



For Office Use Only
RECORD No. 217 24 - 0001210 PLNG

Crook County Community Development/Planning Division
300 NE 3rd Street, Room 12, Prineville Oregon 97754
541-447-3211
plan@co.crook.or.us
www.co.crook.or.us

Comprehensive Plan, Map, and Text Amendments

RECEIVED

MAY 29 2024

Crook County
Community Development

PROPERTY OWNER:

Last Name: Neumueller First Name: Martin

Mailing Address: 11367 SW Doris Lane City: Powell Butte State: OR Zip: 97755

Day Time Phone: (541) -639-7071 Cell Phone: Same

Email: N/A

AGENT/REPRESENTATIVE:

Name: Kilpatrick Consulting LLC, Attn: Craig Kilpatrick

Mailing Address: 13790 NW O'Neil Highway

City: Redmond State: OR Zip: 97756

Day Time Phone: (541) 447-2724 Cell Phone: (541) 420-0260

Email: On-file

PROPERTY INFORMATION:

Township 16 Range 14 Section 11 Tax Lot 700 Size of property: 40.0 acres Zone: EFU-3

Physical address: 11367 SW Doris Lane, Powell Butte

Subdivision name, if applicable: N/A

FLOOD PLAIN:

Is the subject property located within a Flood Plain Zone? Yes _____ No X

If yes, what zone: N/A

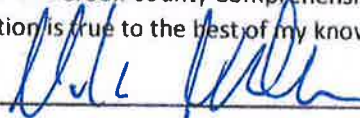
DETAILED EXPLANATION:

The applicant requests a zone map change from Exclusive Farm Use, EFU-3, Powell Butte Area to Rural Residential, R-10 (10 acres minimum) based upon the exception designation under the provisions of the adopted Powell Butte Study, a part of the Comprehensive Plan. The subject property is part of an exception area that was approved by Crook County and DLCD by Ordinance 127 as adopted on December 2, 1998 and amended on July 26, 2000 as Powell Butte Study Area 2-4. The subject property is not agricultural land and as such is not subject to Goal 3. Please see attached Burden of Proof Statement, and the copy of Ordinance 127.

IMPORTANT NOTICE: The Crook County Planning Department is required to review all applications for accuracy and to determine whether the staff and/or the Planning Commission have the information needed to make a decision. The County has 30 days to determine whether the application is complete. Within that 30-day period, the Planning Department will request additional information, if necessary. A decision on your application will be postponed until the information is received. State law requires that all information to support an application be available for public inspection at our office 20-days before a public hearing. Any information submitted after this date may require a postponement of the hearing date if necessary. Please make sure your application is complete. The burden of proof lies with the applicant.

PROPERTY OWNERS' SIGNATURES:


By signing below, I/WE agree to meet the standards governing the laws as outlined in the State of Oregon's OAR, ORS, Crook County Code, and/or the Crook County Comprehensive Plan. I/We agree that all the information contained in this application is true to the best of my knowledge.

Property Owner Signature:  Date 05/24/24

Print name: Martin Neumueller

Property Owner Signature: _____ Date _____

Print name: _____

Agent/Representative Signature:  Date 05/20/2024

Print name: Craig Kilpatrick for Kilpatrick Consulting LLC

CHECKLIST FOR COMPLETING THIS APPLICATION

1. Complete application form including the appropriate signatures
2. Include a detailed statement describing the proposal
3. Burden of Proof addressing all applicable criteria and supplemental information
4. Payment of fees
5. Submit a copy of the current “deed”

APPLICABLE CRITERIA

Title 18, Chapter 18.168 (Legislative Amendment)
Title 18, Chapter 18.170 (Quasi-Judicial Amendment)

Supplemental Information

1. COMPREHENSIVE PLAN:

- a. Describe in detail the proposed “Comprehensive Plan” amendment.
- b. Explain in detail how this request is in compliance with the statewide planning goals.
- c. Explain how this amendment is consistent with the Crook County – Prineville Area Comprehensive Plan.
- d. Explain how this “Comprehensive Plan” amendment would serve the public’s interest.

2. TEXT AMENDMENT:

- a. Submit the proposed language of the proposed “Text” amendment.
- b. Explain how this request is in compliance with the Crook County – Prineville Area Comprehensive Plan and purpose of the code in effect.
- c. Explain how this “Text” amendment would serve the public’s interest.

3. MAP AMENDMENT:

- a. Describe in detail the proposed “Map” amendment.
- b. Explain how the “Map” amendment complies with statewide planning goals, and how it is in compliance with those statewide goals.
- c. Explain how this “Map” amendment is consistent with the Crook County – Prineville Area Comprehensive Plan.

Letter of Authorization

Let it be known that Kilpatrick Consulting LLC – Craig Kilpatrick has been retained to act as my authorized agent to perform all acts for development on the property noted below: These acts include: Pre-application conference, application negotiations, filing applications and/or other required documents relative to all Land Use applications.

Physical address of property: 11367 SW Doris Lane, Powell Butte
It is described in the records of CROOK COUNTY as:

Township 16 South, Range 14 East WM Section 11 Tax Lot 700

The costs of the above actions, which are not satisfied by the agent are the responsibility of the undersigned property owner.

PROPERTY OWNER

Signature:  Date: 05/24/24
Martin Neumueller

Mailing Address: 11367 SW Doris Lane
City: Powell Butte State: OR Zip: 97753

AGENT

Signature:  Date: 5/22/2024
Craig Kilpatrick for Kilpatrick Consulting LLC

Mailing Address: 13790 NW ONeil Highway
City: Redmond State: OR Zip: 97756

**Applicant's Summary Response
May 22, 2024**

Basic Findings

Applicant,

Owner: Martin Neumueller
11367 SW Doris Lane
Powell Butte, Oregon 97753

Agent: Craig Kilpatrick, Kilpatrick Consulting, LLC
13790 NW O'Neil Highway
Redmond, OR 97756

Legal

Description: Township 16 South, Range 14 East of the WM. Section 11 Tax lot 700 40.00-acres

Location: The property is located about on Doris Lane in Powell Butte approximately 3 miles south of Highway 126. The situs address is 11367 SW Doris Lane.

Plan/Zoning: The property is designated as Exclusive Farm Use -3 (EFU-3) on the Comprehensive Plan and Zoning Map. The property is not farmland. In 1998 the property was included in a Goal 3 exception as irrevocably committed to other uses.

Proposal: Applicant requests a Zone Map Amendment (ZMA) changing the property to R-10 zoning.

Site

Description: The subject property is located on a gently sloped area on the western slope of the Powell Buttes. There are a few of juniper trees and a significant cover of sagebrush. There is no irrigation water available in this area. Electric power, underground, is available onto the subject property which presently has a 2021 dwelling and 2020 improvements.

Surrounding

Land Uses: To the **north** of the Neumueller property is a single vacant parcel (EFU-3) measuring 40.0 acres (Marcucci & Tipton, 1614110000200). To the **northeast** is an improved EFU-3 parcel measuring 19.66-acres with a 1995 non-farm dwelling.

To the **east** of the subject property are two parcels (PBR-20), one parcel (Reid) 1614110000800 measures 19.54-acres with a 2017 dwelling. The other parcel is zoned R-10 (McCorkle) 1614110000801 measuring 19.46-acres with a 2015 non-farm dwelling.

To the **southeast** is a vacant 19.58-acre non-farm PBR-20 parcel (Lamm) 1614110001002.

To the **south** are two R-10 parcels; one, a vacant parcel (Lundin) 16141100001000, measuring 10-acres. The other is a 9.99-acre parcel (William) 16141100001102 with a 2022 non-farm dwelling.

To the **southwest** is a vacant EFU-3 parcel (Bishara) 16141100001200 measuring 20-acres in size.

To the **west** is a non-farm EFU-3 parcel (Wisner) 16141100000600 measuring -acres with a 1996 non-farm dwelling. Also, to the **west** is an (EFU-3) parcel measuring 18.95-acres (Lester Trust) 161411000601) with a 2012 non-farm dwelling.

Lastly, to the **northwest** is a 9.95-acre R-10 parcel (Occupant, information suppressed) 161411000302 with a 2022 non-farm dwelling.

Note: Those surrounding EFU-3 parcels that have not been rezoned or were not included in the Powell Butte Study area are potentially eligible for re-zoning under the provisions of the Powell Butte Study and Settlement (Powell Butte 2-4 Area). None are irrigated and none are located within the boundaries of the Central Oregon Irrigation District.

Access: Subject property has access to Reif Road, a county road, via multiple easements across private roads, namely Harrison Way and Doris Lane which are included in an Easement Agreement that the neighbors in this area signed onto in 2011. See easement document MF# 237279. This document also provides for road maintenance among the neighboring parties.

Ownership History: The subject property has been in the ownership of Martin Neumueller since November of 2016.



Craig Kilpatrick, Agent
Land Use Consultant

Dated: May 22, 2024



Crook County Property Summary Report

Report Date: 3/12/2024 4:23:38 PM

Disclaimer

The information and maps presented in this report are provided for your convenience. Every reasonable effort has been made to assure the accuracy of the data and associated maps. Crook County makes no warranty, representation or guarantee as to the content, sequence, accuracy, timeliness or completeness of any of the data provided herein. Crook County explicitly disclaims any representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. Crook County shall assume no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. Crook County assumes no liability for any decisions made or actions taken or not taken by the user of this information or data furnished hereunder.

Account Summary

Account Information

Mailing Name: NEUMUELLER MARTIN
Map and Taxlot: 16141100-00700-1901
Account: 1901
Tax Status: Taxable
Situs Address: 11367 SW DORIS LN, POWELL BUTTE OR 97753

Property Taxes

Current Tax Year: 2023
Tax Code Area: 0021

Assessment

Subdivision:
Lot:
Block:
Assessor Acres: 40.00
Property Class: 401

Ownership

Mailing Address:
NEUMUELLER MARTIN
11367 SW DORIS LN
POWELL BUTTE, OR 97753-2009

Valuation

Real Market Values as of Jan. 1, 2024

Land \$517,750
Structures \$815,320
Total \$1,333,070

Current Assessed Values:

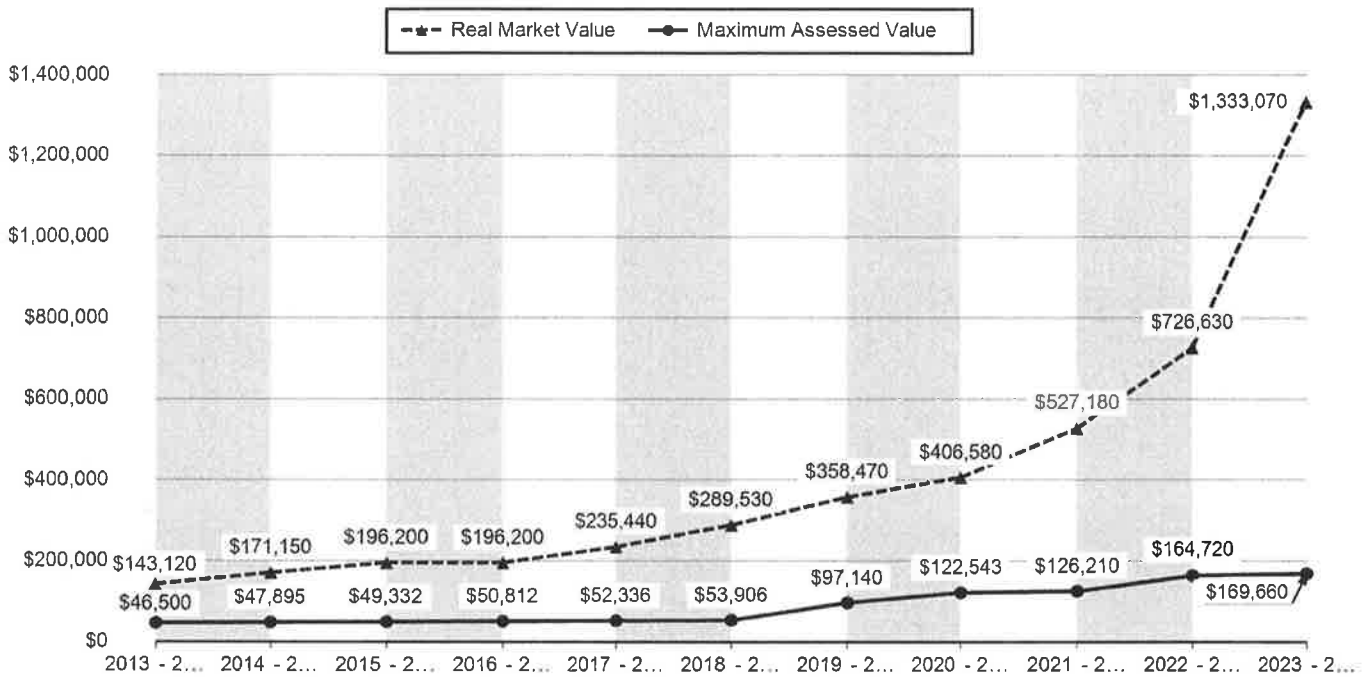
Maximum Assessed \$169,660
Assessed Value \$360,410
Veterans Exemption

Warnings, Notations, and Special Assessments

Valuation History *All values are as of January 1 of each year. Tax year is July 1st through June 30th of each year.*

	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017	2017 - 2018
Real Market Value - Land	\$143,120	\$171,150	\$196,200	\$196,200	\$235,440
Real Market Value - Structures	\$0	\$0	\$0	\$0	\$0
Total Real Market Value	\$143,120	\$171,150	\$196,200	\$196,200	\$235,440
Maximum Assessed Value	\$46,500	\$47,895	\$49,332	\$50,812	\$52,336
Total Assessed Value	\$46,500	\$47,895	\$49,332	\$50,812	\$52,336
Exemption Value	\$0	\$0	\$0	\$0	\$0

2018 - 2019	2019 - 2020	2020 - 2021	2021 - 2022	2022 - 2023	2023 - 2024
\$289,530	\$296,530	\$302,530	\$336,430	\$472,500	\$517,750
\$0	\$61,940	\$104,050	\$190,750	\$254,130	\$815,320
\$289,530	\$358,470	\$406,580	\$527,180	\$726,630	\$1,333,070
\$53,906	\$97,140	\$122,543	\$126,210	\$164,720	\$169,660
\$53,906	\$97,140	\$122,543	\$159,930	\$164,720	\$360,410
\$0	\$0	\$0	\$0	\$0	\$0



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Sales History

Sale Date	Seller	Buyer	Sale Amount	Sale Type	Recording
06/22/1995	BROWN, RICHARD S & ANNA MAE		\$44,500		1997-121785
02/01/1993	UNDETERMINED GRANTOR NAME		\$25,000	WARRANTY DEED	1995-107581
11/04/2016	STEINMETZ LANCE B	NEUMUELLER MARTIN	\$262,350	WARRANTY DEED	2016-277061

Structures

Stat Class/Description	Improvement Description	Code Area	Year Built	Eff Year Built	Total Sq Ft
FARM BLDG - : MP SHED	MP SHED	0021	2020	2020	144
RESIDENCE - : RES Two story	RES Two story	0021	2021	2021	4152

Land Characteristics

Land Description	Acres	Land Classification
Market	40.00	Mrkt
OSD	0.00	1ST OSD

Related Accounts

Related accounts apply to a property that may be on one map and tax lot but due to billing have more than one account. This occurs when a property is in multiple tax code areas. In other cases there may be business personal property or a manufactured home on this property that is not in the same ownership as the land.

BURDEN OF PROOF STATEMENT
Martin Neumueller
Request for Zone Map Amendment
May 20, 2024

I. Property Owner, Martin Neumueller

Martin Neumueller
11367 SW Doris Lane
Powell Butte, OR 97753

II. Property Location – Parcel Size:

Neumueller	T16S, R14E, Sec 11, Tax Lot 700	40.00 acres
	Acres to be rezoned:	40.00 acres

III. Proposal:

The Applicant, Martin Neumueller, requests a zone change from Exclusive Farm Use, EFU-3, Powell Butte Area to Rural Residential, R-10 (10 acres minimum) based upon the non-resource exception designation determined under the adopted Powell Butte Study. The subject property has been listed for zone change in the Crook County Comprehensive Plan under Ordinance 127. It has been determined by Crook County that the properties within the Powell Butte Study Area 2-4 are irrevocable committed to uses other than agricultural and, as such, are not subject to Goal 3.

The property under consideration owned by the Applicant is surrounded by dryland parcels, all of which are in non-farm uses. The parcel eligible for zone map change measures 40.00 acres in size and is not in farm deferral. With a zone change from EFU-3 to R-10 the subject property will be eligible for partitioning and future rural residential development.

The Subject Area, 2-4 presently consists of thirty-eight parcels, one of which is included in this proposal. Nine parcels were approved for re-zoning in 2005 (Umbarger). Seven parcels were approved for re-zoning in 2009 (Doris Lane Neighbors). The remaining parcels have not been included because; a) they are too small to meet the minimum allowable size, 10 or 20 acres depending on specific location, b) they are too small and/or presently have dwellings, therefore no benefit would occur from a change of zone, c) the owners, while asked, have expressed no interest in participating in this effort and sharing the prerequisite costs.

IV. Basic Findings:

Applicant,
Owner: Martin Neumueller
11367 SW Doris Lane
Powell Butte, Oregon 97753

Agent: Craig Kilpatrick, Kilpatrick Consulting, LLC
13790 NW O'Neil Highway
Redmond, OR 97756

Legal

Description: Township 16 South, Range 14 East of the WM. Section 11 Tax lot 700 40.00-acres

Location: The property is located about on Doris Lane in Powell Butte approximately 3 miles south of Highway 126. The situs address is 11367 SW Doris Lane.

Plan/Zoning: The property is designated as Exclusive Farm Use -3 (EFU-3) on the Comprehensive Plan and Zoning Map. The property is not farmland and has been determined to be irrevocably committed to uses other than agriculture.

Proposal: Applicant requests a Zone Map Amendment (ZMA) changing the property to R-10 zoning.

Site

Description: The subject property is located on a gently sloped area on the western slope of the Powell Buttes. There are a few of juniper trees and a significant cover of sagebrush. There is no irrigation water available in this area. Electric power, underground, is available onto the subject property which presently has a 2021 dwelling with related improvements made in 2020.

Surrounding

Land Uses: The subject property was identified in the Powell Butte Study and in Crook County Ordinance 127, Amendment #1 (Area 2-4) as irrevocably committed and eligible for this zone change. The subject parcel is not in farm deferral, does not have a history of farm use, are is not suitable for farm use, water rights are not available. The subject property is presently categorized as a non-farm parcel.

To the **north** of the Neumueller property is a single vacant parcel (EFU-3) measuring 40.0 acres (Marcucci & Tipton, 1614110000200). To the **northeast** is an improved EFU-3 parcel measuring 19.66-acres with a 1995 dwelling.

To the **east** of the subject property are two parcels (PBR-20), one parcel (Reid) 1614110000800 measures 19.54-acres with a 2017 dwelling. The other parcel is zoned R-10 (McCorkle) 1614110000801 measuring 19.46-acres with a 2015 dwelling.

To the **southeast** is a vacant 19.58-acre non-farm PBR-20 parcel (Lamm) 1614110001002.

To the **south** are two R-10 parcels; one, a vacant parcel (Lundin) 16141100001000, measuring 10-acres. The other is a 9.99-acre parcel (William) 16141100001102 with a 2022 dwelling.

To the **southwest** is a vacant EFU-3 parcel (Bishara) 16141100001200 measuring 20-acres in size.

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Lastly, to the **northwest** is a 9.95-acre R-10 parcel (Occupant, information suppressed) 161411000302 with a 2022 dwelling.

Access: Subject property has access to Reif Road, a county road, via multiple easements across private roads, namely Harrison Way and Doris Lane which are included in an Easement Agreement that the neighbors in this area signed onto in 2011. See easement document MF# 237279. This document also provides for road maintenance among the neighboring parties.

Ownership

History: The subject property has been in the ownership of Martin Neumueller since November of 2016.

V. Applicable Criteria and Selected Excerpts:

Crook County Code:

Title 18, Chapter 18.12 Establishment of Zones, Boundaries, more specifically;

- Section 18.12.020 Location of Zones. Lists zones established in Crook County.
- Section 18.12.030 Zoning Map. Map is amended by authority of planning commission.

Title 18, Chapter 18.92 Rural Residential Zone, R-10, describes zone requirements.

Title 18, Chapter 18.108 Powell Butte Rural Residential Zone, PBR-20, describes zone requirements.

Title 18, Chapter 18.168 Legislative Amendments, describes legislative process for Map Amendments, hearings, notice, etc.

Title 18, Chapter 18.172 Administrative Provisions, more particularly;

- Section 18.172.010 Quasi-judicial hearing authority.
- Section 18.172.020 Application.
- Section 18.172.070 Notice of public hearing.

Crook County Comprehensive Plan, as applicable. Excerpt below.

Crook County Ordinance 127, Amendment No. 1.

The Powell Butte Study of Land Irrevocably Committed to other than Exclusive Farm Use, as adopted.

State Land Use Laws, as applicable.

Selected excerpts: Crook County Comprehensive Plan, page 66

POWELL BUTTE

In 1997 and 1998, the County commissioned a general study of the Powell Butte area in southwestern Crook County. The result of that study was the adoption of a series of amendments to the Comprehensive Plan in Ordinances No. 126, 127, 128, 130, 131, 132, 133 and 134, as individual

sections of the Powell Butte area were re-designated from Exclusive Farm Use to other uses through the exceptions process. These amendments were challenged in the Land Use Board of Appeals by interested parties and the Land Use Board of Appeals remanded a number of the ordinances back to the County for further work. This resulted in a number of minor amendments, including Ordinance No. 127, Amendment #1; Ordinance No. 131, Amendment #1; Ordinance No. 132, Amendment #1; Ordinance No. 133, Amendment #1, which resulted in the outright appeal of Ordinances No. 131, 133 and 134, and some modified policies governing the Powell Butte area which are reproduced below.

The following policies are adopted as a part of the Crook County Comprehensive Plan. These policies supplement and amend the Powell Butte Study to the extent that the Study is inconsistent with these policies and the Agreement. To the extent that there is any conflict between the Study and these policies or the Agreement, the Study shall automatically be modified to the extent necessary to conform to the Study with these policies and the Agreement.

1. The Comprehensive Plan as amended provides that rural residential and non-resource development shall occur south of Highway 126 and generally north of Powell Buttes, and west of Stillman Road and east of Study Area 2-2.

The specific areas to be reclassified and rezoned are those areas designated as Areas 1-2, 2-1 (as amended), 2-3 (as amended), and 2-4 (as amended). These areas are specifically described in Ordinances 126 (Area 2-3); 127 (Area 2-4); 128 (Area 2-1); 130 (Area 1-2); and 132 (Area 2-2). The land contained within these areas is hereinafter referred to as "the Area to be rezoned."

Except of uses permitted outright and by conditional use in the EFU-3 Zone, other lands shall be maintained as exclusive farm uses consistent with Policy 2 below. Re-zonings of land other than "the Area to be rezoned" are inconsistent with the Comprehensive Plan. In this regard, Ordinances 131 (Area 1-1) and Ordinance 133 (Area 3-1) are repealed by separate ordinances because the rezoning of that land is inconsistent with this provision of the Comprehensive Plan. Ordinance 134 which pertains to Area 3-2 is being repealed as that area is being reserved for the City of Prineville's future industrial growth.

2. The County will not initiate additional exceptions or non-resource designations within the Powell Butte Study Area until the next periodic review¹. The foregoing does not create an expectation that re-zonings will necessarily occur at the next periodic plan review and does not create an obligation on the part of the County to rezone any EFU land at any time. The County may, however, consider a proposal(s) to expand the urban growth boundary of the City of Prineville in conjunction with an annexation into Area 3-2 for the purpose of providing an adequate supply of industrial land prior to the next periodic review.

3. The land north of Highway 126 shall be retained as exclusive farm use as that land is composed of large parcels and contains less rural residential development than the area south of the highway. For the purpose of this policy, all of Area 1-2 is deemed to be located south of the Highway 126, notwithstanding that a small portion of Area 1-2 is physically located to the north of that highway.

¹ Applicants are not requesting additional exceptions or non-resource designations as those have already been accomplished by Crook County Ordinance No. 127, as amended and adopted.

4. *The County shall adopt a new rural residential zoning district for Area 2-4 which imposes a minimum lot size and density consistent with Section Two of this Ordinance².*

5. *The zoning ordinance for Area 2-4 shall contain a 250-foot setback requirement from adjacent exclusive farm use zoned land. This setback shall not apply when the adjacent land is owned by a government entity, e.g. the Bureau of Land Management, or is adjacent to land already approved for non-farm use. In those cases, the minimum setback shall be the setback already established for dwelling in an EFU zone or if no such setback has been established, then the setback shall be and hereby is established as one hundred (100) feet.*

The 250-foot setback shall be adopted simultaneously with adopting the new zoning ordinance. If the imposition of this setback makes land un-developable, then Crook County shall require the maximum achievable setback.

The County shall investigate declaring an ordinance violation to be a “nuisance” thereby allowing a private party to bring suit enforcing the county’s ordinance provisions.

6. *The County shall require, as a condition of development approval, that all new rural residential development in the Powell Butte area pay system development charges (SDC’s) necessitated by Powell Butte rural residential development. The County currently funds road improvements from the earnings it receives from invested timber receipts. Prior to using property tax receipts for road improvements, the County shall adopt SDC’s sufficient to cover one hundred percent (100%) of the applicable road capital improvements required to support new rural residential development in Powell Butte. In this regard, the County shall promptly adopt a system development charge ordinance to assess a road system development charge sufficient to recover a significant portion of the capital costs of road improvements required as a result of rural residential development in Powell Butte. Nothing in this ordinance shall preclude the County from applying system development charges to other classes of property or in other areas of Crook County. In the event that a developer desires to proceed with development prior to the adoption of the system development charge ordinance, he or she shall pay the sum of \$2,000 per single family dwelling at the time of building permit issuance. In the event that the adopted system development charge is less than \$2,000, the difference shall be refunded to the developer without interest. In the event that the adopted system development charge exceeds \$2,000, the developer shall be obligated to pay the difference.*

7. *The County shall comply with the transportation planning rule when it adopts the zoning ordinances³.*

8. *The zoning ordinances shall require developers to execute covenants of nonremonstrance in respect to all farm operations in favor of adjacent EFU land. These covenants shall be in the form of equitable servitudes and shall be binding on all heirs, devisees, legatee, vendees and successors in interest of the*

² The transportation planning rule TPR is not applicable as there is not a “significant change” to any street because of this application. There are no new trips affecting the transportation system resulting from zone change. This is because the zone change itself does not create new trips. Actual trips will occur as a result of development, when, the future subdivision of the subject properties to create 10 or 20 acre lots occurs. Assessment of traffic impact will occur at the subdivision process. In any event, the ITE, *Institute of Traffic Engineers Manual* attributes a range of trips associated with residential dwellings. The Peak Hour trip factor for residential dwellings is typically 1 peak hour trip per home. The increase in trips resulting from the potential dwellings resulting from the zone change is no greater than 14 trips, a negligible amount.

developers. The County shall require such covenants to be executed and recorded at the time the building permit is issued.

9. The County will develop its zoning and land development ordinances utilizing the Gannet Study ("Groundwater Availability in The Powell Buttes Area, Central Oregon" Groundwater Report No. 32) recommendations on accessibility of groundwater in the Powell Butte Areas, and will require access to the regional water supply as a condition of development, or use of water from a district or public utility. Private exempt wells in existence prior to March 1, 2000 shall be exempt from the requirements contained in the zoning and land development ordinances pertaining to wells⁴.

Applicant Response:

The section above is an excerpt from the Crook County Comprehensive Plan and "The Powell Butte Study of Land Irrevocably Committed to other than Exclusive Farm Use, hereinafter referred to as the "Powell Butte Study." The Powell Butte Study was completed in October of 1998. As a result, Crook County made a series of land use decisions embodied in County Ordinances 126-134. Those ordinances create exception areas that designate certain lands as "non-resource."

Applicant's properties are within Area 2-4 of the Powell Butte Study and are designated as "non-resource" through the implementation and approval of the ordinances that resulted from the Powell Butte Study as appealed, modified, and settled by Mutual Settlement Agreement LUBA nos. 98-220 through 225 and 99-037 through 041, as attached.

The principal feature of the settlement agreement, as it relates to applicant's property, is that the land contained within area 2-4, also known as Reif Road and Copley Road Area, was determined to be re-designated from exclusive farm use to rural residential zoning as an exception to Statewide Planning Goal 3.

Ordinance 127, as amended, generally describes applicant's property within Area 2-4 and as a portion within the "Legal Descriptions J." This ordinance further states in Section Two that:

"The residential density and minimum lot size for Area 2-4 shall be one (1) single family dwelling per twenty (20) gross acres in legal descriptions B and C and shall be one (1) single family dwelling per ten (10) gross acres in legal description I and J."

Applicant's property is in legal description J and is required to have minimum 10-acre minimum lot size. Thus, Applicant's request to be rezoned to the R-10 zone is consistent with this requirement.

Excerpt from the Crook County Comprehensive Plan – page 195

REVIEW AND REVISION PROCESSES

It is recognized that as a result of changing conditions and future impacts, planning programs including the Comprehensive Plan, the Urban Growth Boundary and all implementing ordinances and supporting documents must be periodically reviewed and updated. This review and update shall be accomplished through a planning schedule, which includes ongoing citizen involvement of area

advisory committees in rural areas of Crook County and of the subject advisory committees within the urbanized area of the Prineville Valley. These advisory committees shall be involved in making recommendations concerning daily land use proposals and workability of planning and zoning regulations; the activities of the advisory committees shall be subject to review and approval of the Citizen Advisory Committee for Citizen involvement appointed jointly by the Prineville City Council and the Crook County Court (Deletion by Ordinance No. 45; 3/20/91). Technical plan and ordinance revision shall be accomplished through the City of Prineville and Crook County Planning Commissions and the governing bodies of the involved entities, and shall be based in part upon recommendations of the ongoing citizen committees. The Comprehensive Plan, Urban Growth Boundary, and the implementing ordinances shall be evaluated in relation to changing public policies and circumstances, including community, social, economic and environmental needs; the workability of planning programs and the goals of the citizens of Crook County shall be considered. Opportunities shall be considered (in recommendations) for comment by all citizens and affected governmental units to insure coordination in formation and implementation of policies. Notice of all major revisions and minor changes shall be given in accordance with Statewide Planning Goal #2, LAND USE PLANNING.

Applicant's Response:

The Crook County Planning Commission and County Court are authorized to examine and update its rules and regulations to accommodate new information and new requests. The R-10 change request is an implementing ordinance of the Powell Butte Study Area, as adopted.

VI. Conformance with Statewide Planning Goals:

Applicant Response:

The Statewide Land Use Planning Goals are set forth below in bold followed by responses addressing how the proposal complies with those goals. The Powell Butte Study and commensurate non-resource designation complied with the goals and were approved by the State of Oregon. The following list is a summary of how the goals were generally addressed in the study and is provided for convenience.

1. **Citizen Involvement.** The proposed complies with this goal as the County land use process provides for public notice of proposed land use actions, zone changes and plan amendments. The County will provide notice of the proposal through individual mailed notice and publication. There will be at least two public hearings on the proposal before the Planning Commission and at least two before the County Court.
2. **Land Use Planning.** The proposed complies with this goal because the land use planning process and policy framework will be applied in this application. There will be at least two public hearings on the proposal before the Planning Commission and at least two before the County Court.
3. **Agricultural Lands.** Applicant's property has been determined to be non-resource, irrevocably committed and is therefore not agricultural and is not subject to this goal.
4. **Forest Lands.** The proposal and zone change does not affect any lands zoned or designated for forest use.

5. **Open Spaces, Scenic and Historic Areas, Natural Resources.** The proposed plan amendment and zone change does not affect any Goal 5 resources.
6. **Air, Water and Land Resources Quality.** The Powell Butte Study previously concluded that compliance with this goal was achieved.
7. **Areas Subject to Natural Disasters and Hazards.** No natural disaster or hazard areas are identified in the subject property.
8. **Recreational Needs.** The proposal consists of a zone change to rural residential. Recreational uses are permitted in this zone.
9. **Economic Development.** This proposal permits residential development consistent with the directive established in Ordinance 127, as amended. Thus, additional development at the densities contemplated helps to support economic development as intended by the Comprehensive Plan.
10. **Housing.** The property has the potential to support an additional thirteen home-sites if the zone change is applied to the subject properties. Ordinance 127, as amended, anticipates additional housing in this area.
11. **Public Facilities and Services.** The proposal complies with this goal because the subject property will be required to supply private sewer, water, and other utilities at the time of development.
12. **Transportation.** The proposal's compliance with this goal is addressed through compliance with the Transportation Planning Rule. The rule requires that the proposal not create negative impacts since the trip generation for dwellings is not more than 13 PMP hour vehicle trips per day, a negligible amount as described above.
13. **Energy Conservation.** The proposal complies with Goal 13 in that it will consolidate distribution of facilities to areas intended for residential development. Furthermore, the regulations proposed allow for lot sizes that can support solar uses to be incorporated into the future residential structures.
14. **Urbanization.** The proposal is not urban as described by rule and statute.

Goals 15 thru 19 are inapplicable because they relate to river, ocean, and estuarine resources, which are not located within the area affected by the proposed zone change.

Applicant Response:

Based on the evidence and proposed findings set forth herein, Applicant has demonstrated compliance with the Powell Butte Study and intent of the adopted ordinances to rezone the property to R-10 as intended by the Crook County Comprehensive Plan and supporting ordinances.

VII. Applicant Statement:

The Powell Butte Study was an extensive and thorough project. The study analyzed many lands in the Powell Butte area to determine which of those should be reserved for agricultural use and those that qualified for exceptions to Goal 3. The 2-4 area was approved because it met the exception requirements, the area is irrevocably committed and as such was not determined to be farm land.

The neighbors presently face the ambiguity of owning properties that are improperly zoned EFU when they are have been determined to be non –resource and non-farm. Area 2-4 area was approved for non-resource designation because it met the exception requirements and as such was not determined to be farmland.

Zone changes typically require applicants to produce massive amounts of support data necessary for proving why the zone change should be approved and why the land is not agricultural. In this case, the Powell Butte Study has already determined through extensive finding, studies, and other support data that the property within the 2-4 area is not resource land and the property should be eligible for additional residential development at a 10-acre density. This determination has already been approved by Crook County and the State of Oregon. However, the zone label itself must be changed to allow the anticipated additional residential development. The zone change process is the only way to do this.

The data in the Powell Butte Study continues to be viable and will be attached to the burden of proof in this matter further reducing duplication. Additional maps and data in a GIS format have been prepared to ease your review of the proposal and vicinity land uses. There are a few neighbors who have elected not to participate by requesting inclusion along with cost sharing currently. They may decide to do so in the future.

The Applicants respectfully ask that you examine the data in the record and support the zone change request for their property. Thank you for your consideration in this matter.



Craig Kilpatrick
Owner's representative

16	14	11			700				
TWP.	RGE.	SEC.	1/4	1/16	PARCEL NUMBER	Type	Spec. Int. In	CODE AREA NUMBER	
MAP NUMBER					PARCEL NUMBER	REAL PROP.		CODE AREA NUMBER	
TAX LOT NUMBER									

**OFFICIAL RECORD OF DESCRIPTIONS
OF REAL PROPERTY**

CROOK COUNTY ASSESSOR'S OFFICE

FORMERLY PART OF 16 14 502

Indent each new course to this point	1901	DESCRIPTION AND RECORD OF CHANGE	Date of entry on this card	Deed Record	Acres Remaining
		<u>F.T.L.P.O.</u>			
		T16S R14E WM			
		Sec 11: SE1/4NW1/4			
		France, Alice M. and Ralph L. (each und. 1/2 int)	SWD 4/14/97	MF81478	40.00
		BROWN, Richard S & Anna Mae	SWD 2-11-93	MF107581	
		STEINMETZ, Lance B	SWD 8-25-95	MF121785	
		Annex to Crook County Rural Fire Protection District #1 Taxing Zone 1 Order #97-13	4-12-99	MF136144	
		Neumueller, Martin, an unmarried man	EASE 2-23-15	266922	
			WD 11-18-16	277061	
			EASE 5-10-17	279681	
			EASE 7-11-17	280768	
			Release 10-5-17	281966	

BLO

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ELECTRONIC OR MECHANICAL MEANS.



LANCE B. STEINMETZ
PO Box 24
Florence, OR 97439

MARTIN NEUMUELLER
680 SE Glengarry Pl.
Bend, OR 97702

After recording, return to (Name and Address):
See Grantee above

Until requested otherwise, send all tax statements to (Name and Address):
MARTIN NEUMUELLER
680 Glengarry Pl.
Bend, OR 97702

Crook County Official Records 2016-277061
DEED-D 11/04/16 02:46 PM
Pgs=2
\$10.00 \$11.00 \$21.00 \$2.00
\$5.00 \$10.00 Total:\$59.00



I, Cheryl Seely, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Cheryl Seely - County Clerk



WARRANTY DEED

KNOW ALL BY THESE PRESENTS that LANCE B. STEINMETZ

hereinafter called grantor, for the consideration hereinafter stated, to grantor paid by MARTIN NEUMUELLER an unmarried man

hereinafter called grantee, does hereby grant, bargain, sell and convey unto the grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in Crook County, State of Oregon, described as follows (legal description of property):

See exhibit "A"

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

To Have and to Hold the same unto grantee and grantee's heirs, successors and assigns forever. And grantor hereby covenants to and with grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances except (if no exceptions, so state):

No exceptions See exhibit "A"

and that grantor will warrant and forever defend the premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$262,350.00. However, the actual consideration consists of or includes other property or value given or promised which is the whole part of the (indicate which) consideration. (The sentence between the symbols ®, if not applicable, should be deleted. See ORS 93.030.)

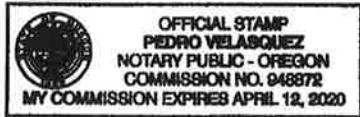
In construing this instrument, where the context so requires, the singular includes the plural, and all grammatical changes shall be made so that this instrument shall apply equally to businesses, other entities and to individuals.

IN WITNESS WHEREOF, grantor has executed this instrument on November 4 2016; any signature on behalf of a business or other entity is made with the authority of that entity.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

LANCE B. STEINMETZ

STATE OF OREGON, County of Crook Deschutes ss.
This instrument was acknowledged before me on November 04, 2016
by Lance B. Steinmetz
This instrument was acknowledged before me on _____
by _____
as _____
of _____



PEDRO VELASQUEZ
Notary Public for Oregon
My commission expires APRIL 12, 2020

EXHIBIT "A"

**The Southeast quarter of the Northwest quarter of Section 11,
Township 16 South, Range 14 East of the Willamette Meridian,
TOGETHER WITH an easement for road right-of-way over the North 30
feet of the Northwest quarter of the Southwest quarter of said
Section 11 and over the South 30 feet of the Southwest quarter of
the Northwest quarter of said Section 11.**

SUBJECT, HOWEVER, TO THE FOLLOWING:

- 1. Existing rights of way for roads, highways, irrigation ditches,
canals, and pole lines.**

- 2. Rights of way reserved in Deed, subject to the terms and
provisions thereof:
Book/Page No.: Book 54 of Deeds at page 341 (Records of Crook
County, Oregon)
From: Crook County, Oregon**

- 3. Reservation of an undivided 1/2 interest in all minerals
as set out in Deed:
From: Esther Gertrude Erickson, a single woman, and
Dorothy M. Holmes and Russell Holmes, her husband
To: Frances Waldron
Dated: March 26, 1963
Recorded: April 1, 1963
Book/Page No.: Book 87 of Deeds at page 598 (Records of Crook
County, Oregon)**

NOTICE OF ADOPTION

This form must be mailed to DLCD not later than 5 working days after adoption
ORS 197.615 and OAR Chapter 660, Division 18

See reverse side for submittal requirements

Jurisdiction Crook County Planning Local File # Ord. 127

Date of Adoption Dec. 2, 1998 Date Mailed Dec. 7, 1998

Date the Proposed Notice was mailed to DLCD Aug. 27, 1997

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Amend Comprehensive Plan concerning Powell Butte to adopt an
irrevocably committed exception from statewide Planning Goal
Number 3 for Area 2-4.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Less land included in exception area than originally proposed.

Plan Map Change From EFU to Rural Residential

Zone Map Change From None to None

Location: Powell Butte, South of Hwy. 126 Acres Involved: 175 ac

Specify Density: Previous Density EFU New Density Not adopted

Applicable Goals: 3 Was an Exception adopted? Yes No

DLCD File # _____

DLCD Appeal Deadline _____

MF 145058 (35 pgs)

Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

- Yes No: The Statewide Planning Goals do not apply
 Emergency Circumstances Required Expedited Review

Affected State or Federal Agencies, Local Governments or Special Districts: Crook County,
DLCD, ODFW, BLM, DSL

Local Contact: Peter Schannauer Phone: (541) 347-8156

Address: 300 East 3rd, Prineville, OR 97754

SUBMITTAL REQUIREMENTS

ORS 197.615 and OAR Chapter 660, Division 18

1. Send this Form and One (1) Copy of the Adopted Amendment to:

Department of Land Conservation and Development
1175 Court Street, N.E.
Salem, Oregon 97310-0590

2. Submit three (3) copies of bound documents and maps larger than 8½ by 11 inches.

3. Adopted materials must be sent to DLCD not later than five (5) working days following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you do not submit this Notice of Adoption within five working days of the final decision. Appeals to LUBA may be filed within 21 days of the date Notice of Adoption is sent to DLCD.

6. In addition to sending Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

If you need more copies of this form, please call the DLCD at 503-373-0050 or this form may be duplicated on green paper.

ORDINANCE NO. 127

AN ORDINANCE OF THE CROOK COUNTY COURT TO AMEND THE COUNTY COMPREHENSIVE PLAN CONCERNING POWELL BUTTE TO ADOPT AN IRREVOCABLY COMMITTED EXCEPTION FROM STATEWIDE PLANNING GOAL NUMBER 3 FOR AREA 2-4

WHEREAS, Crook County and the Department of Land Conservation and Development have worked cooperatively since January 1997 studying areas within the Powell Butte region of Crook County for the purpose of making available additional areas for residential development;

WHEREAS, numerous public meetings have been held by the Citizen Advisory Committee, Technical Advisory Committee, Crook County Planning Commission, and the Crook County Court;

WHEREAS, the Court has received an enormous amount of input from state and federal agencies, 1000 Friends of Oregon, and numerous citizens;

AND WHEREAS, the Crook County Court finds that Exception Area 2-4 meets the statutory and regulatory requirements for an "Irrevocably Committed" Exception from Goal 3;

NOW, THEREFORE, this 2nd day of December, 1998, the Court ordains as follows:

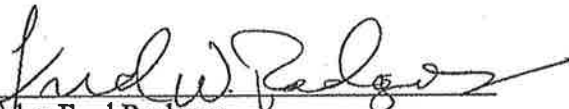
Section One. The Crook County Comprehensive Plan is amended to include an "irrevocably committed" exception for Area 2-4, as delineated in the attached "Exception Report".

Section Two. The findings of fact and conclusions contained within the "Exceptions Report" are hereby adopted.

Section Three. The density designation for this exception area is not adopted by this Ordinance. A density designation will be adopted at the time that the zoning ordinance for this area is adopted.

Section Four. This amendment of the Comprehensive Plan shall be effective 90 days after its adoption.

CROOK COUNTY COURT:



Judge Fred Rodgers



Commissioner Mike McCabe



Commissioner Frank Porfily

THE POWELL BUTTE STUDY
OF
EXCEPTION AREA 2-4
AS LAND IRREVOCABLY COMMITTED TO
OTHER THAN EXCLUSIVE FARM USE

Prepared By
Crook County Planning
Crook County Courthouse
300 East 3rd Street
Prineville, Oregon 97754
(541) 447-8156

THE POWELL BUTTE STUDY OF AREA 2-4 LAND IRREVOCABLY COMMITTED TO OTHER THAN EXCLUSIVE FARM USE

INTRODUCTION

When Crook County first adopted zoning in a Comprehensive Plan in 1978, most of Crook County was placed in Exclusive Farm Use (EFU) or Forest Zones, without consideration of whether land was suitable for agriculture or forestry. Of the 1.9 million acres of Crook County land area, more than 1.2 million acres were zoned EFU (only 40,000 acres of irrigated land), and 600,000 acres were zoned for Exclusive Forest Use. The EFU zone included the following legally platted subdivisions in the Powell Butte Area: Twin Lakes Ranch (recorded 1973), Red Cloud Ranch (recorded 1972), Westwood (recorded 1972) and Powell Butte View Estates (recorded 1971). Almost immediately after adoption of the zoning ordinance, it was recognized that vast areas of the County, including most notably Powell Butte, had been improperly zoned EFU-3. Powell Butte was improperly zoned for the following reasons: lack of irrigation, very poor soil quality, short growing seasons due to climate and elevation (most of the area is 3,200 to 3,400 feet above sea level except for the buttes which are in excess of 5,000 feet), a traditional land use pattern of rural residential uses mixed with relatively small scale agricultural operations, a consistently strong residential growth pressure within Prineville and from nearby Redmond and Bend, and the very desirable aesthetic qualities of the area. The zoning classification has resulted in a significant number of nonfarm dwelling applications within Powell Butte.

In an effort to minimize impacts to existing agricultural operations, especially on irrigated land, and as a result of the number of nonfarm dwelling applications in Powell Butte (Figure 1), Crook County entered into an agreement with the Department of Land Conservation and Development (DLCD) in December 1996 to study the possibility of designating certain land as non-resource and to rezone those lands to rural residential or non-resource designations. The rezoning of Exclusive Farm Use (EFU) is accomplished either through the Goal 3 "Exception" process (demonstrating the land is Irrevocably Committed to uses other than Exclusive Farm Use) or by demonstrating how the land does not satisfy the definition of "Agricultural Land" and warrants a "Non-resource land" designation. A study area consisting of approximately 99,000 acres (Figure 2) was selected for the study, but the area proposed for rezoned as both irrevocably committed and non-resource currently includes approximately 11,027 acres.

A draft *Powell Butte Non-Resource Lands Study* report was submitted to Crook County Court, DLCD, and released to the public in August 1998 and a public hearing before the court occurred on August 19, 1998, that was continued to October 7, 1998, and November 4, 1998. This report has been revised to incorporate the comments and concerns expressed through the public process.

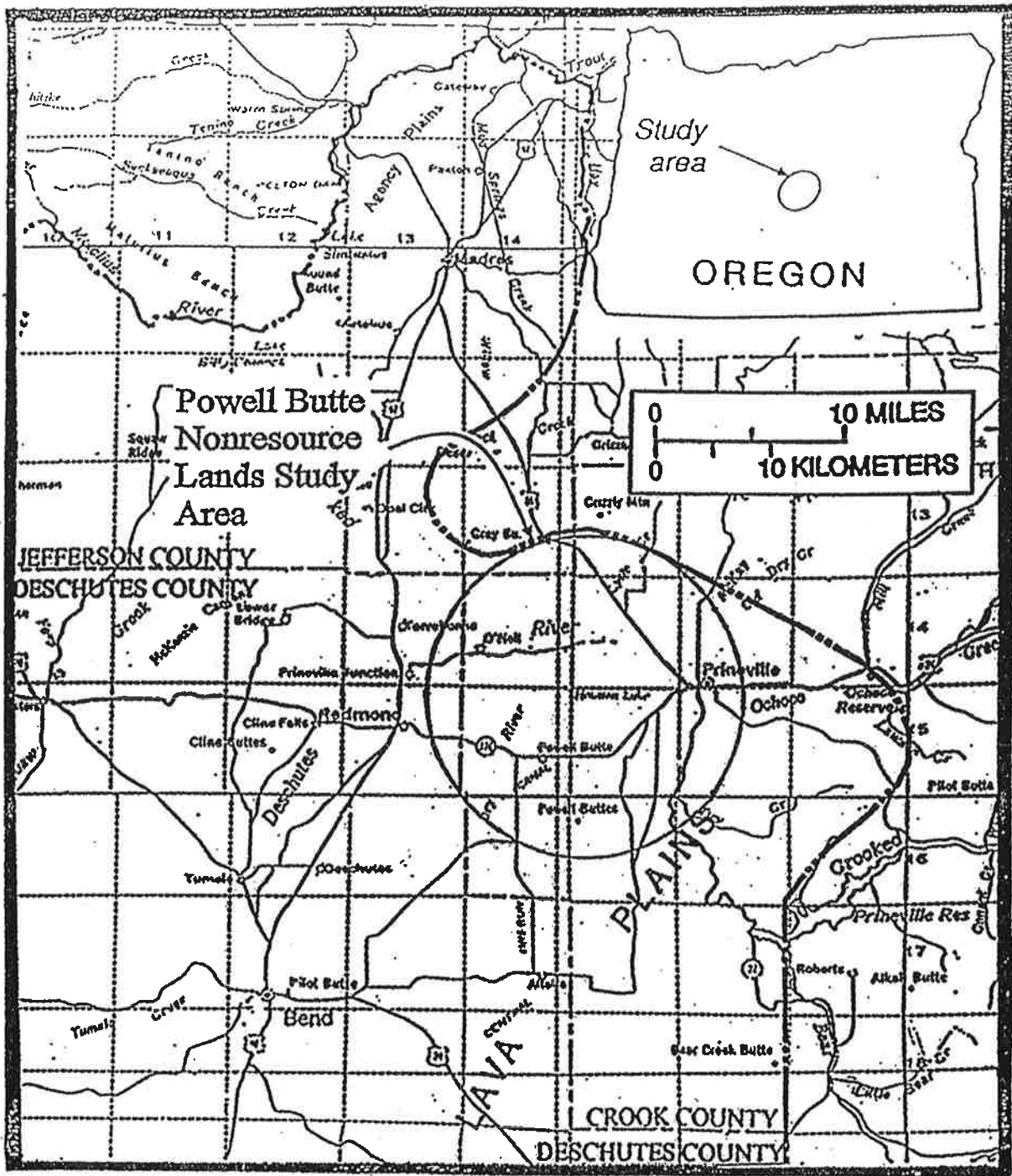
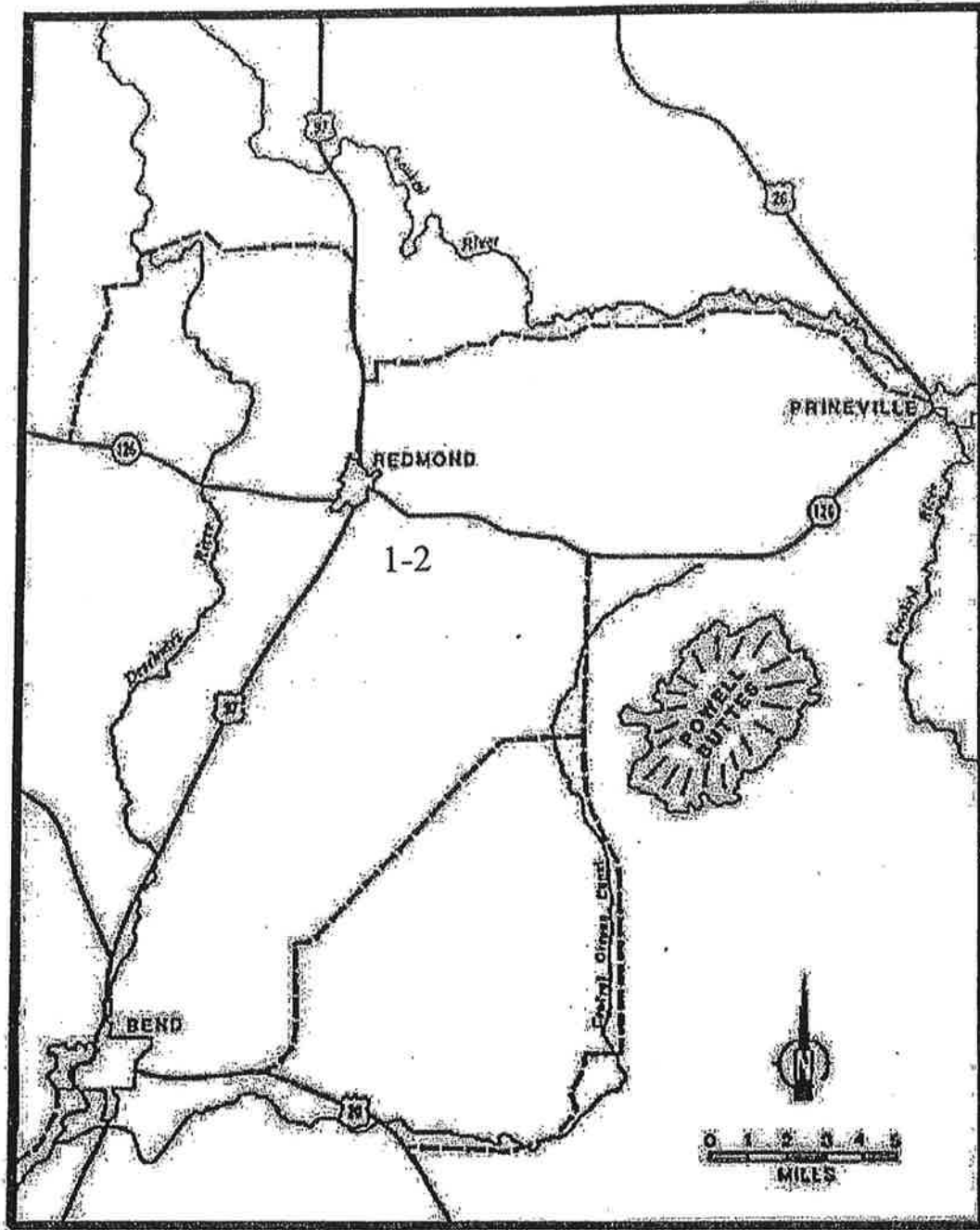


Figure 1 - Vicinity Map
Powell Butte Nonresource Lands Study Area



Crook County Community Development
 Planning Department
 300 East 3rd Street • Prineville, Oregon 97724 • Phone: (541) 447-8154 • FAX: (541) 447-4051



OWLP Plan

Figure 2 - Location Map of the Powell Buttes Study Area



Crook County Community Development

Planning Department

300 East 3rd Street • Prineville, Oregon 97754 • Phone (541) 447-8155 • FAX (541) 447-1051

The County, as a result of communication with DLCD, has divided the Powell Butte Study into two separate steps. This first step includes three separate exception areas of approximately 3,304 acres of land that by legal definition is considered "Agricultural Lands", however, which are proposed for rezoning because they are "irrevocably committed" to other uses. The second step includes demonstrating that five separate areas (approximately 7,723 acres) should be considered "non-resource" land since the soil classes and land use do not meet the by legal definition of agricultural land.

As additional background, the areas proposed for rezoning that had several common and important factors were grouped into three general areas, primarily for analytical purposes. For identification purposes, the areas proposed for rezoning are referred to as Area 1, Area 2, and Area 3. Area 1 and Area 3, which contain two separate sub-areas each, will be included in the Non-resource report. Area 1 is generally located west of Dry River Canyon and Area 3 to the north and east of the Powell Buttes near the Prineville/Crook County Airport and adjacent to an existing exception area. Area 2 is located south of the Powell Buttes, and Area 2 has three separate Exception areas (labeled Area 2-1, Area 2-3, and Area 2-4) and one area to be included in the Non-resource report - Area 2-2. Exception Areas 2-3 and 2-4 contain one contiguous area, but Exception area 2-1 contains three areas that are physically separated.

Previous reports contained an area designated Area 2-5, but the County Court decided not to pursue the rezoning of Sub-area 2-5 on November 4, 1998. The Court understood that with the limited potential for new lots, a lack of existing development (one resident), and the large lots size of two parcels, that this land cannot, at this time, satisfy the legal requirements of an "irrevocably committed" exception area.

This report addresses Exception Area 2-4 (hereinafter referred to as "Area 2-4") that qualifies as "irrevocably committed" to nonagricultural uses (Figure 3 - Appendix A). Areas 1, 3, and Exception area 2-2 will be addressed in the second report concerning "nonagricultural or non-resource" lands. This "irrevocably committed" report is being prepared for review and possible adoption by the County Court during a public hearing scheduled on December 2, 1998 at 7:30 p.m. at the Prineville Fire Hall in Prineville, Oregon.

The "exception areas", along with their names, approximate area, and proposed minimum densities are presented in Table 1 below. These "exception areas" are located adjacent to the majority of Powell Butte's existing residential development of approximately 700 homes.

The observation that a large majority of residential growth is concentrated in Area 2-1 is correct. That is because the County believes that preservation of farmland can best be accomplished by focusing development in this area. The proximity of these areas to the Ochoco Highway (Highway 126) and the existing grid of local roads allow access to these areas without new impacts on agriculture. Furthermore, concerns about groundwater and fire protection can be more effectively addressed if future development can be focused where it presently exists.

Concentrating future development in this area will enable the efficient development of schools, fire halls, parks, and community centers. Due to the committed nature of this area, it is less expensive to provide services such as power, telephone lines, and access since these services are already available or are nearby.

Proposed zoning in these areas includes minimum densities of 5, 10, and 20-acre parcels. Generally, the higher densities are based on the premise that focusing rural-style development adjacent to areas that have been successfully developed residentially will best protect the agricultural enterprises of the area.

Table 1. Exception area identification, Exception area name, approximate size, and proposed minimum densities for the 3,304 acres proposed for irrevocably committed exception.

EXCEPTION AREA ID	EXCEPTION AREA NAME	APPROXIMATE ACRES	PROPOSED MINIMUM DENSITIES
2-1	Twin Springs Area	996 acres	5 acres
2-3	View Estates West	551 acres	10 acres
2-4	Reif Road to Copley Road Area	1757 acres	10 and 20 acres

THE PROCESS

I. Citizen Advisory Committee.

The initial project task of the study was to generate citizen and technical advisory committees. The Powell Butte Non Resource Lands Citizens Advisory Committee (CAC) was generated by the Crook County Court and Crook County Planning Director from a list of people in the Powell Butte Area who had expressed interest in serving on the committee, and an advertisement placed in the Central Oregonian newspaper soliciting applications.

The Citizens Advisory Committee met seven times to discuss the study between January 22, and April 29, 1997. During these meetings, a map was developed to show the individual areas the Committee determined to be non-resource lands--a total of approximately 50,000 acres. In addition, the citizens committee determined that all lands within the non-resource area should be zoned for residential density as five-acre minimums.

II. Technical Advisory Committee.

A technical advisory committee was formed to address this rezoning project. This group was named the Powell Butte Technical Advisory Committee (TAC). The TAC consisted of representatives from the Bureau of Land Management (BLM), Central Oregon Irrigation District (COID), Crook County Assessors Office, Department of Land Conservation and Development (DLCD), Natural Resources Conservation Service (NRCS), Oregon Department of Agriculture

(ODA), Oregon Department of Fish and Wildlife (ODFW), Oregon State University Extension Service (OSUES), and the Water Master. The TAC met four times (January 10, March 10, and March 17) to discuss the Study and they joined the CAC for a workshop on March 26, 1997. They determined where current and future irrigation water was available and developed a boundary map for lands it felt qualified as non-resource. Land outside the COID boundary was recommended by the TAC for rezoning, while land within the COID boundary was recommended to remain EFU-3.

Agricultural water availability has been a concern for this area since only a few wells in the area are designated for agricultural uses exceeding 0.5 acre around residences, and the remainder primarily comes from COID's irrigation canal that traversed the Powell Butte area. The future availability of water for irrigation purposes was explored by the manager of the South Central Region of the Oregon Water Resource Department, Bob Main. Their results indicated there is limited amount of water for irrigation in the Powell Butte area. The Secretary-Manager of the COID, Ron Nelson, in Redmond, Oregon also expressed a lack of water rights for future irrigation. The Watermasters' letter dated May 27, 1997 indicated that the canal system in its present condition is to capacity and that many lands within the District boundaries may never have water rights (See Appendix C). The TAC concluded that approximately 30,000 acres should be rezoned.

On March 26, 1997, a joint meeting of the Citizens Advisory and Technical Advisory Committee was held to discuss the Study, however, no agreement was reached as to which land should be rezoned nor the residential densities for the land to be rezoned.

III. Planning Commission and County Court Proceedings.

The Crook County Planning Commission held numerous public meetings to discuss the Study, and formulated a recommendation to the Court at a special Saturday session on June 4, 1997 to rezone 17,700 acres of the 99,000-acre study area. The resource land was identified within the Study area and excluded from the potential rezoning areas.

The Planning Commission approved the areas to be included in the non-resource lands exception process during a public hearing on June 11, 1997, and these recommendations were tentatively adopted on July 30, 1997 by the County Court after two public hearings. The Court then asked the Planning Commission to recommend residential densities for the "exception areas" and "non-resource lands."

The Commission held two public hearings on the density issue and made a recommendation to the County Court on June 25, 1997. The Court, with minor adjustments, tentatively adopted the Planning Commission densities in July 23, 1998.

Based on the Court approved residential densities, a study of the traffic impacts over the next 20 years was performed to satisfy OAR 660-12-060's requirement to conduct a transportation

analysis reflecting the increased traffic potential associated with the rezoning. Under contract to the Oregon Department of Transportation, David Evans and Associates, Inc. prepared a Transportation System Plan (TSP) (DEA 1997). The Planning Commission held two public meetings to review the proposed Powell Butte TSP, and on October 22, 1997 recommended approval with modifications to the Court. The Court held two public meetings on the proposed TSP, and adopted the TSP on January 28, 1998 with some reservations.

The TSP provides guidance for the management of transportation facilities for the next 20-years and prioritizes future transportation improvements. Several roads, the Powell Butte Highway, and State Highway 126 within the study area were addressed and recommendations for highway improvements were given.

In December 1997, as a result of input from the aforementioned hearings, the Court asked the Planning Department Staff to undertake a study of the historical use of the proposed lands to be rezoned. Some of the respondents are identified in Appendix D.

Based on the historical use study, and the tentative earlier decisions, a draft of the *Powell Butte Non-Resource Land Study Exception and Justification Document* was prepared and presented to the County Court for final adoption on August 19, 1998. Extensive community, agency, and local governmental input were received by the County Court at that meeting. The meeting was adjourned to an evening Court date of October 7, 1998 giving the County Planning Staff a chance to revise the report and to incorporate public input. Additional public testimony was accepted at the October 7, 1998 hearing.

Input from public hearings in August and October 1998 resulted in the removal of Exception area 2-5 and 576 acres of land from Exception areas 2-3 and 2-4. Therefore, the revised amount of land being considered only for rezoning is 11,027 acres or 11% of the study area. The remaining 87,973 acres would continue to be zoned as exclusive farm use. Within Crook County's 1.9 million acres of land, 11,027 acres represents 0.01% of the more than 1.2 million acres originally zoned EFU, and does not alter the zoning of any of the 600,000 acres zoned for Exclusive Forest Use.

This "irrevocably committed" report is will be heard and possibly adopted by the County Court during a public hearing scheduled on December 2, 1998 at 7:30 p.m. at the Prineville Fire Hall in Prineville, Oregon.

The next step after adoption of this Exception Area Report is for Crook County to develop zoning ordinances to address citizen concerns about adequacy of ground water, and increased traffic concerns. Crook County has already completed one of the traffic improvements contained in the TSP, and will consider system development charges to pay for other modifications.

FINDINGS OF FACT FOR LAND IRREVOCABLY COMMITTED TO USES OTHER THAN EXCLUSIVE FARM USE

This report analyzes Exception Area 2-4 as to the requirements of an irrevocably committed exception under OAR 660-04-028. In order to establish an "irrevocably committed" exception, the following elements must be discussed:

1. A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable. Characteristics of the exception area must be analyzed and be consistent with the land being committed, to such an extent that the land can not practicably be used for agricultural purposes.
2. The characteristics of the adjacent land must be analyzed.
3. The relationship, if any, between the exception area and adjacent lands must be discussed.
4. Other factors contained in 660-04-028(6) must be analyzed including:
 - (a) Existing adjacent uses.
 - (b) Existing public facilities and services (water and sewer lines).
 - (c) Parcel sizes and ownership patterns of exception area and adjacent lands, analyzing how the ownership pattern and parcel sizes occurred and evolved.
 - (d) Neighborhood and regional characteristics
 - (e) Identification of any natural and man-made barriers
 - (f) A discussion of the physical development including roads
 - (g) Other relevant factors.

EXCEPTION AREA 2-4

REIF ROAD TO COPLEY ROAD AREA

Exception Requirements for Land Irrevocably Committed to Other Uses

A. Findings of Fact for an "irrevocably committed" exception OAR 660-04-028 (2) and (6)

Although the soils in this area do not meet DLCD's definition of nonresource lands since 95% of the soils in the Twin Springs Area is Class 6 and only 5% Class 7 (Appendix B), compelling planning reasons support an "irrevocably committed" exception. This area is generally located at T16S R14E S 1, 2,3, 10 & 11 as shown on Figure 3 in Appendix A.

1. Characterization of Exception Area 2-4 and existing adjacent uses.

Exception Area 2-4 is the region on the northwest slope of the Powell Buttes. Today, it remains the most contentious area within the County for disputes over the lands zoned EFU-3 that have poor agricultural characteristics. If any one area was more responsible for initiating the Study, it was the Reif Road to Copley Road Area. The area itself is bound to the west by irrigated resource ground. To the north is a combination of irrigated agriculture, non-irrigated agriculture, and the proposed "irrevocably committed" Exception Area 2-1 – the Twin Springs Area (described in a separate report). The eastern boundary is adjacent to steeply sloped resource land that supports an aggregate mining operation and is not primarily used for agricultural operation. The eastern upslope portion is largely undeveloped scenic, and wildlife habitat oriented BLM land. The area south of Exception Area 2-4 abuts Area 2-5 that has been removed from the exception process. The Powell Butte View Subdivision and Area 2-3 are also located south of Exception Area 2-4.

Area 2-4 is characterized by small parcels that are unlikely to be consolidated for resource use. Due to the proximity to other residences and the nature of the soil in this area once cleared, surrounding landowners report having to curtail their dryland agricultural practices due to the amount of dust generated and number of complaints reported from nearby subdivision neighborhoods.

Seventeen (32%) of the existing 53 parcels support existing residences. Nineteen (33%) are already 10 acres or less in size, eliminating them as potential intensive agricultural parcels and establishing a rural residential land use pattern. The Powell Butte Cemetery is located at the southern end of Reif Road.

Brent Lake from DLCD indicated in a letter to Judge Rodgers on November 4, 1998 that the central and western portion of Area 2-4 were irrevocably committed to other uses, but that the northern and southeast portion of this area were not committed to uses other than EFU. However, the County received additional testimony for the area south of Bussett Road and west of Reif Road during the County Court Public Hearing on November 4, 1998 that demonstrates that this area is irrevocably committed to other uses. Dieter Koehler testified that the 78.2-acre parcel located on the southwest portion of Area 2-4 (16-14-10 TL 1100) supports a residence, a septic tank, an access road, and could not support agriculture. Furthermore, in a letter dated November 24, 1998, Mr. Koehler stated that Parcel 3 of 16-14-11 TL 800 should be rezoned for several reasons, including the following: this land has never been farmed as evidenced by the old junipers; has never been fenced and fencing is economically not justifiable; there are no irrigation water rights and the property is located 2 miles uphill from the COID canal; the parcel is entirely surrounded by residentially used land or impassable BLM land limiting ranching access; the agricultural land is buffered by low density residential parcels and one 40-acre BLM parcel; and there are road and public utility easements that cut the parcel into 3 pieces making the site unusable to farming (See letter in appendix)

None of the 7 respondents to the Historic Survey within the revised Area 2-4 had knowledge of any agricultural related activities occurring on their property within the past 20 years. Only four of the 53 parcels are currently on farm deferral in Area 2-4, unfortunately, no responses to the historical survey were received from these parcels.

2. Characterization of lands adjacent to Exception Area 2-4.

At least 160 5-acre parcels are within 2 miles of the Exception Area 2-4. This observation supports the determination that this neighborhood and region are generally and substantially committed to nonresource uses. It is not economical and is impractical to use this area for dryland farming due to its parcelization, limited soil capacity, climate, elevation, and proximity to other residences. Lack of irrigation water limits other uses, even grazing. For these reasons, the land appears to be best suited to rural residential zoning and added to the adjacent Exception areas.

The western portion of proposed Exception Area 2-1 is located about a tenth of a mile north of the east side of Exception Area 2-4 and is adjacent to an existing exception area developed at a five-acre minimum parcel size. The adjacent Red Cloud Ranch Subdivision is almost completely built out. Area 2-4 is physically bound by Exception Area 2-5 to the south, an aggregate pit on the sloping land to the east, and irrigated and non-irrigated EFU ground along portions of the north and west side. The entire western boundary is upslope from the COID canal and outside of the COID boundary. Irrigation possibilities for future agricultural operations are therefore limited. A small portion of the southern boundary is adjacent to a pivot that is growing mint, but the landowner is not anticipating significant impacts from the proposed development.

Compelling planning reasons support an irrevocably committed or rural residential designation. These reasons include: close proximity to highly parcelized Exception Area parcels, good roads and public facilities including telephone and power are reflective of a rural residential area. Lack of irrigation possibilities limit productivity on proposed nonresource parcels.

3. The relationship, if any, between Exception Area 2-4 and adjacent lands.

Exception Area 2-4 borders an existing exception area with 5-acre densities. According to the information received by adjacent landowners during the historic survey, none of the respondents in the existing exception areas have used their property for agricultural purposes in the past 20 years. The parcelization that has occurred in this area and adjoining developments further limit the potential productivity of these "poor" agricultural areas. In general, these lands can not economically be used for grazing without water. Given the above parcelization, lack of irrigation and poor opportunities for agricultural practices, this area is more closely related to the adjacent exception area than to EFU land.

The soils, natural resources (water, vegetation, wildlife, etc.), topography and climate do not differ from the adjacent developed exception land. From the Historic Survey, letters, public hearing testimony and conversations with landowners in the area, the impacts from the proposed development on the adjacent agricultural activities are anticipated to be minor and mitigatable.

4. Other factors contained in 660-04-028(6).

(a) Existing adjacent uses.

The existing adjacent uses have been discussed in the previous sections of this report.

(b) Existing public facilities and services.

The area is generally bordered and served by the Powell Butte Highway (State Highway 371). The Powell Butte Highway is a primary rural corridor that provides direct access to the City of Bend. The Powell Butte Traffic Impact Study, adopted by Crook County on January 28, 1998, outlines the potential impacts on the Powell Butte Highway and potential mitigation measures available to lessen future impacts from growth in the Powell Butte area. The report also identified Alfalfa Road as a Major Collector. Several smaller roads access existing residential developments within the study area. Area 2-4 can be accessed from the north by Copley Road on the east side of the area, and by Reif Road on the west side. Shumway, Reif, and Copley Roads all trend north to south through this vicinity, while S.W. Bussett Road trends east to west. Development of Area 2-4 will require improvements to the intersection at the Ochoco Highway and Reif and Copley Roads. With improvements, both roads can be upgraded to handle the growth from the proposed rezoning.

Exception Area 2-4 is entirely upslope from the COID canal, and irrigated agricultural operations in this area would require upslope pumping of irrigation water.

The water supply for residences in Exception Area 2-4 is currently derived from ground water wells. Some of the wells are private, while other wells are shared. Avion Water Company is currently providing water to approximately 107 residences in Red Cloud Ranch and Mt. View Estates, which are included in the subdivision adjacent to the proposed exception areas. Avion Water has 5 wells in the Powell Butte Area, in addition to recently installing a 100,000-gallon storage tank and upgrading their delivery system. Irrigation water is not available within the rezoning area.

Each developed parcel in Powell Butte has an individual septic system. There are no known sewer or shared septic systems in the Powell Butte area. Individual septic systems will likely continue to be required on future developments. Since the smallest lot size proposed in 2-4 is 10 acres (some 20 acres), problems locating suitable septic sites on each parcel are not anticipated.

The entire Powell Butte area is served by electricity, but there is no cable TV. Overhead power runs along most of the county roads in this area.

The Powell Butte Elementary School, whose current enrollment is 174 students, is located in the Powell Butte Rural Service Center less than 2 miles from the closest point in Exception Area 2-4.

(c) Parcel sizes and ownership patterns of exception area and adjacent lands, analyzing how the ownership pattern and parcel sizes occurred and evolved.

Prior to adoption of the Statewide planning goals, development had already started in this portion of Powell Butte, likely due to close proximity (approximately 2 miles south) to the Ochoco Highway (Highway 126), the gently sloping topography, and aesthetic value. This area is in close proximity to the Rural Service Centers that support a store, post office, church, and school. The nearby existing exception area includes 3 platted subdivisions. Since the agricultural uses were severely limited without water in this area, there were 3 platted and recorded subdivisions, and rural residential development prior to adoption of the Statewide planning goals, this entire area should have been zoned rural residential, but was miszoned EFU.

Contiguous land owners in irrigated farm parcels were surveyed as part of the Historic Land Use Survey, no adjacent owners who replied discussed negative impacts of the proposed nonresource zoning on their operations.

(d) Neighborhood and regional characteristics.

This area can largely be described as predominately single-family residential uses on relatively small (40 to 80 acre) non-irrigated and irrigated parcels, some limited and seasonal grazing areas (that are grazed to reduce the fuel load for fire protection, justify farm deferral status, for personal beef consumption, and for child projects such as 4-H), and unused bare ground. None of the parcels within Area 2-4 have irrigation water rights on them.

There are at least 160 5-acre parcels within ½ mile of the northeastern portion of 2-4. This neighborhood and region are generally and substantially committed to nonresource uses. It is not economical and is impractical to use this area for even dryland farming due to its parcelization, limited soil capacity, climate, elevation, proximity to other residences. Lack of irrigation water limits other uses, even grazing. For these reasons, the land appears to be best suited to rural residential zoning and added to the adjacent Exception areas.

(e) Identification of any natural and man-made barriers.

Area 2-4 is separated from the intensive agricultural areas by the COID canal and the Powell Butte Highway to the west, and Riggs Road to the North. All proposed development will occur upslope of the canal and outside of the COID boundary.

An analysis of the subject USDA SCS Soil Survey shows that Exception Area 2-4's overall agricultural capabilities are detrimentally affected by the lack of water. The predominant soil classification appears to be class 6 (Appendix B). However, proximity to highly parcelized exception area parcels, good roads, and public facilities, including telephone and power, are reflective of a rural residential area and not an intensive agricultural operations. Class 6 soils in this area are very rocky and it is not economically feasible to dryland farm or graze most of these areas. Lack of irrigation possibilities (Appendix C) limit productivity in this area, and serves to separates this land from the adjacent resource lands.

(f) A discussion of the physical development including roads.

This element has been addressed in the above sections on public facilities, and parcelization.

(g) Other relevant factors.

Crook County intends to protect farmland by encouraging the future growth of Powell Butte to occur upslope from the COID canal away from the area's intensive agricultural

operations. The only agricultural use for non-irrigated land in the Powell Butte area is grazing, and according to the BLM, the estimated acres needed to support one cow for one year for their grazing allotments near Powell Butte ranges from 145 to 233 acres (see BLM letter in Appendix C).

The largest parcel in Exception Area 2-4 is approximately 132 acres, which would only support 1 cow for a year (See BLM letter in Appendix C). Most of the parcels in the area, without supplemental feeding year round, would not support any livestock. Based on the numbers provided by BLM, the entire area would only support between 9 and 15 cows per year.

According to the survey information provided, portions of Exception Area 2-4 have never experienced any agricultural uses, while other areas have not been used for several years. Only 4 parcels in this area currently have farm deferral status. Those reporting agricultural uses stated that they are only able to graze cows for a short period of time and only during wet years or when the grass is moist, and then they have to feed the remainder of the year.

This 1757 acre area can be used for the following: to raise a maximum of 15 cows per year (based on BLM numbers); to remain bare, vacant, unproductive land because it is not economically feasible to move the cows to this area for a short period of time and haul water for them to drink; or for rural residential housing in an area that is in close proximity to Bend, Redmond, and Prineville, yet still maintains a rural atmosphere.

An analysis of the USDA SCS Soil Survey for Exception Area 2-4 shows the predominant soil classification is 6, with some Class 7 soils. No soils in Class 1 through 5 occur on this site, which, if mixed with Class 6 soils could effectively increase the productivity of the soil for agricultural uses. Class 6 soils have a "Poor" rating for agricultural suitability. Erosional processes on the Powell Buttes move soils downslope-forming alluvial fans (areas of typically poorly sorted erosional material interspersed with more resistant material). Many of the existing exception areas and proposed irrevocably committed areas are situated upon these alluvial fans. Soils types common to these areas are Ayres and Ochoco series soils underlain by hardpan at a depth from 12 to 36 inches. The area topography is characterized as rocky and arid. Without large inputs of financial capital and fossil fuel resources to pump water upslope, soils above the canal retain a soil classification of 6.

Proposed Densities

Crook County chose twenty-acre minimum densities along the northern portion of Area 2-4 to buffer this area from adjacent irrigation operations and because of the relatively large size of this parcel, and ten-acre densities for the remainder of Area 2-4. Crook

County recognized that the unique situation in Exception Area 2-4 requires two different densities to protect the adjacent EFU land.

By providing for rural residential homesites above the COID canal, Crook County will protect the intensive irrigated agriculture below the canal. A number of nonfarm partitions have already originate from this highly developed area. The availability of roads and services on this unirrigated upslope land are indicative of a rural residential area. Extensive roads and services to Exception Area 2-4 make this a feasible and logical area for rural residential development.

There are currently 53 developable parcels within Exception Area 2-4, but 15 of these already support residential structures. Since Exception Area 2-4 is approximately 1757 acres, and the proposed minimum density for 1420 acre is 10 acres and for 337 acres is 20 acres, 110 new lots would be created. However, because the parcels vary in shape and size, and therefore acreage's, the maximum build out is not possible. For example, T15S-R15E-Sec. 29 TL 2600 is 38.07 acres - this property will only be allowed to divide into three 10-acre-plus parcels, if not developed together with adjacent parcels. Since road right-of-ways, utility easements, etc. are needed, this area will likely experience an 85% build-out, resulting in 94 potentially buildable new lots.

Exception Area 2-4 Reif Road to Copley Road Area

<u>Potential Development</u>	<u>10 acre lots</u>
After division	163 lots (1420 acres/10 acres and 337 acres/20 acre lots)
Total lots before division	53 lots (existing lots)

New lots	110 lots

After facilities deduction 85% Buildable	94 total new lots within area

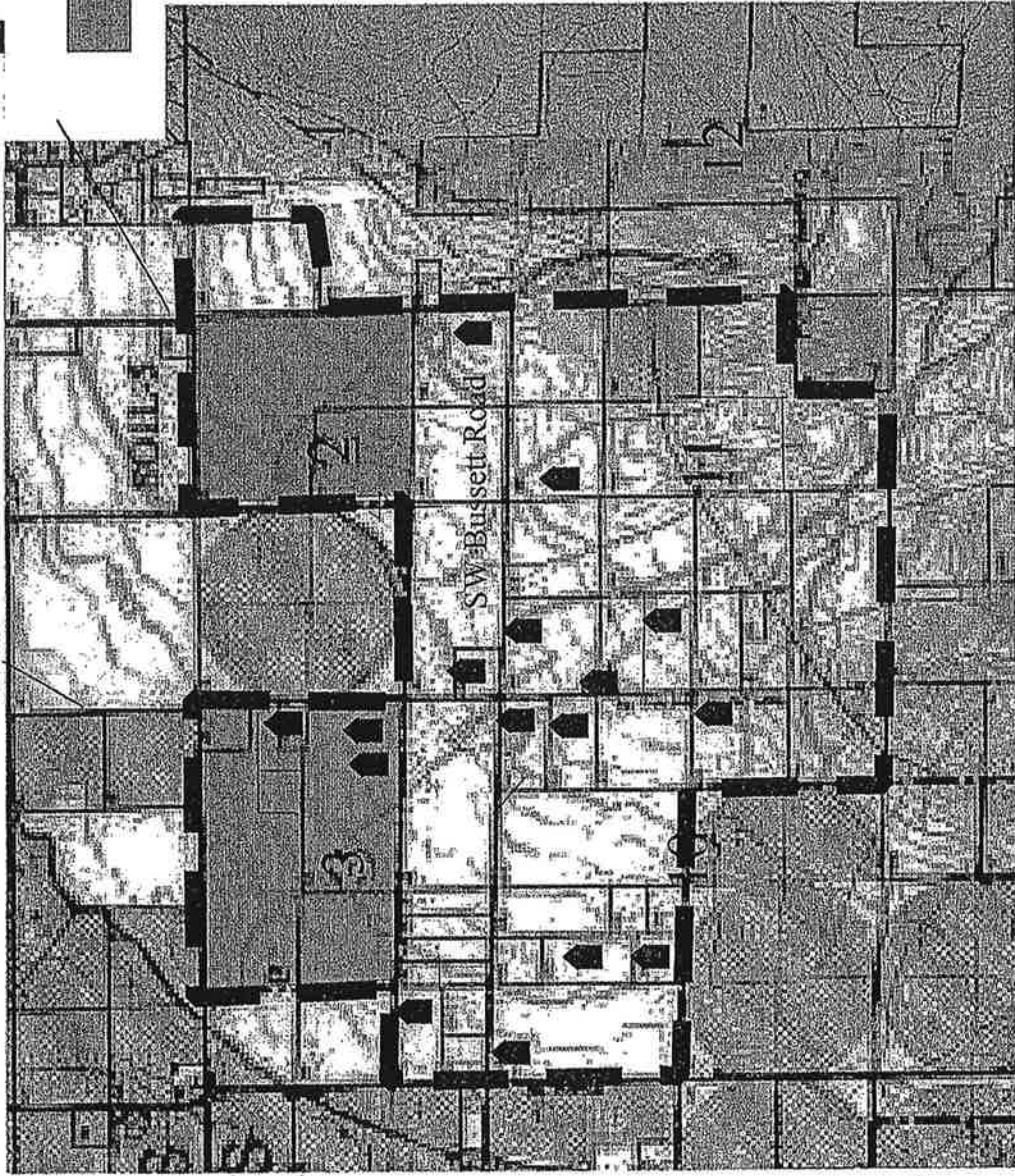
APPENDIX A

FIGURE 3 – AREA LOCATION MAPS SHOWING LOT LINES

Study Area Boundary -
10-acre Density
Proposed

20-acre Density
Proposed

Reif Road



LOCATION OF AREA 2-4
T16S R14E S 1, 2, 3, 10 & 11



North

Figure 3 - Area 2-4
Reif Road to Copley Road Area



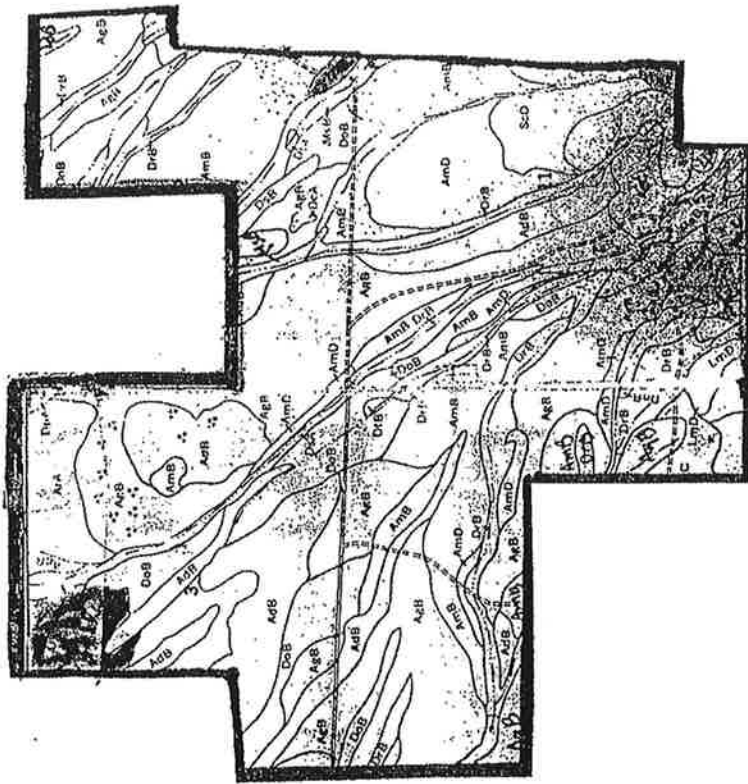
Crook County Community Development

Planning Department

300 East 3rd Street • Praterville, Oregon 97754 • Phone (541) 447-8156 • FAX (541) 447-1051

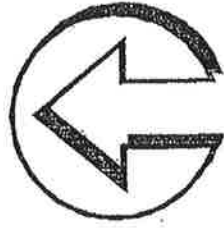
APPENDIX B

**FIGURE 4 - SOIL MAPS AND PERCENTAGE OF SOIL
CLASSIFICATION**



Soils with Capability Unit 6, which are not suitable for irrigation or for dry farming.

Soils with Capability Units 7 or 8, making them unsuitable for cultivation and seeded grasses.



North



Crook County Community Development

Planning Department

300 East 3rd Street • Prineville, Oregon 97754 • Phone (541) 447-8156 • FAX (541) 447-1051

Figure 4 - Soil Survey for Powell Butte

Area 2-4 Reif Road to Copley Road

PERCENTAGE OF SOIL CLASSIFICATION

A summary of the approximate percentage of soil capability classification has been roughly calculated. These estimated percentages were derived by determining the percentage of each soil series present in an area using the Prineville Area Soil Survey (USDA 1966), identifying the capability class associated with each soil type, and adding all of the percentages of mapped soil units with Classes 1 through 5, for Class 6, and for those soils with Class 7 or 8. These figures are rough estimates of the percentages. Some of the soil series contained mapping units with varying capability units making it difficult to determine the actual percentage of each class, further decreasing the accuracy of the following estimates.

Area 2-4 Reif Road to Copley Road Area

Percentage of Soils Capability Class 1-5	0%
Percentage of Soils Capability Class 6	95%
<u>Percentage of Soils Capability Class 7-8</u>	<u>5%</u>

APPENDIX C
COID, BLM, AND KOEHLER LETTERS

CENTRAL OREGON IRRIGATION DISTRICT

A MUNICIPAL CORPORATION OF THE STATE OF OREGON

2598 N. HWY. 97

REDMOND, OR 97756

(541) 548-6047
FAX (541) 548-0243

May 27, 1997

To Whom It May Concern:

Due to the continued growth and division of lands within the Central Oregon Irrigation District's boundaries the District faces many new challenges in delivering and supplying irrigation demands.

The Central Oregon Canal starts on the southwest side of Bend and traverses through Bend and into the Alfalfa area and ends north of Powell Butte. The canal was started to provide irrigation water around 1900.

During inception of the proposed canal system throughout Central Oregon, other canals were proposed although for reasons of lack of water or finances, many were not built. Due to the canal and/or laterals that were not built, landowners may have had their lands included into the Central Oregon Irrigation District boundaries in anticipation of obtaining water rights.

In summary, because of the high demand of water rights in this area and the high cost, I believe that many lands now within the District boundaries may never have water rights. The canal system in its present condition, I feel, is to capacity. In the future piping this system may replace the open channel and at that time additional lands could be served.


Jeff Eicher, WATERMASTER



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Prineville District Office
P.O. Box 550 (3050 N.E. 3rd Street)
Prineville, Oregon 97754

RECEIVED

AUG 14 1996

CITY-COUNTY
PLANNING DEPT.

IN REPLY REFER TO:

Dear Mr. Umbarger:

There are four Bureau of Land Management (BLM) grazing allotments near the Powell Buttes (see attached map). We normally estimate carrying capacity on an animal unit month (AUM) basis (see attached table), but I have converted these numbers to an annual basis below:

<u>Allotment Name</u>	<u>Acres needed to support one cow for one year</u>
Brown	145 = 12.08 acres/AUM
Cronin	203 = 16.92 acres/AUM
Powell Butte	233 = 19.42 acres/AUM
Red Cloud	217 = 18.08 acres/AUM

If I can be of further assistance, do not hesitate to call.

Sincerely,

Teal Purrington
Rangeland Management Specialist

Enclosures:

Map of Allotments

Table 12 from 1989 Brothers/LaPine Resource Management Plan



IN REPLY REFER TO:

4000
GRN 365565

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Prineville District Office
P.O. Box 550 (3050 N.E. 3rd Street)
Prineville, Oregon 97754

RECEIVED

SEP 17 1998

CITY-COUNTY
PLANNING DEPT.

SEP 16 1998

Dawn Keegan
Crook County Planning Department
Crook County Courthouse
300 East Third Street
Prineville, Oregon 97754

Dear Ms. Keegan:

You recently requested maps from our office showing grazing allotment boundaries. Since that time, there has been a slight change to the Powell Butte allotment boundary. Please substitute the enclosed map for the one I previously supplied for this allotment. Thank you.

Sincerely,

Teal Purrington
Rangeland Management Specialist

Enclosure: As stated above.

Dieter Koehler
11305 Robinson Lane
Powell Butte, OR 97753

RECEIVED
NOV 27 1988

CROOK COUNTY
PLANNING DEPT

November 24, 1988

Crook County Planning Commission
Courthouse
300 E 3rd St.
Prineville, OR 97754

Dear Sir or Madam:

Regarding:
Rezoning Study, Irrevocably committed Area, Section 2.4, TL800, 16-14-11

The purpose of this letter is to substantiate that the Parcel 3, TL800, 16-14-11 should be rezoned and included in the proposed residential section of 2.4.

1. The soil quality is only class 6
2. This land was never used for farming. The many old grown junipers are a proof of this.
3. The parcel is not and was never fenced. Fencing is economically not justifiable.
4. The parcel has no irrigation right, will not get COI irrigation rights, will not get ground water irrigation rights and is located 2 miles uphill of the nearest COI-irrigation canal.
5. The parcel is entirely surrounded by residentially used land:
 - To the North: 20 acres with house and above ground power line since more than 10 years, and two 10 acres parcels with CUP.
 - To the West: Residential rezoning planned because irrevocably committed for non farm use
 - To the South: 40 acres just recently sold for residential use under CUP.
 - To the East: 40 acres just recently sold for residential use under CUP. Very steep.
40 acres BLM partially fenced, steep, impassable, no roads or trails.
6. Because the parcel is entirely surrounded by residentially used land or impassable BLM, access for ranching became difficult.
7. The parcel is entirely surrounded by residentially used land or BLM-land. Therefore ranching would require new fencing. Because the land would not sustain more than 1 or 2 head of cattle, the income of dry-land farming/ranching would not allow a \$7000-8000 fence line and farming/ranching is therefore economically not feasible.
8. Buffer zones to EFU land exist in the form of other low density residentially used parcels and one 40 acre BLM parcel.

November 24, 1998

9. Easements for road and public utilities cut the parcel in 3 pieces and make the parcel unusable for farming. The easements cannot be removed, not even be moved without the agreement of the neighbors to the east and south. This was already tried and is very unlikely, because it is the only legal access to their property.

Conclusion:

Because the tax lot 800 is already handicapped by road and utility easements and all the adjacent land is already residentially used or will be in the near future, all the requirements for irrevocably committed land are given. The tax lot TL800 should be rezoned for low density residential use.

Sincerely,


Dieter Koehler

Attachments

APPENDIX D

LOT AND OWNERSHIP INFORMATION

Area 2-4 Reif Road to Copley Road Area

Defined as West Powell Butte in Twn. 15S., Rge. 14E., Sec. 34; Twn. 16S., Rge. 14E., Sec. 1, 2, 3, 10, 11, 12, 34.

<u>Twn/Rge/Sec</u>	<u>Lot</u>	<u>Acres</u>	<u>Farm Deferral</u>	<u>Ownership*</u>
16-14-01	200(part)	60.00 app	No	Richter
16-14-02	200(part)	132.47 app	Yes	Richter
16-14-02	500	39.97	No	Utterback
16-14-02	535	39.20	No	Todd
16-14-02	536	38.97	No	Todd
16-14-02	602	67.64	Yes	Howlett
16-14-02	603	9.71	No	Howlett
16-14-03CD	100	9.45	No	Moffatt
16-14-03CD	200	9.45	No	Moffatt
16-14-03CD	300	9.45	No	Moffatt
16-14-03CD	400	9.45	No	Moffatt
16-14-03	100	10.04	No	Borgaard
16-14-03	200	10.00	No	Richter
16-14-03	300	5.01	No	Teater
16-14-03	400	10.00	No	Harrison Prop.
16-14-03	500	90.75	Yes	Umbarger
16-14-03	700	1.00	No	Borgaard
16-14-03	800 (part)	40.00 app.	Yes	Bussett
16-14-03	900	79.39	No	Roberts
16-14-03	1000 (part)	78.19 app.	No	Floyd
16-14-03	1100	18.91	No	Moffatt
16-14-03	1200	9.24	No	Moffatt
16-14-03	1300	9.32	No	Garcia
16-14-10	506	40.00	No	Davis
16-14-10	518	39.23	No	Knight
16-14-10	1100	78.20	No	Webb
16-14-10	1200	23.09	No	Martin
16-14-10	1201	10.00	No	Rash
16-14-10	1202	79.40	No	Martin
16-14-10	1203	7.85	No	Martin
16-14-10	1204	7.84	No	Martin
16-14-10	1205	19.25	No	Koehler
16-14-10	1206	10.00	No	Newlon
16-14-10	1400	40.00	No	Young
16-14-10	1502	18.87	No	Toll
16-14-10	1503	18.87	No	Byers
16-14-11	100	19.66	No	Davis-H

16-14-11	101	19.96	No	Davis
16-14-11	200	40.00	No	Wilhelm
16-14-11	300	38.77	No	Grubbs
16-14-11	400	1.00	No	Crook County
16-14-11	500	1.00	No	Crook County
16-14-11	600	19.98	No	Tullius-H
16-14-11	601	19.02	No	Tullius
16-14-11	700	40.00	No	Steinmetz-H
16-14-11	800	78.16	No	Urbach
16-14-11	900	40.00	No	US
16-14-11	1000	39.05	No	Rowlett-H
16-14-11	1100	40.00	No	Johnson-H
16-14-11	1200	20.00	No	Imes-H
16-14-11	1300	5.00	No	Brown
16-14-11	1400	15.00	No	Woods
16-14-11	1500	80.00	No	Mathers
16-14-11	1600	39.79	No	Collier-H
16-14-11	1700	40.00	No	USA

*H – denotes landowners that returned Historical Survey Questionnaires within the current boundaries of Area 2-4.

There are currently 16 residences in Area 2-4 proposed nonresource zone, listed below by lot number, and the Crook County Cemetery is located at 16-14-10 TL 400 & 500:

16-14-02 TL 500	16-14-10 TL 1206
16-14-02 TL 603	16-14-10 TL 1502
16-14-03 TL 300	16-14-10 TL 1503
16-14-03 TL 700	16-14-11 TL 100
16-14-03 TL 900 – 2 dwellings on this parcel	
16-14-03 TL 1100	16-14-11 TL 300
16-14-10 TL 518	16-14-11 TL 600
16-14-10 TL 1100	
16-14-10 TL 1205	

There is also an office/shop of 16-14-03 TL 500.

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ABBREVIATIONS

BLM	-	Bureau of Land Management
CAC	-	Citizen Advisory Committee
COID	-	Central Oregon Irrigation District
DEA	-	David Evans & Associates
DLCD	-	Department of Land Conservation and Development
EFU	-	Exclusive Farm Use
LCDC	-	Land and Conservation Development Commission
LUBA	-	Land Use Board of Appeals
NRCS	-	Natural Resources Conservation Service
ODA	-	Oregon Department of Agriculture
ODFW	-	Oregon Department of Fish and Wildlife
OSUES	-	Oregon State University Extension Service
OWR	-	Oregon Water Resources Department
PBNRLS	-	Powell Butte Nonresource Lands Study
SCS	-	Soil Conservation Service (now NRCS)
TAC	-	Technical Advisory Committee
TSP	-	Transportation System Plan
USGS	-	United States Geological Survey



MICROFILM

KEY PUNCHED

DEC 17 1998

STATE OF OREGON } ss **145054**
 COUNTY OF CROOK }
 I CERTIFY THAT THE WITHIN INSTRUMENT WAS
 RECEIVED FOR RECORD ON THE 11th DAY OF
December, 19 98, AT 10:15 A. M.,
 AND RECORDED IN Miscellaneous
 RECORDS OF SAID COUNTY MF NO. 145054
 DEANNA E. BERMAN, CROOK COUNTY CLERK
 BY: [Signature] DEPUTY

Neumueller- -Powell Butte Study Area 2-4 Zone Map Amendment

May 22, 2024

1) Table of Contents	Y
2) CC Land Use Application – Map Amendment	Y
2a) Owner Signature	N/A
2b) Agent Signature	Y
3) Owner Letter of Authorization, signed	Y
4) Applicant’s Summary Response	Y
5) Crook County Property Summary	Y
6) Applicant’s Burden of Proof Statement	Y
7) Tax Lot Card (1) 1614110000700	Y
8) Warranty Deed MF # 2016-277061	Y
9) Complete Powell Butte Study Documents	Y
10) Ordinance 127 Amendment and Amendment 1	Y
11) Vicinity Map	Y
12) Map Exhibit A Assessors Map	Y
13) Map Exhibit B-1 Existing Property w Dimensions	Y
13) Map Exhibit B-2 Existing Property w 2022 Aerial	Y
14) Map Exhibit C – Powell Butte Study 2-4 with Adjacent Owners	Y
15) Map Exhibit D – 1 Mile Study Area – PB 2-4 Zone Map Amendment	Y
16) 1 Mile Study Area Data Sheets (3)	Y
17) General One Mile Study Area Notes May 20, 2024	Y
Reference:	
18) Ordinance 219, As an example	Y

NOTICE OF ADOPTION

This form must be mailed to DLCD not later than 5 working days after adoption
ORS 197.615 and OAR Chapter 660, Division 18

See reverse side for submittal requirements

Jurisdiction Crook County Planning Local File # Ord. 127

Date of Adoption Dec. 2, 1998 Date Mailed Dec. 7, 1998

Date the Proposed Notice was mailed to DLCD Aug. 27, 1997

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment; Zoning Map Amendment
 New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Amend Comprehensive Plan concerning Powell Butte to adopt an
irrevocably committed exception from statewide Planning Goal
Number 3 for Area 2-4.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Less land included in exception area than originally proposed.

Plan Map Change From EFU to Rural Residential

Zone Map Change From None to None

Location: Powell Butte, South of Hwy 126 Acres Involved: 175 ac

Specify Density: Previous Density EFU New Density Not adopted

Applicable Goals: 3 Was an Exception adopted? Yes No

DLCD File # _____

DLCD Appeal Deadline _____

MF 145055 (35 pgs)

Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

- Yes No: The Statewide Planning Goals do not apply
 Emergency Circumstances Required Expedited Review

Affected State or Federal Agencies, Local Governments or Special Districts: Crook County,
DLCD, ODFW, BLM, DSL

Local Contact: Peter Schannauer Phone: (541) 447-8156

Address: 300 East 3rd, Prineville, OR 97754

SUBMITTAL REQUIREMENTS

ORS 197.615 and OAR Chapter 660, Division 18

1. Send this Form and One (1) Copy of the Adopted Amendment to:

Department of Land Conservation and Development
1175 Court Street, N.E.
Salem, Oregon 97310-0590

2. Submit three (3) copies of bound documents and maps larger than 8½ by 11 inches.

3. Adopted materials must be sent to DLCD not later than five (5) working days following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will be extended if you do not submit this Notice of Adoption within five working days of the final decision. Appeals to LUBA may be filed within 21 days of the date Notice of Adoption is sent to DLCD.

6. In addition to sending Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

If you need more copies of this form, please call the DLCD at 503-373-0050 or this form may be duplicated on green paper.

ORDINANCE NO. 127

AN ORDINANCE OF THE CROOK COUNTY COURT TO AMEND THE COUNTY COMPREHENSIVE PLAN CONCERNING POWELL BUTTE TO ADOPT AN IRREVOCABLY COMMITTED EXCEPTION FROM STATEWIDE PLANNING GOAL NUMBER 3 FOR AREA 2-4

WHEREAS, Crook County and the Department of Land Conservation and Development have worked cooperatively since January 1997 studying areas within the Powell Butte region of Crook County for the purpose of making available additional areas for residential development;

WHEREAS, numerous public meetings have been held by the Citizen Advisory Committee, Technical Advisory Committee, Crook County Planning Commission, and the Crook County Court;

WHEREAS, the Court has received an enormous amount of input from state and federal agencies, 1000 Friends of Oregon, and numerous citizens;

AND WHEREAS, the Crook County Court finds that Exception Area 2-4 meets the statutory and regulatory requirements for an "Irrevocably Committed" Exception from Goal 3;

NOW, THEREFORE, this 2nd day of December, 1998, the Court ordains as follows:

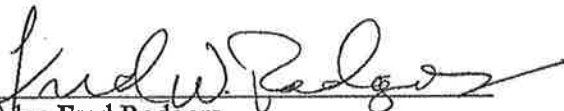
Section One. The Crook County Comprehensive Plan is amended to include an "irrevocably committed" exception for Area 2-4, as delineated in the attached "Exception Report".

Section Two. The findings of fact and conclusions contained within the "Exceptions Report" are hereby adopted.

Section Three. The density designation for this exception area is not adopted by this Ordinance. A density designation will be adopted at the time that the zoning ordinance for this area is adopted.

Section Four. This amendment of the Comprehensive Plan shall be effective 90 days after its adoption.

CROOK COUNTY COURT:



Judge Fred Rodgers



Commissioner Mike McCabe



Commissioner Frank Porfily

ORDINANCE NO. 127 Amend. No. 1

AN ORDINANCE OF THE CROOK COUNTY COURT TO ADOPT AMENDMENTS TO THE COUNTY'S COMPREHENSIVE PLAN CONCERNING POWELL BUTTE AND TO AMEND ORDINANCE NO. 127 IN ACCORDANCE WITH THE FINAL DECISION BY THE LAND USE BOARD OF APPEALS REMANDING ORDINANCE NO. 127, AND DECLARING AN EMERGENCY.

WHEREAS, over a period of years, Crook County has conducted a comprehensive study of proper land use classifications for lands in Powell Butte; and

WHEREAS, in December 1998 and February 1999, the County Court adopted eight ordinances reclassifying different areas of Powell Butte from exclusive farm use to either a nonresource or rural residential classification. One of those ordinances was Ordinance No. 127 which provided for the redesignation of Area 2-4 from exclusive farm use to rural residential zoning;

WHEREAS, all eight ordinances were appealed to LUBA separately and by multiple parties. The appeals of Ordinance No. 127 were given Case Nos. 98-221 and 98-224;

WHEREAS, all of the appeals were submitted to mediation pursuant to ORS 197.860 among the parties to the appeal;

WHEREAS, as a result of the mediation process, the parties have reached an agreement as to all the appeals, ("the Agreement"), and have thereby agreed that Ordinance No. 127 should be amended in the manner set forth in this ordinance and LUBA has adopted the parties' agreement remanding Ordinance No. 127 with instructions to adopt the below amendments;

NOW, THEREFORE, this 26TH day of JULY, 2000, the Crook County Court ordains as follows:

Section One. The Agreement including all its exhibits is hereby adopted by reference and is included herein as if fully set forth.

The Crook County Comprehensive Plan is amended to designate the land within Area 2-4 as an exception to Statewide Planning Goal 3. Area 2-4 consists of the land as depicted on the map attached to this Ordinance as Exhibit "1" and as more specifically described as follows:

Legal Description "B" – Zone NR-20

Lands located in Sections 2, 3 and 10, Township 16 South, Range 14 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the $\frac{1}{4}$ corner common to Sections 2 and 3, thence South along the East line of said Section 3 to the Northwest corner of the South one-half of the Southwest one-quarter ($S\frac{1}{2} SW\frac{1}{4}$) of said Section 2; thence East along the North line of said $S\frac{1}{2} SW\frac{1}{4}$ to the Northeast corner thereof; thence South along the East line of said $S\frac{1}{2} SW\frac{1}{4}$ to the $\frac{1}{4}$ corner common to Sections 2 and 11; thence West along the South line of said Section 2 to the corner common to Sections 2, 3 10 and 11; thence South along the East line of said Section 10 to the Southeast corner of the Northeast one-

MF 156817
(5pgs)

quarter of the Southeast one-quarter ($NE\frac{1}{4} SE\frac{1}{4}$); thence West along the South line of said $NE\frac{1}{4} SE\frac{1}{4}$ to the Southwest corner thereof; thence North along the West line of said $NE\frac{1}{4} SE\frac{1}{4}$ to the Northwest corner thereof; thence West along the South line of the North one-half ($N\frac{1}{2}$) of said Section 10 to the Southwest corner of the East one-half of the Northwest one-quarter ($E\frac{1}{2} NW\frac{1}{4}$); thence North along the West line of said $E\frac{1}{2} NW\frac{1}{4}$ to the Northwest corner thereof; thence North on the West line of the East one-half of the Southwest one-quarter ($E\frac{1}{2} SW\frac{1}{4}$) of said Section 3 to the Northwest corner thereof; thence East along the North line of the South one-half ($S\frac{1}{2}$) of said Section 3 to the Point of Beginning.

Legal Description "C" – Zone NR-20

Lands located in Section 11, Township 16 south, Range 14 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the Southwest corner of the Southwest one-quarter of the Northeast one-quarter ($SW\frac{1}{4} NE\frac{1}{4}$) of said Section 11, thence North along the West line of said $SW\frac{1}{4} NE\frac{1}{4}$ to the Northwest corner thereof; thence East along the North line of said $SW\frac{1}{4} NW\frac{1}{4}$ to the Northeast corner thereof; thence south along the East line thereof to the Southeast corner thereof; thence South along the East line of the Northwest one-quarter of the Southeast one-quarter ($NW\frac{1}{4} (SE\frac{1}{4})$) to the Southeast corner thereof; thence West along the South line of said $NW\frac{1}{4} SE\frac{1}{4}$ to the Southwest corner thereof; thence North along the West line of said $NW\frac{1}{4} SE\frac{1}{4}$ to the Point of Beginning.

Legal Description "I" – Zone NR-10

Lands located in Section 3, Township 16 South, Range 14 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the North section corner common to Sections 2 and 3, thence South along the East line of said Section 3 to the Southeast corner of Government Lot 1; thence West along the South line of Government Lots 1, 2 and 3 to the Southwest corner of Government Lot 3; thence North along the West line of said Government Lot 3 to the Northwest Corner of said Government Lot 3; thence East along the North line of said Section 3 to the Point of Beginning.

Legal Description "J" – Zone NR-10

Lands located in Section 11, Township 16 South, Range 14 East, W.M., Crook County, Oregon, more particularly described as follows: Beginning at the corner common to Sections 2, 3 10 and 11, thence East along the North line of said Section 11 to the Northeast corner of the West one-half ($W\frac{1}{2}$) of said Section 11; thence South along the East line of said $W\frac{1}{2}$ to the Southeast corner of the North one-half of the South one-half ($N\frac{1}{2} S\frac{1}{2}$) of said Section 11; thence West along the South line of said $N\frac{1}{2} S\frac{1}{2}$ to the Southwest corner thereof; thence North along the West line of Section 11 to the Point of Beginning.

Section Two. The residential density and minimum lot size for Area 2-4 shall be one (1) single family dwelling per twenty (20) gross acres in legal descriptions B and C and shall be one (1) single family dwelling per ten (10) gross acres in legal description I and J.

Section Three. The following policies are adopted as a part of the Crook County Comprehensive Plan. These policies supplement and amend the Powell Butte Study to the extent that the Study is inconsistent with these policies and the Agreement. To the extent that there is any conflict between the Study and these policies or the Agreement, the Study shall automatically be modified to the extent necessary to conform the Study with these policies and the Agreement.

1. The Comprehensive Plan as amended provides that rural residential and nonresource development shall occur south of Highway 126 and generally north of Powell Buttes, and west of Stillman Road and east of Study Area 2-2.

The specific areas to be reclassified and rezoned are those areas designated as Areas 1-2, 2-1 (as amended), 2-2 (as amended), 2-3 (as amended), and 2-4 (as amended). These areas are specifically described in Ordinances 126 (Area 2-3); 127 (Area 2-4); 128 (Area 2-1); 130 (Area 1-2); and 132 (Area 2-2). The land contained within these areas is hereinafter referred to as "the Area to be rezoned."

Except for uses permitted outright and by conditional use in the EFU-3 Zone, other lands shall be maintained as exclusive farm use consistent with Policy 2 below. Rezoning of land other than "the Area to be rezoned" are inconsistent with the Comprehensive Plan. In this regard, Ordinances 131 (Area 1-1) and Ordinance 133 (Area 3-1) are repealed by separate ordinances because the rezoning of that land is inconsistent with this provision of the Comprehensive Plan. Ordinance No. 134 which pertains to Area 3-2 is being repealed as that area is being reserved for the City of Prineville's future industrial growth.

2. The County will not initiate additional exceptions or nonresource designations within the Powell Butte Study Area until the next periodic review. The foregoing does not create an expectation that rezonings will necessarily occur at the next periodic plan review and does not create an obligation on the part of the County to rezone any EFU land at any time. The County may, however, consider a proposal(s) to expand the urban growth boundary of the City of Prineville in conjunction with an annexation into Area 3-2 for the purpose of providing an adequate supply of industrial land prior to the next periodic review.

3. The land north of Highway 126 shall be retained as exclusive farm use as that land is composed of large parcels and contains less rural residential development than the area south of the highway. For the purpose of this policy, all of Area 1-2 is deemed to be located south of the Highway 126, notwithstanding that a small portion of Area 1-2 is physically located to the north of that Highway.

4. The County shall adopt a new rural residential zoning district for Area 2-4 which imposes a density and minimum lot size consistent with Section Two of this Ordinance.

5. The zoning ordinance for Area 2-4 shall contain a 250-foot setback requirement from adjacent exclusive farm use zoned land.

This setback shall not apply when the adjacent land is owned by a governmental entity, e.g. the Bureau of Land Management, or is adjacent to land already approved for non-farm use.

In those cases, the minimum setback shall be the setback already established for dwellings in an EFU zone or if no such setback has been established, then the setback shall be and hereby is established as one hundred (100) feet.

The 250 foot setback shall be adopted simultaneously with adopting the new zoning ordinance. If the imposition of this setback makes land undevelopable, then Crook County shall require the maximum achievable setback.

The County shall investigate declaring an ordinance violation to be a "nuisance" thereby allowing a private party to bring suit enforcing the county's ordinance provisions.

6. The County shall require, as a condition of development approval, that all new rural residential development in the Powell Butte area pay system development charges (SDC's) necessitated by Powell Butte rural residential development. The County currently funds road improvements from the earnings it receives from invested timber receipts. Prior to using property tax receipts for road improvements, the County shall adopt SDC's sufficient to cover one hundred percent (100%) of the applicable road capital improvements required to support new rural residential development in Powell Butte.

In this regard, the County shall promptly adopt a system development charge ordinance to assess a road system development charge on new development. The amount of this system development charge shall be sufficient to recover a significant portion of the capital costs of road improvements required as a result of rural residential development in Powell Butte. Nothing in this ordinance shall preclude the County from applying system development charges to other classes of property or in other areas of Crook County. In the event that a developer desires to proceed with development prior to the adoption of the system development charge ordinance, he or she shall pay the sum of \$2,000 per single family dwelling at the time of building permit issuance. In the event that the adopted system development charge is less than \$2,000, the difference shall be refunded to the developer without interest. In the event that the adopted system development charge exceeds \$2,000, the developer shall be obligated to pay the difference.

7. The County shall comply with the transportation planning rule when it adopts the zoning ordinances.

8. The zoning ordinances shall require developers to execute covenants of nonremonstrance in respect to all farm operations in favor of adjacent EFU land. These covenants shall be in the form of equitable servitudes and shall be binding on all heirs, devisees, legatees, vendees, and successors in interest of the developers. The County shall require such covenants to be executed and recorded at the time the building permit is issued.

9. The County will develop its zoning and land development ordinances utilizing the Gannet Study ("Groundwater Availability In The Powell Buttes Area, Central Oregon" Groundwater Report No. 32) recommendations on accessibility of groundwater in the Powell Butte Areas, and will require access to the regional water supply as a condition of development, or use of water from a water district or public utility. Private exempt wells in existence prior to March 1, 2000 shall be exempt from the requirements contained in the zoning and land development ordinances pertaining to wells.

Section Four. This ordinance shall serve as the County's decision on remand from LUBA Case Nos. 98-221 and 98-224.

Section Five. This ordinance shall become effective immediately as an emergency exists.

CROOK COUNTY

Fred W. Rodgers
Judge Fred Rodgers

Mike McCabe
Commissioner Mike McCabe

Jerry Crafton
Commissioner Jerry Crafton



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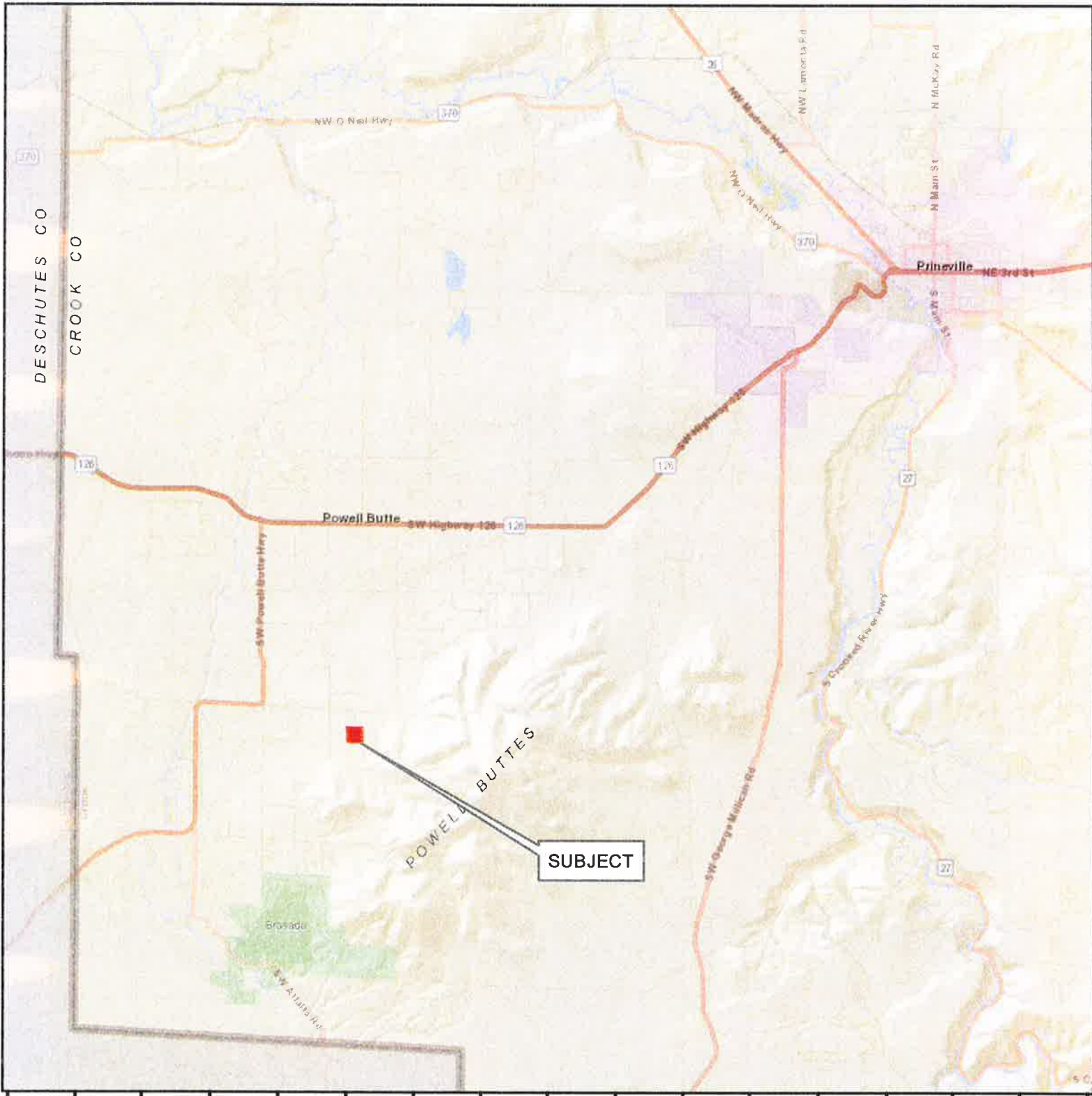
KEY PUNCHED

JUL 31 2000

STATE OF OREGON } SS 156817
COUNTY OF CROOK }
I CERTIFY THAT THE WITHIN INSTRUMENT WAS
RECEIVED FOR RECORD ON THE 27th DAY OF
July, 2000 AT 9:00 A M.
AND RECORDED IN CJRN
RECORDS OF SAID COUNTY MF NO. 156817
DEANNA E. BERMAN, CROOK COUNTY CLERK
BY: *Deanna E. Bermer* DEPUTY

N/C

VICINITY MAP



4/18/2024

0 1 2 3 4 5 6 7 8 Miles

Note: This information is prepared for reference purposes only and should not be used, and is not intended for, survey or engineering purposes. Kilpatrick Consulting LLC is not responsible for outsourced data accuracy. This exhibit by Kilpatrick Consulting and does not represent any legal opinion.



MARTIN NEUMUELLER

161411 TL 700 - 40.00 ac.
 Located West of Powell Buttes
 in Crook County, Oregon

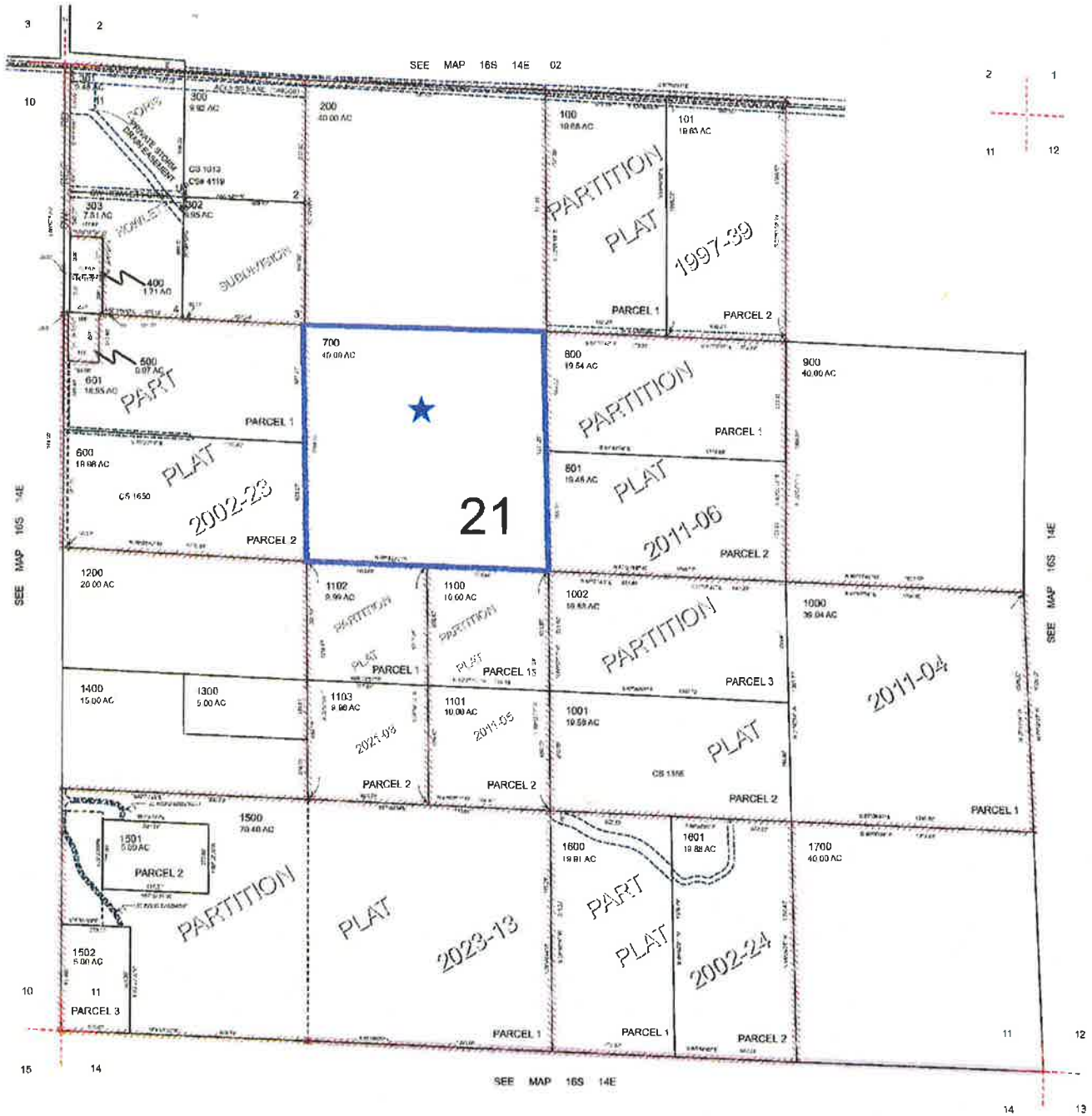
Kilpatrick
CONSULTING, LLC
 LAND USE CONSULTING SERVICES
 GIS MAPPING SERVICES
 OFFICE:
 541.447.2724

ASSESSOR'S MAP

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



SECTION 11 T.16S. R.14E. W.M.
CROOK COUNTY
1" = 400'



Data Source: ORMAP website - Apr. 15, 2024

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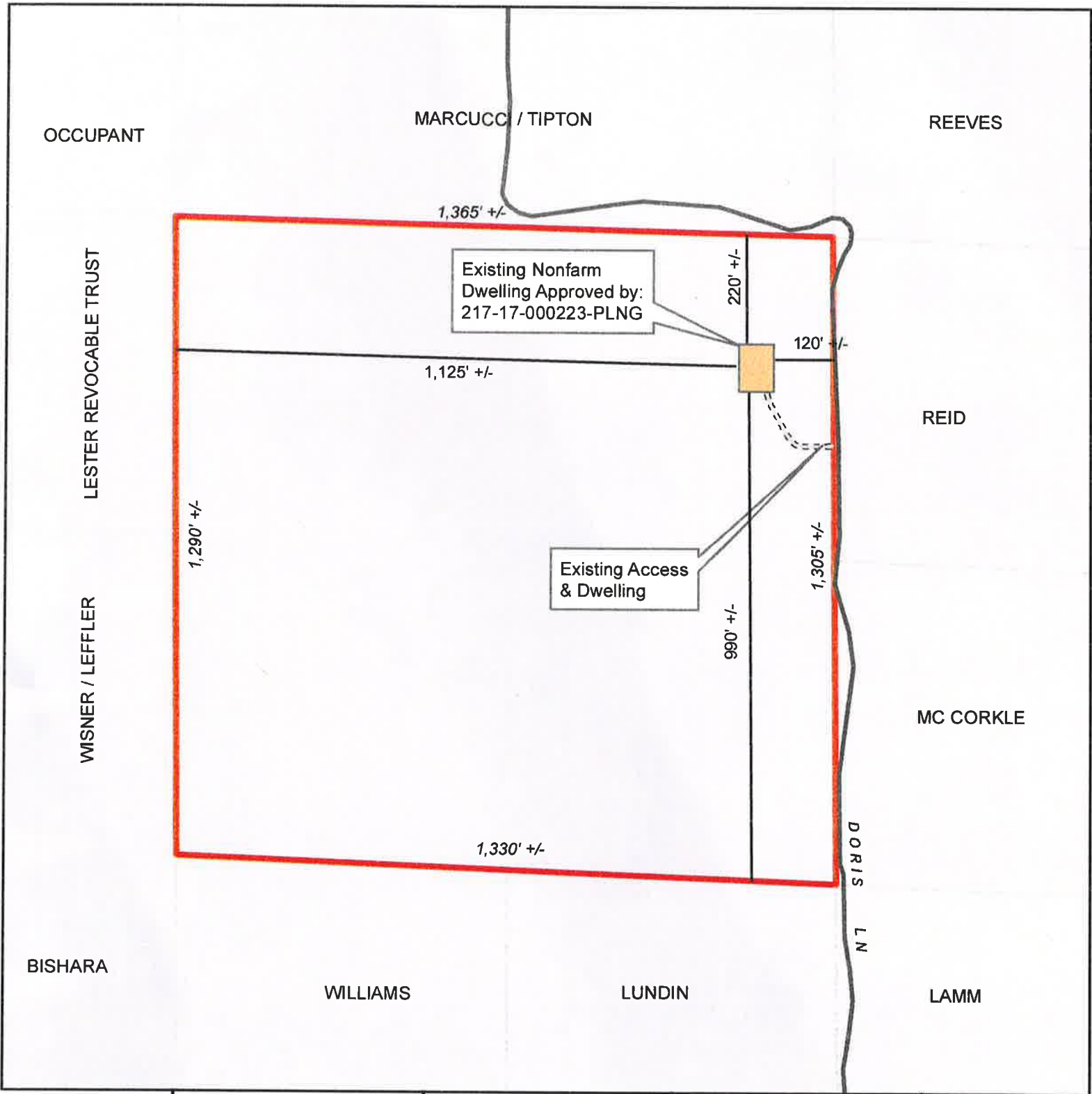
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Located West of Powell Buttes
in Crook County, Oregon

Kilpatrick
CONSULTING, LLC

LAND USE CONSULTING SERVICES
GIS MAPPING SERVICES

OFFICE:
541.447.2724

EXHIBIT B1 - EXISTING PROPERTY w DIMENSIONS



4/18/2024

0

500

1,000

1,500 Feet

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MARTIN NEUMUELLER

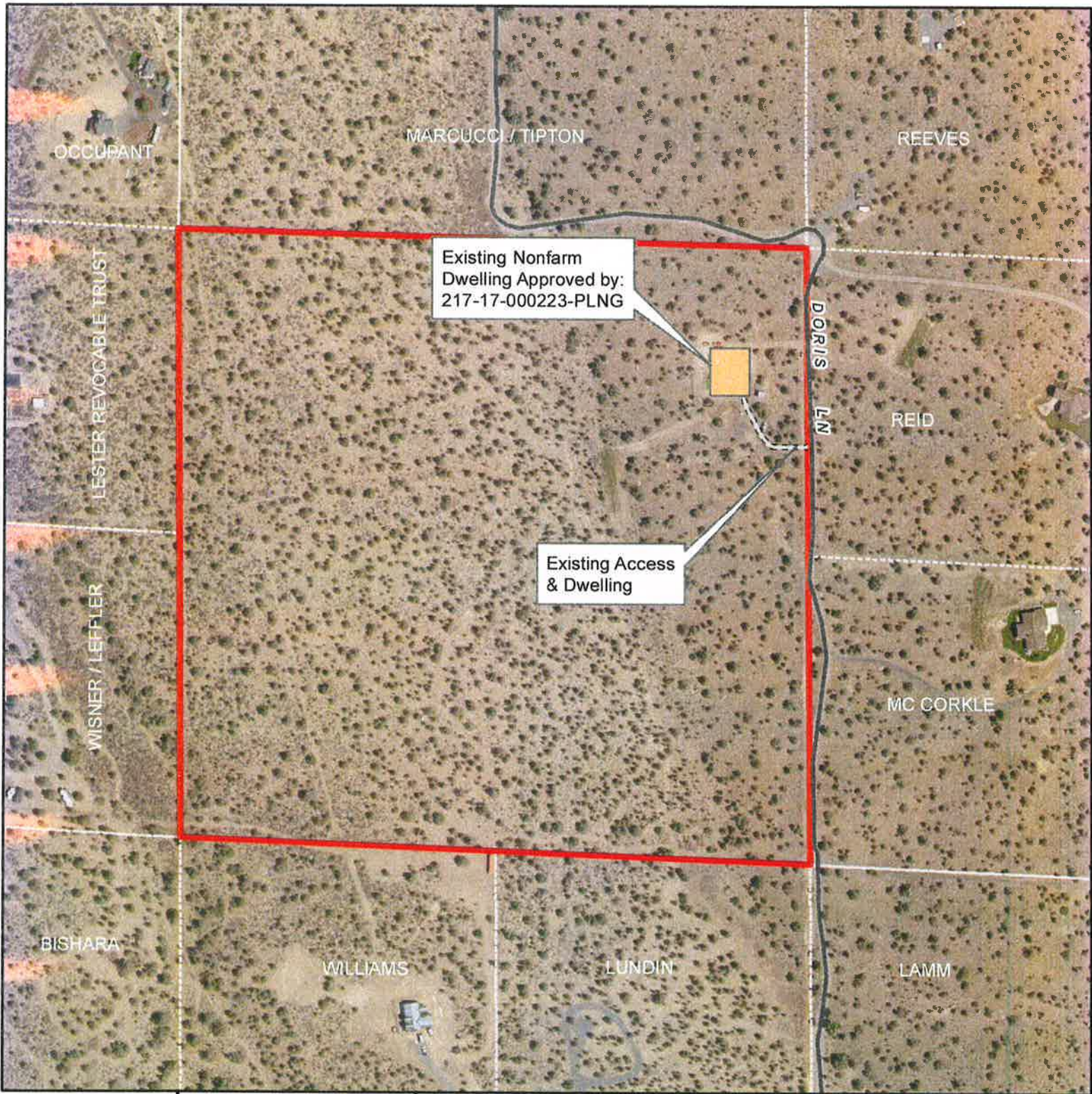
161411 TL 700 - 40.00 ac.
 Located West of Powell Buttes
 in Creek County, Oregon

Kilpatrick
CONSULTING, LLC

LAND USE CONSULTING SERVICES
 GIS MAPPING SERVICES

OFFICE:
 541.447.2724

EXHIBIT B2 - EXISTING PROPERTY w 2022 AERIAL



4/18/2024

0

500

1,000

1,500 Feet

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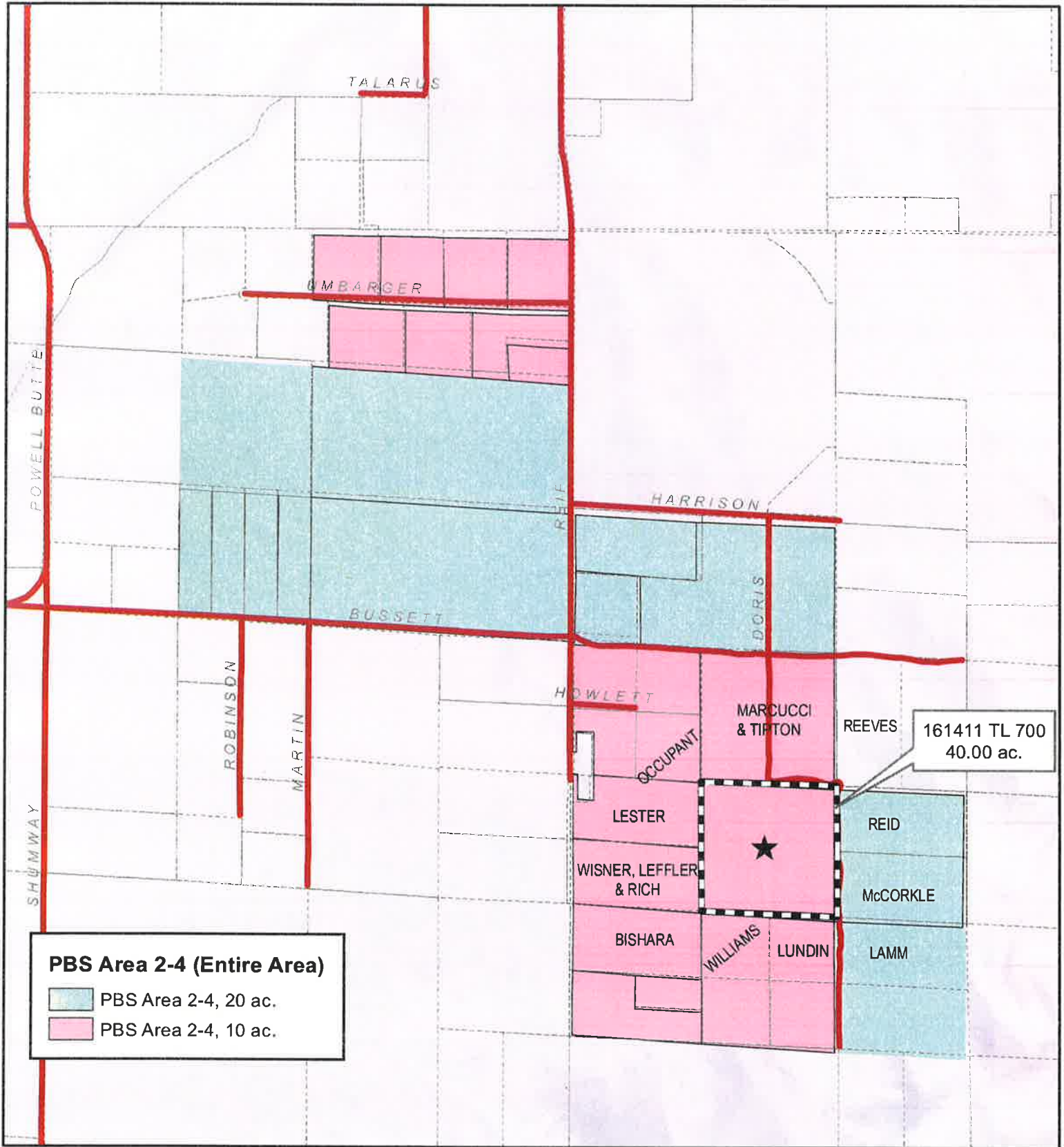
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Kilpatrick
CONSULTING, LLC

LAND USE CONSULTING SERVICES
 GIS MAPPING SERVICES

OFFICE:
 541.447.2724

EXHIBIT C - POWELL BUTTE STUDY AREA 2-4



PBS Area 2-4 (Entire Area)

- PBS Area 2-4, 20 ac.
- PBS Area 2-4, 10 ac.

4/18/2024

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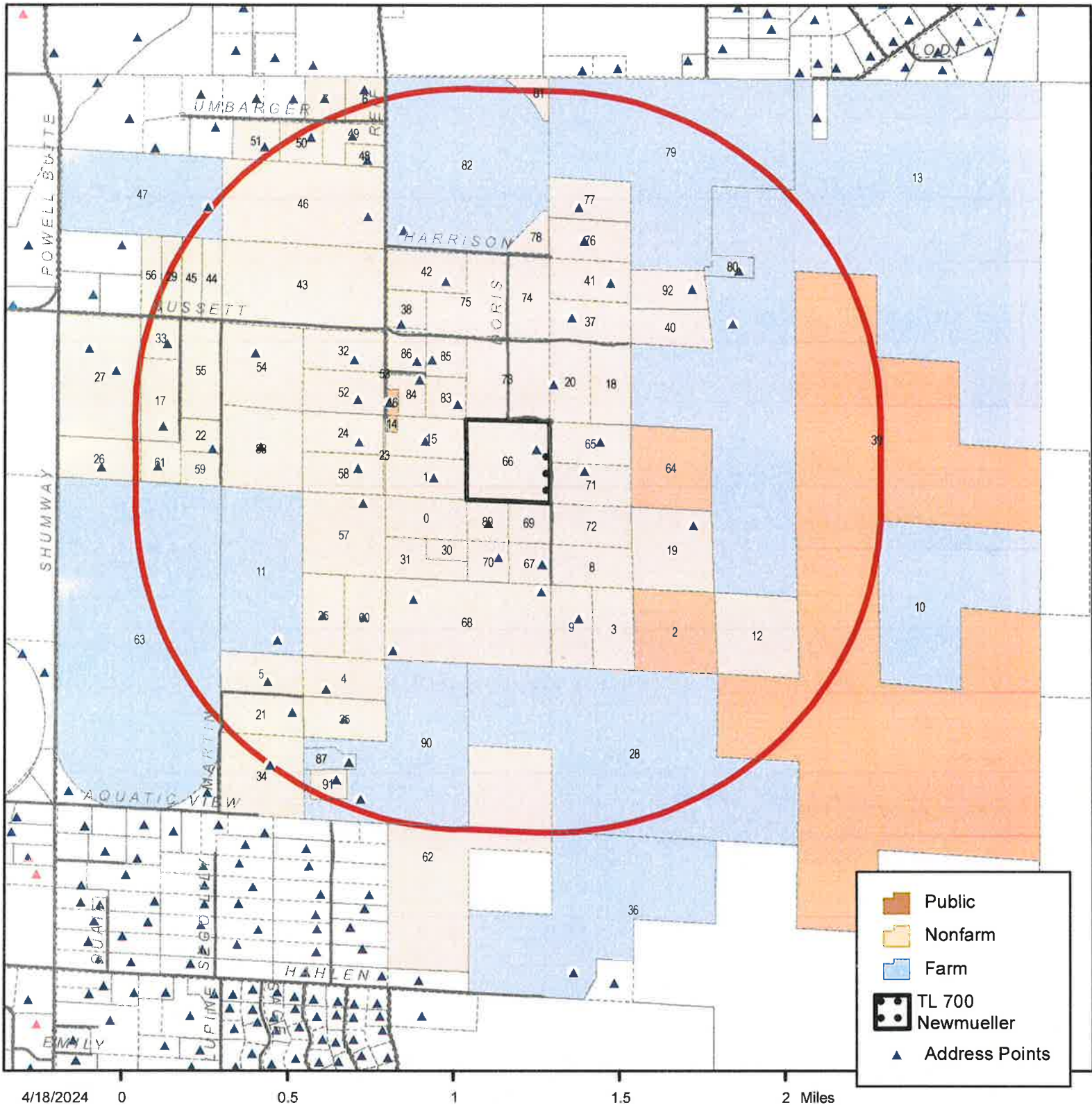
161411 TL 700 - 40.00 ac.
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 CONSULTING, LLC

LAND USE CONSULTING SERVICES
 GIS MAPPING SERVICES

OFFICE:
 541.447.2724

EXHIBIT D - 1 MILE STUDY AREA PB 2-4 ZONE MAP AMENDMENT



	Public
	Nonfarm
	Farm
	TL 700 Newmueller
	Address Points

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MARTIN NEUMUELLER

161411 TL 700 - 40.00 ac.
Located West of Powell Buttes
in Creek County, Oregon

Kilpatrick
CONSULTING, LLC

LAND USE CONSULTING SERVICES
GIS MAPPING SERVICES

OFFICE:

Neumeuller: Powell Butte Study Area 2-4 Rezone 1 Mile Data

Map ID#	Line No.	Own No.	PB 2-4 Area	Map Taxlot	Dwell Y/N Yr	Owner	Actual Acres	Prop Class
50	19	24	X-8	1614030000400	Y/99	GRANGER SCOTT C	10.00	471
7	20	25	X-9	1614030000502	Y/18	LIKENS GARRY L & KATHRYN A TRUSTEES	10.00	471
51	21	26	X-10	1614030000504	Y/21	CALCOTE ROBERT & JUDY	10.80	471
46	22	27	X-11	1614030000900	Y/89	ROBERTS PHILLIP	79.39	401
43	23	28	X-12	1614030001000	Y/YR?	FLOYD JAMES S & KATHERINE I	78.19	401
44	24	29	X-13	161403CD00100	N	MENDEZ EDUARDO G AND MENDEZ YOLANDA	9.45	400
45	25	29	X-14	161403CD00200	N	MENDEZ EDUARDO G AND MENDEZ YOLANDA	9.45	400
29	26	29	X-15	161403CD00300	N	MENDEZ EDUARDO G AND MENDEZ YOLANDA	9.45	400
56	27	29	X-16	161403CD00400	N	MENDEZ EDUARDO G AND MENDEZ YOLANDA	9.45	400
32	28	30		1614100000200	MH/98	SIMPSON BRENT A & STEALEY KELSEY A	18.87	409
52	29	31		1614100000300	MH/76	BYERS JORENE	18.87	409
23	30	32		1614100000400	N	CHAPMAN FAMILY TRUST	0.91	470
24	31	33		1614100000401	Y/03	OTT CARL E & SHELBY M & OTT JUANITA R	19.16	471
58	32	34		1614100000402	Y/00	GLAVE FAMILY TRUST	19.16	471
54	33	35		1614100000500	Y/22	MACROSTIE MORGAN S & AMY J	79.40	401
88	34	36		1614100000501	N	SHEEHAN VICTOR M & GLORIA M	79.40	400
56	35	37		1614100000600	N	MARTIN REX W	23.09	400
22	36	38		1614100000700	Y/00	CAGLEY SAMUEL D AND CAGLEY JANET G	7.85	401
59	37	39		1614100000800	N	MARTIN BOYD AND RHONDA	7.84	400
61	38	40		1614100000900	Y/97	SIPE MICHAEL & COE-SIPE CATHIE	10.00	471
17	39	41		1614100001000	Y/97	ROUFS RENEE A	19.25	471
33	40	42		1614100001100	Y/99	RITTER JASON B & JESSICA	9.63	471
27	41	43		1614100001200	MH/92	SHILOH RANCH COWBOY CHURCH	56.89	471
26	42	44		1614100001201	Y/19	HARRIS KRISSA & LOGAN F	19.69	401
57	43	45		1614100001300	Y/98	KNIGHT DONALD C JR	39.23	401
25	44	46	X-17	1614100001400	N	BROWN PATRICIA S	19.62	470
60	45	47		1614100001401	Y/17	SEIFFERT DAVID W & DEBRA A, TRUSTEES	19.62	471
20	46	48		1614110000100	Y/95	REEVES DARREN L & TAMMIE	19.66	471
18	47	49		1614110000101	N	DALTON JACK C & DORIS J TRUSTEES	19.63	470
73	48	50	X-18	1614110000200	N	MARCUCCI LOGAN C & TIPTON TYLER P	40.00	400
85	49	51	X-19	1614110000300	MH/78	MANSELL DONALD ERNEST & ELIZABETH YVONNE	0.00	401
86	50	52	X-20	1614110000301	Y/18	KINGREY JASON & SUZIE	0.00	401
83	51	53	X-21	1614110000302	Y/22	OCCUPANT	0.00	401
84	52	54	X-22	1614110000303	Y/18	WHITAKER KEVIN & MELANIE	0.00	401
1	53	55	X-23	1614110000600	Y/96	WISNER PETE J LEFELER KEITH B & RICH MAK	19.98	401
15	54	56	X-24	1614110000601	Y/12	LESTER REVOCABLE TRUST	18.95	401

General One Mile Study Area Notes

05/20/2024

The applicant has elected to submit general notes and data for an “One-Mile Study Area” solely for the purpose of better describing the uses in the immediate area. A quick look at the map exhibit labeled “1 Mile Study – PB 2-4 Rezone” gives a visual reference for the area. The One Mile Data Sheets list the 93 parcels in the study area. Only a portion of the Study Area were included in Powell Butte Area 2-4.

Surrounding

Land Uses: To the **north** of the Neumueller property is a single vacant parcel (EFU-3) measuring 40.0 acres (Marcucci & Tipton, 1614110000200).

To the **northeast** is an improved EFU-3 parcel measuring 19.66-acres with a non-farm 1995 dwelling.

To the **east** of the subject property are two parcels (PBR-20), one parcel (Reid) 1614110000800 measures 19.54-acres with a 2017 dwelling. The other parcel is zoned R-10 (McCorkle) 1614110000801 measuring 19.46-acres with a 2015 non-farm dwelling.

To the **southeast** is a vacant 19.58-acre non-farm PBR-20 parcel (Lamm) 161411000 1002.

To the **south** are two R-10 parcels; one, a vacant parcel (Lundin) 16141100001000, measuring 10-acres. The other is a 9.99-acre parcel (William) 16141100001102 with a 2022 non-farm dwelling.

To the **southwest** is a vacant EFU-3 parcel (Bishara) 16141100001200 measuring 20-acres in size.

To the **west** is a non-farm EFU-3 parcel (Wisner) 16141100000600 measuring - acres with a 1996 non-farm dwelling. Also, to the **west** is an (EFU-3) parcel measuring 18.95-acres (Lester Trust) 161411000601) with a 2012 non-farm dwelling.

Lastly, to the **northwest** is a 9.95-acre R-10 parcel (Occupant, information suppressed) 161411000302 with a 2022 non-farm dwelling.

Note: Those surrounding EFU-3 parcels that have not been rezoned or were not included in earlier rezoning efforts remain eligible for re-zoning under the provisions of the Powell Butte Study and Settlement (Powell Butte 2-4 Area). None include active farm uses; none are irrigated and none are located within the boundaries of the Central Oregon Irrigation District.

Farm Uses in the

General Area: The farm uses closest to the subject property are approximately one-half mile away or greater. None of the farm parcels in the general area are adjacent to the subject property. There are twelve farm parcels within a one-mile area. Three of the twelve are irrigated. Five of the farm parcels (42%) have dwellings.

The Crook County Court determined, and DLCD acknowledged, that the Powell Butte 2-4 Area consists of non-resource parcels that qualified under an irrevocably committed exception. Parcels surrounding the Subject Parcel are either previously rezoned or eligible for rezoning to either the R-10 or R-20 zone. According to the Powell Butte Agreement it was determined that it would be the responsibility of the property owners to ask for the map change to rezone their properties.

Non-farm Uses in the

General Area: There are seventy-five non-farm parcels in the one-mile study area. Forty-seven or sixty-two percent (62%) have dwellings. The earliest of the dwellings was built in 1976 and the latest built in 2022.

There are presently thirty-eight parcels located within the Powell Butte Study Area 2-4. Of the thirty-eight parcels, fourteen are vacant twenty-four (63%) have dwellings.

Conclusion: The Applicant requests a Zone Map Amendment (ZMA) changing the property to R-10 zoning based upon the irrevocably committed exception adopted on December 2, 1998 and the supporting documentation included herein.

Thank you for your consideration,



Land Use Consultant

RECORDING COVER SHEET

Any errors in this cover sheet DO NOT affect the transactions(s) contained in the instrument itself.

STATE OF OREGON } ss 2009102
COUNTY OF CROOK }

I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE 16th DAY OF December, 2009, AT 4:20 P. M.

AND RECORDED IN CJRNL

RECORDS OF SAID COUNTY MF NO. 2009-102

DEANNA E. BERMAN, CROOK COUNTY CLERK

BY Deanna E. Berman DEPUTY

N/C

AFTER RECORDING RETURN TO:

CLERK'S VAULT



NAME OF TRANSACTION

Ordinance 219

An Ordinance of the Crook County Court amending the Crook County Zoning Map to rezone 223.6 acres from Exclusive Farm Use EFU-3 to Rural Residential R-10 and PBR 20

GRANTOR: CROOK COUNTY

RECORDING COVER SHEET

Any errors in this cover sheet DO NOT affect the transactions(s) contained in the instrument itself.

STATE OF OREGON } ss 2009102
COUNTY OF CROOK }

I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE 16th DAY OF December 20 09 AT 4:20 P. M.

AND RECORDED IN CJRNL
RECORDS OF SAID COUNTY MF NO. 2009-102

DEANNA E. BERMAN, CROOK COUNTY CLERK
BY Deanna E. Berman DEPUTY

N/C

AFTER RECORDING RETURN TO:

CLERK'S VAULT



NAME OF TRANSACTION

Ordinance 219

An Ordinance of the Crook County Court amending the Crook County Zoning Map to rezone 223.6 acres from Exclusive Farm Use EFU-3 to Rural Residential R-10 and PBR 20

GRANTOR: CROOK COUNTY

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

AN ORDINANCE OF THE CROOK
COUNTY COURT AMENDING THE
CROOK COUNTY ZONING MAP TO
REZONE 223.6 ACRES FROM
EXCLUSIVE FARM USE EFU-3 TO
RURAL RESIDENTIAL R-10 AND PBR
20.

Ordinance No. 219

WHEREAS, the Crook County Planning Commission has recommended that the Crook County Zoning Map be amended to rezone the subject properties from Exclusive Farm Use EFU-3 to Rural Residential R-10 and from EFU-3 to PBR-10 as follows

T16S, R14E, Sec (02) Index, Tax Lot 602	18.95 acres	PBR-20
T16S, R14E, Sec (02) Index, Tax Lot 604	48.62 acres	PBR-20
T16S, R14E, Sec. 11, Tax Lot 800	39.0 acres	PBR-20
T16S, R14E, Sec. 11, Tax Lot 1000 western portion, 39.1 acres		PBR-20
T16S, R14E, Sec. 11, Tax Lot 300	37.92 acres	R-10
T16S, R14E, Sec. 11, Tax Lot 1100	40.0 acres	R-10

WHEREAS, the zoning map amendment is authorized by Title 18 Chapter 18.168 and the Comprehensive Plan of Crook County;

NOW, THEREFORE, this 16th day of Dec 2009, the Crook County Court ordains as follows:

SECTION ONE. *Amendment.* Ordinance 18 is amended by changing the zoning for

T16S, R14E, Sec (02) Index, Tax Lot 602

Parcel 2 of Partition Plat No. 2004-14, Recorded June 16, 2004 in Partitions MF No. 191169, Records of Crook County, Oregon, Located in a portion of the SW1/4 of Section 2, Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon.

to PBR-20

T16S, R14E, Sec (02) Index, Tax Lot 604

Parcel 1 of Partition Plat No. 2004-14, Recorded June 16, 2004 in Partitions MF No. 191169, Records of Crook County, Oregon, Located in a portion of the SW1/4 of Section 2, Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon.

to PBR-20

T16S, R14E, Sec. 11, Tax Lot 800

A portion of Parcel Three (3) of Partition Plat No. 1996-47, Recorded October 16, 1996 in Partitions MF No. 130359, Records of Crook County, Oregon, more particularly described as follows: The Southwest one-quarter of the Northeast one-quarter (SW1/4NE1/4) of Section 2, Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon.

to PBR-20

T16S, R14E, Sec. 11, the western portion of Tax Lot 1000, more particularly described as follows:

In Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon: Section 11: The Northwest quarter of the Southeast quarter

to PBR-20

T16S, R14E, Sec. 11, Tax Lot 300

In Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon:

Section 11: The Northwest quarter of the Northwest quarter, EXCEPTING THEREFROM a tract of land 208 feet square located in the Southwest corner thereof heretofore deeded to the Trustees of Powell Butte Cemetery Association by deed recorded in Book 47 of Deeds at page 243, Records of Crook County, Oregon.

ALSO EXCEPTING THEREFROM The West 30 feet of the Northwest quarter of the Northwest quarter as deeded to Crook County Cemetery Improvement District by deed recorded April 9, 1986, Microfilm No. 79071, Records of Crook County, Oregon.

ALSO EXCEPTING THEREFROM A tract of land located in the Northwest quarter of the Northwest quarter of Section 2, Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon, more particularly described as follows:
Commencing at the Southwest corner of said NW1/4NW1/4, thence North 0°57'20" East along the West line of said Section 2 a distance of 208 feet to a point being the NW corner of that tract of land deeded to the Crook County Cemetery District by deed recorded in Deed Book 90 on page 223, Records of Crook County, Oregon; thence South 86°18'33" East along the North line of said cemetery tract a distance of 3003 feet to the True Point of Beginning of this legal description; thence South 86°18'33" East along the North Line of said cemetery tract a distance of 1797 feet to the NE corner of said cemetery tract; thence North 0°57'20" East a distance of 208 feet; thence North 86°18'33" West a distance of 177.97 feet; thence South 0°57'20" West a distance of 208 feet to the True Point of Beginning, by deed recorded April 9, 1986, Microfilm No. 79072, Records of Crook County, Oregon

to R10

T16S, R14E, Sec. 11, Tax Lot 1100 40.0 acres

In Township 16 South, Range 14 East of the Willamette Meridian, Crook County, Oregon.

Section 11: The Northeast quarter of the Southwest quarter.

to R10

SECTION TWO. *Findings.* The Crook County Court adopts the findings attached herein as its findings in support of its Decision.

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SECTION THREE. *Emergency.* This Ordinance being necessary for the health, welfare and safety of the people of Crook County, an emergency is hereby declared to exist and this Ordinance shall become effective upon signing.

First Reading 12-3, 2009


Second Reading 12-14, 2009

Dated this 16th day of Dec, 2009.

CROOK COUNTY COURT



Judge Mike McCabe

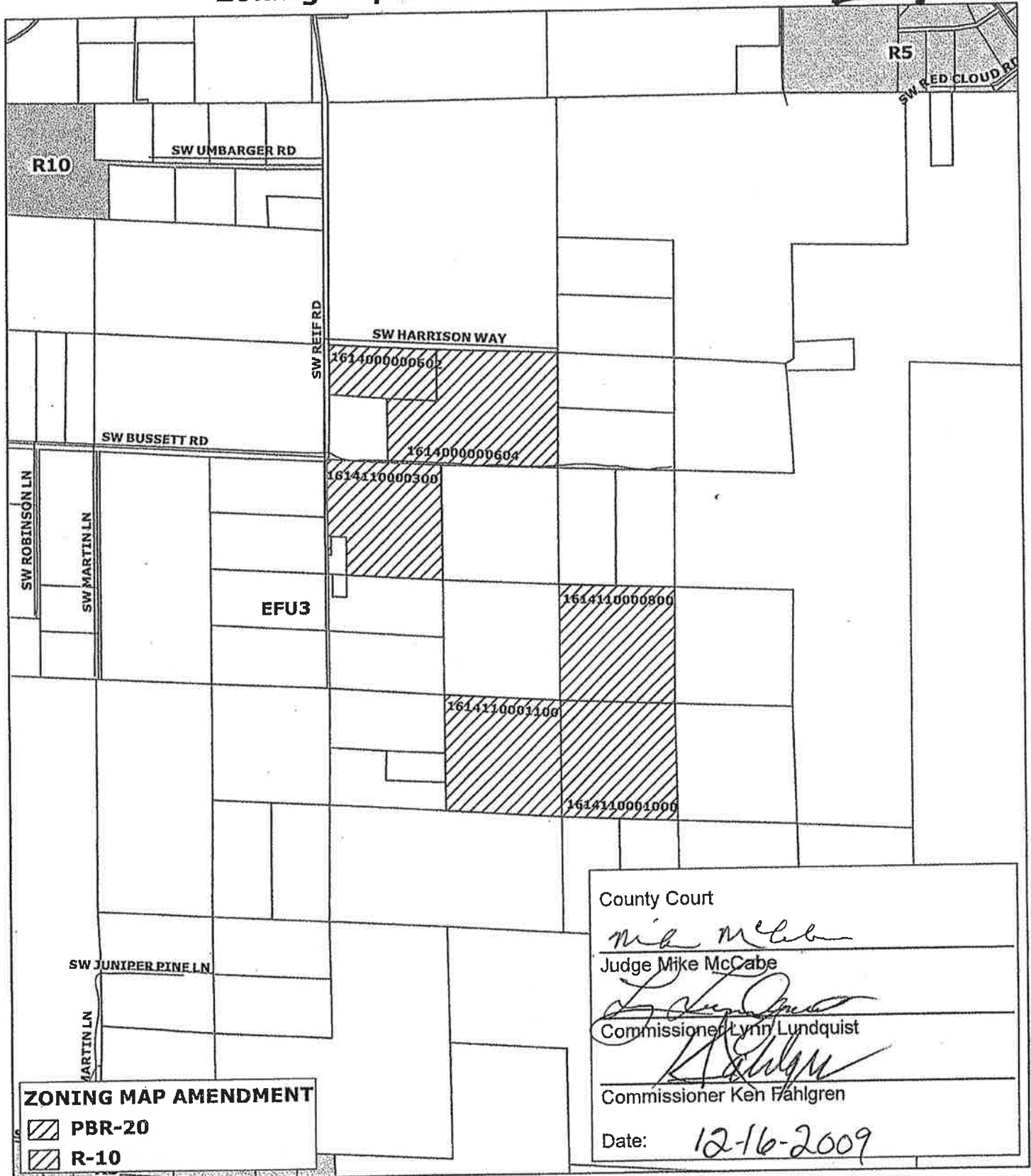


Commissioner Lynn Lundquist





Commissioner Ken Fahlgren

Zoning Map Amendment-Ordinance No. 219



ZONING MAP AMENDMENT

 **PBR-20**
 **R-10**

County Court

Mike McCabe
 Judge Mike McCabe

Lynn Lundquist
 Commissioner Lynn Lundquist

Ken Fahlgren
 Commissioner Ken Fahlgren

Date: 12-16-2009

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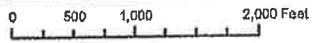
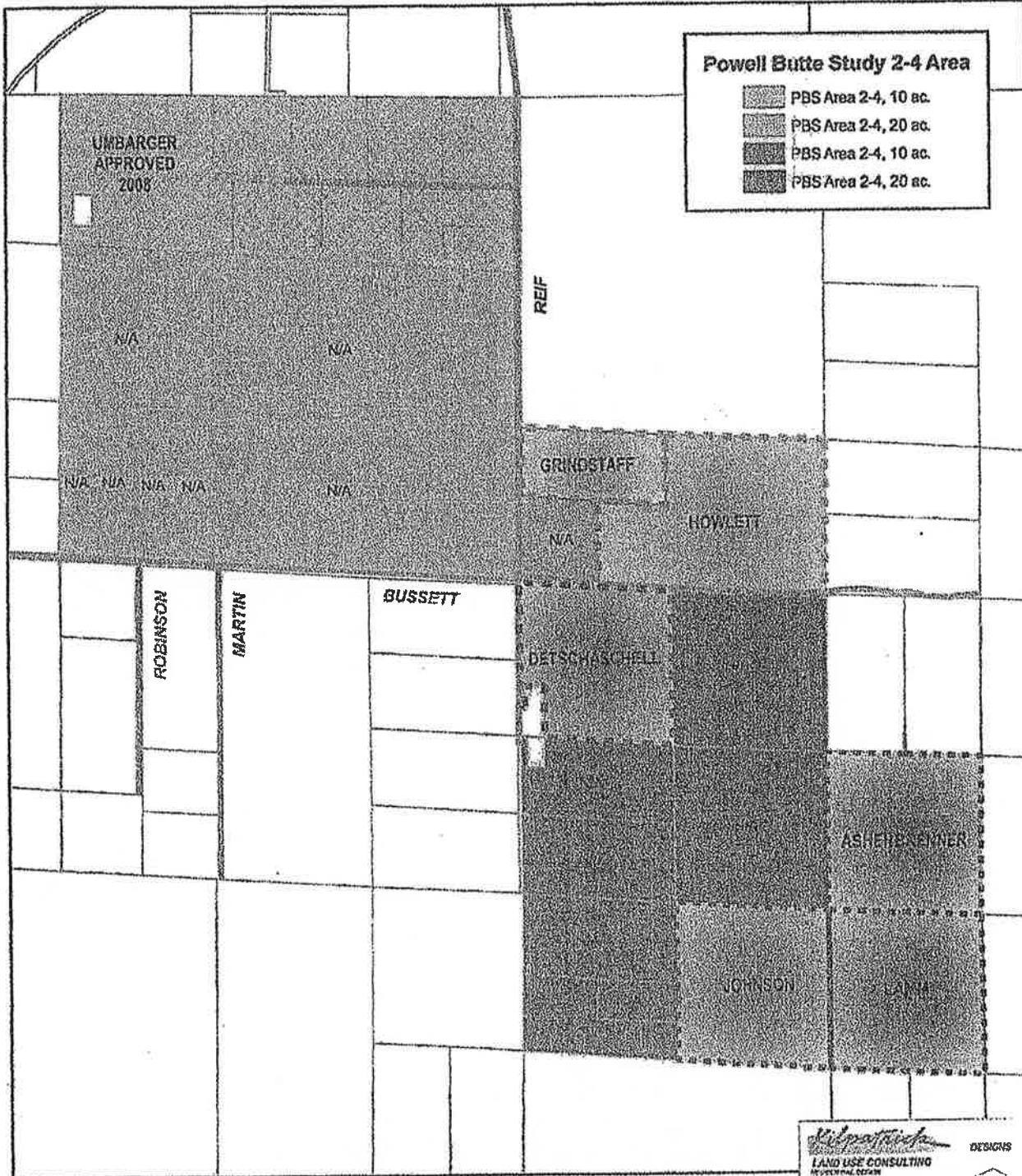


Exhibit C - Powell Butte Study Area 2-4

■ Approved

■ ■ ■ Proposed



Disclaimer: This information is prepared for reference purposes only and should not be used, and is not intended for, survey or engineering purposes.

Kilpatrick
 LAND USE CONSULTING
 541-447-2726 • ekilpatrick@nh.oe.com

DESIGNS

Neumueller- -Powell Butte Study Area 2-4 Zone Map Amendment

May 22, 2024

1) Table of Contents	RECEIVED	Y
2) CC Land Use Application – Map Amendment		Y
2a) Owner Signature	MAY 29 2024	N/A
2b) Agent Signature	Crook County Community Development	Y
3) Owner Letter of Authorization, signed		Y
4) Applicant’s Summary Response		Y
5) Crook County Property Summary		Y
6) Applicant’s Burden of Proof Statement		Y
7) Tax Lot Card (1) 1614110000700		Y
8) Warranty Deed MF # 2016-277061		Y
9) Complete Powell Butte Study Documents		Y
10) Ordinance 127 Amendment and Amendment 1		Y
11) Vicinity Map		Y
12) Map Exhibit A Assessors Map		Y
13) Map Exhibit B-1 Existing Property w Dimensions		Y
13) Map Exhibit B-2 Existing Property w 2022 Aerial		Y
14) Map Exhibit C – Powell Butte Study 2-4 with Adjacent Owners		Y
15) Map Exhibit D – 1 Mile Study Area – PB 2-4 Zone Map Amendment		Y
16) 1 Mile Study Area Data Sheets (3)		Y
17) General One Mile Study Area Notes May 20, 2024		Y
Reference:		
18) Ordinance 219, As an example		Y