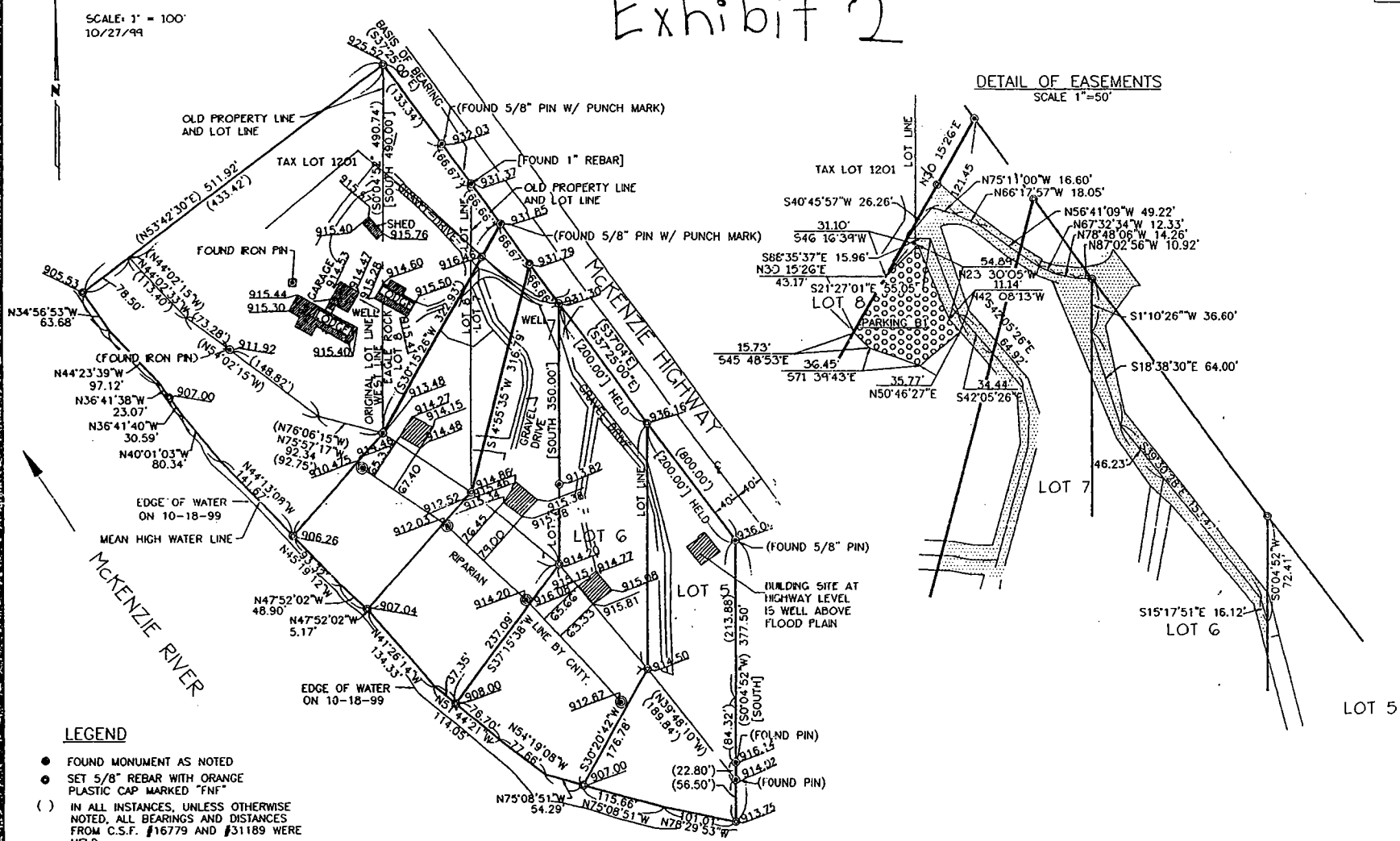
Exhibit 1



SCALE: 1" = 100'  
10/27/99

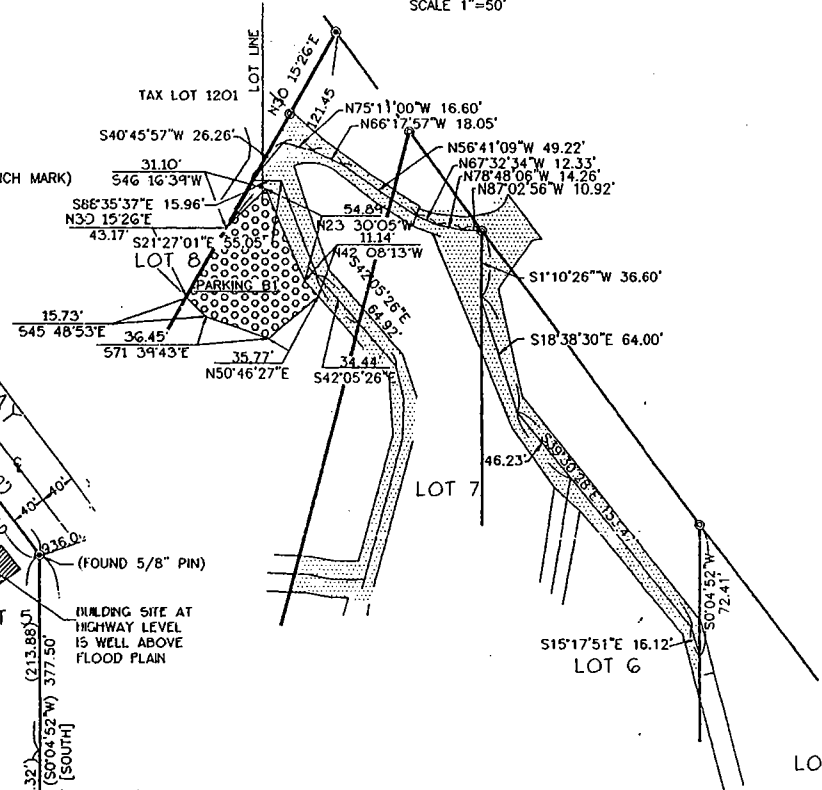
# Exhibit 2

LANE COUNTY SURVEYOR'S OFFICE  
C.S. FILE NO. 36319  
FILING DATE: 7 DEC. 99



## DETAIL OF EASEMENTS

SCALE 1"=50'



### LEGEND

- FOUND MONUMENT AS NOTED
- SET 5/8" REBAR WITH ORANGE PLASTIC CAP MARKED "FNF"
- ( ) IN ALL INSTANCES, UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES FROM C.S.F. #16779 AND #31189 WERE HELD.
- THIS PIN IS NOT AT LOCATION OF PIN SET IN C.S.F. #16779. NOT ON DIVISION LINE.
- 906.26 DENOTES ELEVATION OF POINT
- ⊙ 5/8" PIN SET BY COUNTY TO MARK RIPARIAN LINE NO CAP TO INDICATE SOURCE. NO RECORDED SURVEY

### REFERENCES

- ( ) C.S.F. #16779 AND C.S.F. #31189
- [ ] EAGLE ROCK (BK. 10 OF PLATS PAGE 23)

### AREAS:

- LOT 5  
W/O FLOOD WAY: ±0.9 ACRES  
W/ FLOOD WAY: ±1.4 ACRES
- LOT 6  
W/O FLOOD WAY: ±1.0 ACRES  
W/ FLOOD WAY: ±1.9 ACRES
- LOT 7 NOW ADJUSTED  
W/O FLOOD WAY: ±0.7 ACRES  
W/ FLOOD WAY: ±1.6 ACRES
- LOT 8 NOW ADJUSTED  
W/O FLOOD WAY: ±0.7 ACRES  
W/ FLOOD WAY: ±1.4 ACRES
- T.L. 1201 PER C.S.F. #31189  
W/O FLOOD WAY: ±3.1 ACRES  
W/ FLOOD WAY: ±4.2 ACRES

### NARRATIVE:

DEREK JAROS REQUESTED A SURVEY BE CONDUCTED DELINEATING LOTS 5 AND 6 OF EAGLE ROCK (AND THE FLOOD WAY AREAS ASSOCIATED WITH EACH) AND ADJUSTED PROPERTY LINES AS SHOWN HEREON.

MONUMENTS PREVIOUSLY SET BY THIS FIRM IN C.S.F. 16779 AND 31189 WERE RECOVERED AS SHOWN AND WERE ACCEPTED AS THE BASIS FOR THIS SURVEY.

ADJUSTED PROPERTY LINES WERE DETERMINED BY THE OWNER. ALL PROPERTIES ARE WITHIN THE SAME ZONE DESIGNATION AND NO EASEMENTS ARE EFFECTED BY THESE ADJUSTMENTS. ALL AREA AND DIMENSION MINIMUMS WERE UPHELD.

THE LINES DEFINING THE RIPARIAN AREAS ARE HELD AT RIGHT ANGLES TO THE THREAD OF THE STREAM OF THE MCKENZIE RIVER.

ELEVATIONS BASED ON BENCH MARK RM-110 ELEVATION 958.13', FEMA MAP NO. 41039C1260F PANEL #1260 (EFFECTIVE JUNE 2, 1999).

REVISED 1/3/00 TO REFLECT BUILDING SITES ON PARCELS G. 7 + 8. ALSO REFLECTS COUNTY ESTABLISHED RIPARIAN LINE. PLN

REGISTERED PROFESSIONAL LAND SURVEYOR  
Derek Jaros  
OREGON  
PAULA LEE NORRIS  
RENEWAL DATE: DEC. 31, 2000

RECORD OF PROPERTY LINE ADJUSTMENT SURVEY FOR DEREK JAROS  
NW 1/4 & NE 1/4 SEC. 10 T.17S. R.3E. W.4M.  
INCLUDES LOTS 5 THROUGH 8, EAGLE ROCK B.10 PG.23  
LANE COUNTY, OREGON

FORD-NESS-FASSBENDER  
LAND SURVEYING  
CONSTRUCTION SUPERVISION • WATER RIGHTS EXAMINATIONS  
P.O. Box 22735  
EUGENE, OR. 97402  
E-MAIL: FNF@teleport.com  
(541) 344-1852  
Fax (541) 344-6923

JOB NO. NR1124.11  
DWG. NO. NR1124.11.DWG  
BY: PLN/SRS  
REVISED 12-22-99 TO SHOW EASE. 01

# Nimrod

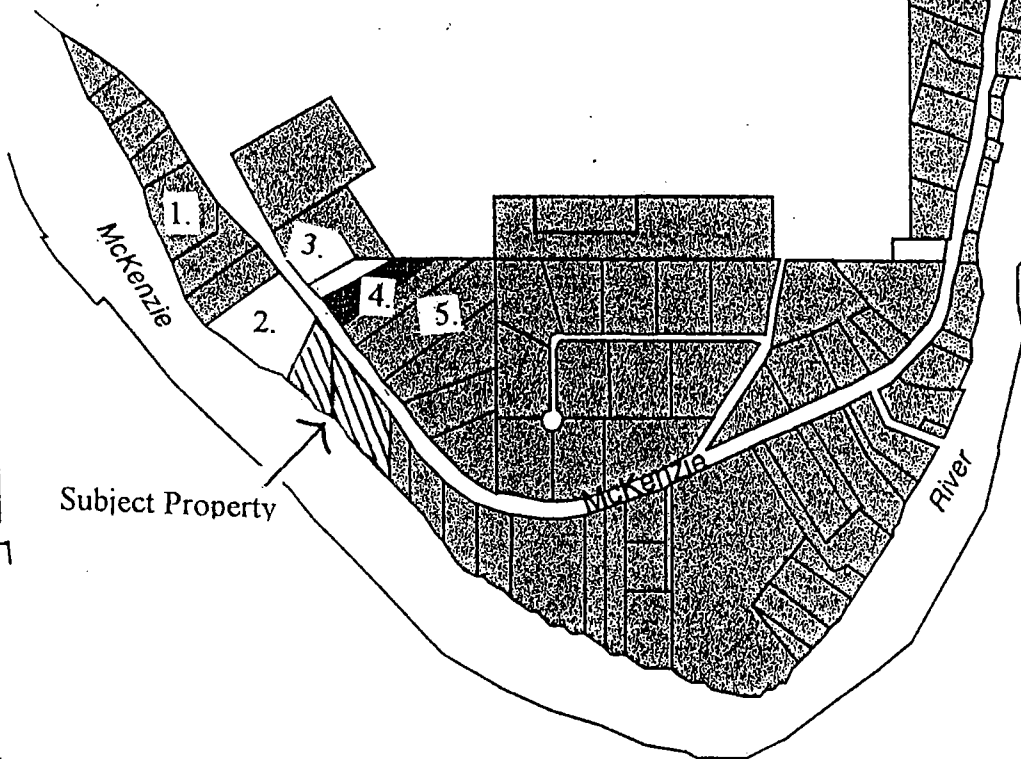
## ZONING LEGEND

- RG - Garden Apartment Residential
- RR2 - Rural Residential 2
- RR5 - Rural Residential 5
- CR - Rural Commercial
- M3 - Heavy Industrial

## Existing Land Use\*

1. McKenzie River Inn
2. Eagle Rock Lodge
3. Gift Shop
4. Shop/Heavy Equipment
5. Fire Station/Dept. of Forestry
6. Riverview Lodge
7. Café
8. River Outfitter
9. Motel

\*Source: Windshield Survey



Subject Property



Mar. 1999

Exhibit 2

