



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

March 1, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Sutherlin Plan Amendment  
DLCD File Number 003-05



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 6, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
John Renz, DLCD Regional Representative  
Eric Fladager, City of Sutherlin

<paa> ya

**FORM 2 Notice of Adoption**

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE STAMP  
DEPT OF  
FEB 23 2006  
LAND CONSERVATION  
AND DEVELOPMENT  
For DLCD Use Only

Jurisdiction: City of Sutherlin Local file number: PA/ZC-2005-10-03

Date of Adoption: 2/13/2006 Date Mailed: 2/17/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 10/24/2005

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

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

**Rezone 1.77 acres to R-3 from R-1 and C-3. Change Comprehensive Plan designation on same property to High Density Residential from Low Density Residential and Community Commercial.**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

**Same**

Plan Map Changed from: Low Density Residential & to: High Density Residential

Zone Map Changed from: R-1 and C-3 to: R-3

Location: Between golf course & Ray's Food Acres Involved: 1.77

Specify Density: Previous: Mixed New: 14 units in 1.77 ac.

Applicable Statewide Planning Goals: 1-14

Was and Exception Adopted?  YES  NO

DLCD File No.: 003-05 (14766)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

**ODOT, Douglas County**

Local Contact: **Eric Fladager** Phone: **(541) 459-2856** Extension: **206**

Address: **126 E. Central Ave.** City: **Sutherlin**

Zip Code + 4: **97479-** Email Address: **e.fladager@ci.sutherlin.**

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: 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 not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

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

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 965

**AN ORDINANCE AMENDING THE CITY OF SUTHERLIN COMPREHENSIVE PLAN MAP AND ZONING MAP TO REDESIGNATE AND REZONE PROPERTY FROM COMMUNITY COMMERCIAL/C-3 AND LOW DENSITY RESIDENTIAL/R-1 TO HIGH DENSITY RESIDENTIAL/R-3.**

**The City Council of the City of Sutherlin finds that:**

A. On October 3, 2005, Don Bentz and Mike Parker, dba Oak Hills Plaza LLC, submitted applications to change the zoning and Comprehensive Plan designation of a 1.77-acre parcel from C-3 (Community Commercial) and R-1 (Low Density Residential) to R-3 (High Density Residential). The property is identified as Tax Lot 313 in Douglas County Assessor's Map T25 R05W S19B, and further described in Exhibit A and depicted as Parcel 2 in Exhibit B attached hereto and incorporated herein.

B. The Sutherlin Planning Commission held a public hearing on December 20, 2005 to consider the requested plan amendment and zone change. Following the public hearing, the Commission passed a motion to recommend approval of the proposed amendments to the Sutherlin Comprehensive Plan Map and Zoning Map to implement the requested zone change from C-3 and R-1 to R-3, subject to the following conditions:

1. The owner(s) of the subject property shall work with the owner(s) of the adjacent commercial PUD property to uncover all paved-over manholes, lampholes, and water valves so they can be inspected and mapped by the Sutherlin Public Works Department prior to the submittal of a development plan for the subject property.
2. Documentation of appropriate access easement rights shall be provided to the City prior to submittal of a development plan for the site.

C. Pursuant to Section 17.100.130 of the Sutherlin Municipal Code, notice of a public hearing before the City Council was given, and the public hearing on the requested Comprehensive Plan and Zoning Map amendments was conducted on February 13, 2006.

D. The proposed amendments to the Sutherlin Comprehensive Plan Map and the Sutherlin Zoning Map to implement the requested zone change are found to be consistent with the Statewide Planning Goals and in conformance with the Comprehensive Plan. The City Council also finds that the site is suitable to the proposed zone with respect to the public health, safety, and welfare of the surrounding area. The findings supporting these decisions are attached as Exhibit C hereto.

**THE CITY OF SUTHERLIN ORDAINS AS FOLLOWS:**

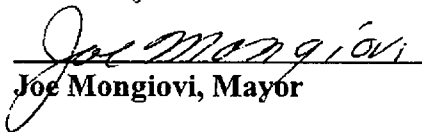
**Section 1.** Based on the above findings and the findings in Exhibit C, the Sutherlin Comprehensive Plan Map is hereby amended to change the Comprehensive Plan designation of the real property identified as Tax Lot 313, Assessor's Map T25S, R05W, S19B and more particularly described in Exhibit A and depicted in Exhibit B, which are attached hereto and made part of this ordinance, from Community Commercial and Low Density Residential to High Density Residential.

**Section 2.** The Sutherlin Zoning Map is hereby amended to change the zoning designation of the property described in Exhibit A and depicted in Exhibit B from C-3 and R-1 to R-3.

**Section 3.** The Sutherlin Comprehensive Plan Map and the Sutherlin Zoning Map shall be revised to depict the adopted amendments.

Passed by the Council on this 13<sup>th</sup> day of February, 2006.

Approved by the Mayor on this 14<sup>th</sup> day of February, 2006.

  
Joe Mongiovi, Mayor

ATTEST:



Vicki Luther, City Recorder

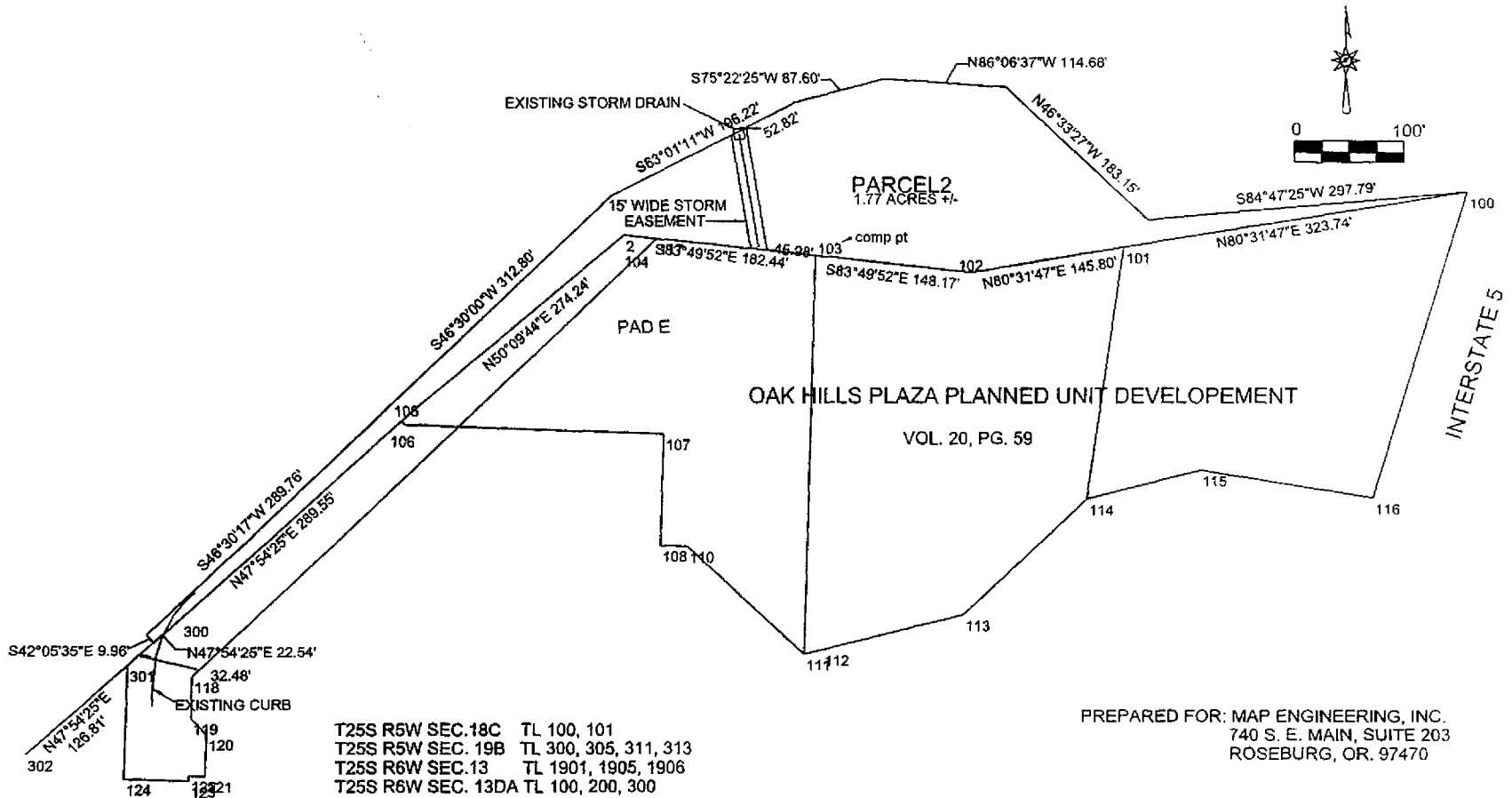
Exhibit A

A parcel of land lying in the Southwest quarter of Section 18 and the Northwest quarter of Section 19, Township 25 South, Range 5 West, Willamette Meridian, Douglas County, Oregon. Said parcel being more particularly described as follows:

Beginning at a 5/8" iron rod at the most northerly corner of Pad E, Oak Hills Plaza Planned Unit Development as recorded in Volume 20, Pg 59 of the Plat Records of Douglas County, Oregon; thence South 50° 09' 44" W 274.24 feet to a 5/8" iron rod; thence S 47° 54' 25" W 289.55 feet to a 5/8" iron rod; thence S 47° 54' 25" W 22.54 feet; thence N 42° 05' 35" W 9.97 feet; thence N 46° 30' 17" E 289.76 feet; thence N 46° 30' 00" E 312.80 feet; thence N 63° 04' 11" E 196.22 feet; thence N 75° 22' 25" E 87.60 feet; thence S 86° 06' 37" E 114.68 feet; thence S 46° 33' 27" E 183.15 feet; thence N 84° 47' 25" E 297.79 feet to a 5/8" iron rod, said rod being the Northeast corner of Pad G. Oak Hills Plaza Planned Unit Development; thence S80°31'47" W 323.74 feet to a 5/8" iron rod; thence S80°31'47" W 145.80 feet; thence N83°49'52" W 148.17 feet; thence N 83° 49' 52" W 182.44 feet to a 5/8" iron rod, the place of beginning.

Exhibit B

LYING IN THE SW 1/4 OF SEC. 18 AND THE NW 1/4 OF SEC. 19, T25S, R5W, W.M.  
DOUGLAS COUNTY, OREGON



T25S R5W SEC.18C TL 100, 101  
T25S R5W SEC. 19B TL 300, 305, 311, 313  
T25S R6W SEC.13 TL 1901, 1905, 1906  
T25S R6W SEC. 13DA TL 100, 200, 300

TOTAL AREA = 143.00 ACRES +/-

PREPARED FOR: MAP ENGINEERING, INC.  
740 S. E. MAIN, SUITE 203  
ROSEBURG, OR. 97470

PREPARED BY: NEIL HIBBS LAND SURVEYING, L.L.C.  
4739 LOOKINGGLASS RD.  
ROSEBURG, OR. 97470

**BEFORE THE SUTHERLIN CITY COUNCIL**

IN THE MATTER of a request for a zone change from R-1 and C-3 to R-3 on a 1.77-acre parcel located north of Dakota Street between the Oak Hills Golf Course and Ray's Food Place, and identified on the Douglas County Assessor's Map as T25, R05W, S19B, TL313.	] <b>FINDINGS OF FACT AND DECISION</b> ] ] Applicant: Oak Hills Plaza LLC ] Subject: Comprehensive Plan Map and ] Zoning Map Amendments ] File No.: PA/ZC-2005-10-03
---	---

**I. OFFICIAL NOTICE**

The Sutherlin City Council takes official notice of the following:

1. The Sutherlin Comprehensive Plan and the Sutherlin Municipal Code.
2. The Statewide Planning Goals.
3. The public notice records of the City of Sutherlin concerning this matter.
4. The records of the City of Sutherlin concerning the deliberations on this matter before the Sutherlin Planning Commission and the Sutherlin City Council, including the Staff Reports and all evidence and testimony submitted for consideration.

**II. PROCEDURAL FINDINGS OF FACT**

1. Don Bentz and Mike Parker, dba Oak Hills Plaza LLC, submitted applications for Comprehensive Plan Map amendment and Zoning Map amendment on October 3, 2005. The applicants are seeking to have the subject property rezoned from C-3 (Community Commercial) and R-1 (Low Density Residential) to R-3 (High Density Residential) to allow for subsequent residential development under the more flexible R-3 standards.
2. A Notice of Proposed Amendment was mailed to the Department of Land of Conservation and Development (DLCD) on October 24, 2005.
3. A copy of the Notice of Public Hearing was mailed to the Douglas County Planning Department on November 14, 2005, along with a letter describing the proposal.
4. On November 18, 2005, a Notice of Public Hearing before the Sutherlin Planning Commission was mailed to all record owners of property within 300 feet of the property proposed to be rezoned. The Notice was published in the *News-Review* on November 25, 2005.



5. The Planning Department received no correspondence from neighboring property owners concerning to the proposed map amendments.
6. This matter came before the Sutherlin Planning Commission for consideration on December 20, 2005. The Planning Commission heard the staff report, listened to public testimony, and passed a motion to recommend to the City Council that the applications for Comprehensive Plan Map amendment and zone change be approved with conditions.
7. On January 23, 2006, a Notice of Public Hearing before the Sutherlin City Council was mailed to all record owners of property within 300 feet of the property proposed to be rezoned. The Notice was published in the *News-Review* on January 20, 2006.
8. This matter came before the Sutherlin City Council for consideration on February 13, 2006. The City Council heard the staff report, listened to public testimony, and passed a motion to approve with conditions the proposed Comprehensive Plan Map amendment and Zoning Map amendment.

**Conclusion:** The procedural findings noted above are adequate to support the City Council's decision on the requested Comprehensive Plan Map amendment and Zoning Map amendment.

### **III. SUBSTANTIVE FINDINGS OF FACT**

State statute requires that proposed amendments to Sutherlin's Zoning Map and Comprehensive Plan Map be consistent with the Statewide Planning Goals. In addition, Section 17.12.060 of the Sutherlin Municipal Code (*Zone Changes*) provides specific local criteria for approving a zone change.

The requested amendments to the Zoning Map and Comprehensive Plan Map are measured here against these state and local criteria. The results of this analysis are presented as Findings of Fact below.

#### **CONSISTENCY WITH THE STATEWIDE PLANNING GOALS**

**Goal 1: Citizen Involvement.** To provide for widespread citizen involvement in the planning process, and to allow citizens the opportunity to review and comment on proposed changes to comprehensive land use plans prior to any formal public hearing to consider the proposed changes.

**Findings:** Statewide Planning Goal 1 requires cities and counties to create and use a citizen involvement process designed to include affected area residents in planning activities and decision-making. Since acknowledgement of the City's Comprehensive Plan, the Sutherlin Planning Commission has been responsible for ensuring continued citizen

involvement in planning matters and land use decisions. On November 18, 2005, City staff mailed copies of a Notice of Public Hearing to all owners of property within 300 feet of the subject parcel. The same notice was published in the News-Review, a local newspaper of general circulation, on November 25, 2005.

Following the Planning Commission's hearing, on January 23, 2006, a Notice of Public Hearing before the Sutherlin City Council was mailed to all owners of property within 300 feet of the subject parcels. The Notice of Public Hearing before the City Council was published in the *News-Review* on January 20<sup>th</sup>.

Written evidence relied on by the land use decision-making bodies (i.e. the applications and supporting material) was available for public review at Sutherlin City Hall seven days prior to the first public hearing. Sutherlin has fulfilled its citizen involvement process through early direct notification of nearby property owners, publication of a public hearing notice and contact information in the newspaper, and by facilitating informed public participation during the public hearing itself.

**Conclusion:** The City of Sutherlin concludes that the statewide goal of citizen involvement has been met through the mechanisms described above.

**Goal 2: Land Use Planning.** To establish a land use planning process and policy framework as a basis for all decisions and actions related to land use and to ensure a factual base for such decisions and actions.

**Findings:** Sutherlin's acknowledged Comprehensive Plan and implementing ordinances provide a State-approved process for land use decision making, and a policy framework derived from a proper factual base. The City's Comprehensive Plan and implementing ordinances provided the local criteria by which the applicants' request was judged. Because the subject property is within the Sutherlin city limits, no exception to statewide planning goals was necessary.

**Conclusion:** The statewide goal of land use planning has been met through the use of Sutherlin's acknowledged Comprehensive Plan and implementing ordinances in the analysis and processing of the Oak Hills Plaza LLC applications.

**Goal 3: Agricultural Lands.** To preserve and maintain agricultural lands.

**Goal 4: Forest Lands.** To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land....

**Findings:** The subject property is Parcel 2 of Partition Plat 2005-18, an irregularly shaped 1.77-acre parcel within the Sutherlin city limits. The property is located north of Dakota Street between the Oak Hills Golf Course and Ray's Food Place approximately 400

feet west of Interstate-5. The applicants' currently vacant parcel is sandwiched between a golf course fairway and the Oak Hills Plaza commercial PUD. The subject property does not contain agricultural or forest land.

**Conclusion:** The proposed Comprehensive Plan Map and Zoning Map amendments will not adversely impact agricultural lands as defined by Statewide Planning Goal 3, or forest lands as defined by Goal 4.

**Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources.** To protect natural resources and conserve scenic and historic areas and open spaces.

**Findings:** Statewide Planning Goal 5 requires local governments to adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. Goal 5 requires local governments to inventory natural resources such as wetlands, riparian corridors, and wildlife habitat. In addition, Goal 5 encourages local governments to maintain current inventories of open spaces, scenic views and sites, and historic resources. Significant sites must be identified and protected according to Goal 5 rules contained in the Oregon Administrative Rules, Chapter 660, Division 23.

Goal 5 resources within Douglas County and the City of Sutherlin have previously been inventoried and evaluated, and the City has recently completed a Local Wetlands Inventory. The subject property is surrounded by land designated for urban development and physically developed with a golf course to the north and a shopping center to the south. While a wetland mitigation project is located approximately 250 feet to the southeast, the property itself contains no wetlands, riparian corridors, or significant wildlife habitat. No known historic or cultural resources exist on the site, and the property contains no open spaces or scenic areas identified as significant by the City of Sutherlin or Douglas County.

**Conclusion:** Based on the above findings, the City of Sutherlin concludes that the requested map amendments will not conflict with or adversely impact Goal 5 resources. The requested Comprehensive Plan Map and Zoning Map amendments are therefore consistent with Goal 5.

**Goal 6: Air, Water, and Land Resource Quality.** To maintain and improve the quality of air, water, and land resources of the State.

**Findings:** Statewide Planning Goal 6 requires that waste and process discharges from future development, combined with that of existing development, do not violate State or Federal environmental quality regulations. Rezoning the 1.77-acre subject property to City R-3 (High Density Residential) is expected to result in residential development with the typical associated waste stream characteristics. The proposed change from R-1 and C-3 zoning to R-3 zoning is unlikely to generate waste streams that are significantly

more adverse to the environment or to the City's treatment capacity than would be the case under the existing split residential and commercial zoning.

The City has regulations in place to control the generation and disposal of household wastes, and the site is expected to be served by City water and sewer service when developed. Therefore, the proposed rezoning is not expected to result in any deleterious effects on the quality of the air, water, or land resources of the State. Existing state, federal, and local land use and environmental standards will be sufficient to ensure that subsequent land use activities at the subject site will be conducted in a manner that is consistent with, and will achieve the purpose of Goal 6.

**Conclusion:** The requested map amendments are consistent with Statewide Planning Goal 6.

**Goal 7: Areas Subject to Natural Disasters and Hazards.** To protect life and property from natural disasters and hazards.

**Findings:** The subject property is located at the top of a steep cut bank up to 30 feet in height, which is all that remains of a sizable cut made into a hillside borrow site when the nearby Oak Hills Plaza commercial PUD base pad was being developed. The cut bank exposed the rock underlying the relatively shallow soils that characterize the site. At the top of the cut bank, the site's topography is relatively flat. The property is not within a special overlay zone or in an area that is designated as susceptible to flooding or other natural hazards. Any new development on the site will be required to comply with building codes and fire safety requirements. These existing regulations serve to ensure the protection of life and property.

**Conclusion:** Based on the above findings, the City of Sutherlin concludes that the requested map amendments will be consistent with Goal 7.

**Goal 8: Recreational Needs.** To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the citing of necessary recreational facilities including destination resorts.

**Findings:** While the subject property was formerly part of the Oak Hills golf course site, it is not currently part of the golf course. The golf course layout was not significantly affected by the partition that created the parcel that is now the subject of the proposed zone change. The subject property has not been designated by the City of Sutherlin or Douglas County as land needed to meet the recreational needs of the citizens of, or visitors to, the state of Oregon. The property is currently zoned for commercial and residential use, and it has no special geographic or natural advantages for recreational use.

**Conclusion:** Based on the above findings, the City of Sutherlin concludes that the requested map amendments will not adversely affect recreational opportunities within the City limits or urban growth boundary. The proposal is therefore consistent with Goal 8.

**Goal 9: Economy of the State.** To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

**Findings:** The subject property is currently within the city limits, and it is planned and zoned for residential and commercial uses. Approximately 0.99 acre of the 1.77-acre parcel is currently zoned C-3. Therefore, the approval of the requested map amendments will decrease the amount of land within the City of Sutherlin that is planned and zoned for commercial uses by approximately one acre.

The portion of the parcel that contains this existing commercial zoning is severely constrained for development purposes by virtue of its narrow shape and its location at the top of a cut bank. Due to these constraints, the commercially zoned portion of the parcel is not particularly attractive for commercial development, and it is therefore not expected to be developed for commercial use.

While the requested zone change will result in a loss of about one acre of commercial land, conversion of the entire subject property to high density residential use may provide an (albeit small) group of captive customers located immediately adjacent to – and within easy walking distance of – the existing and planned commercial uses in the Oak Hills Plaza commercial PUD.

Subsequent residential development of this property will provide some limited economic stimulus to the local economy during the construction of new residences, as well as adding slightly to the size of the Sutherlin market for retailers and service suppliers.

**Conclusion:** The statewide goal of providing adequate economic opportunities will not be adversely impacted by approving the request.

**Goal 10: Housing.** To provide for the housing needs of citizens of the State.

**Findings:** The applicant addressed Goal 10 with the following statements: *“The portion of the subject 1.77 acres of land currently zoned R-1 could theoretically accommodate up to 10 single-family dwellings. In order to develop the property with a single-family subdivision, the lots within the development would have to be served by a new public street with a 60-foot right-of-way. The main body of the applicant's property varies in width from 50 feet on the east and west sides to 180 feet wide in the center. The odd configuration of the subject property makes development of the property to its maximum density unlikely. A public street would require a 60 foot right-of-way leaving only 120 foot strip of land remaining to accommodate the lots. The main body of the property rapidly narrows to both the east and west, thus allowing only five or possibly six lots to be platted along one side of a public street. Obviously, the odd configuration*

*of the property precludes, as a practical matter, its development with a single-family subdivision. Consequently, the applicant is proposing to develop the property as a single undivided parcel containing fourteen townhouse units that would gain access via the private extension of Dakota Street (See Applicant's Exhibit No. 2)."*

Approximately 0.78 acre of the 1.77-acre parcel is currently planned for Low Density Residential uses and zoned R-1, while the remaining 0.99 acre is planned for Community Commercial uses and zoned C-3. Based on this estimate of the R-1 zoned land area, it appears that the property could theoretically accommodate only four single-family residential lots, given a minimum R-1 lot size of 7,500 square feet (assuming a public street could be constructed entirely on the C-3 portion of the parcel, which does not appear to be possible due to its narrowing shape).

While the proposed map amendments would eliminate 0.78 acre of R-1 zoned land from the City's inventory, they would result in the addition of 1.77 acres of new High Density Residential land. While much of the new R-3 zoned property would be of limited utility due to the parcel's irregular shape, the wider central portion could potentially accommodate a modest townhouse or multi-family development (as long as proper access can be provided).

Given the development constraints on the property, the requested R-3 zoning provides the most flexibility for residential development, which will help to ensure that the oddly shaped property is ultimately developed for residential uses that add to the housing opportunities for Sutherlin's residents.

**Conclusion:** Based on the above findings, the City of Sutherlin concludes that the proposed map amendments will create additional housing opportunities for Sutherlin's citizens. The proposal is therefore consistent with Goal 10.

**Goal 11: Public Facilities and Services.** To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

**Findings:** The applicants addressed Goal 11 with the following statements: *"The subject property is situated in an area where the full range of urban facilities and services is presently available to serve the proposed development. Existing public sewer and water mains run along Dakota Street to the southwest. These facilities are sized to allow the extension of the mains into the property to serve the level of development contemplated by the applicant. The cost of extending city services into the property will, of course, be borne by the applicant at the time the property is developed. The existing levels of service, including public sewer and water service, are adequate to accommodate development of the site as contemplated by the applicant and can be provided in a timely, orderly and efficient manner consistent with the intent and purpose of Statewide Planning Goal No. 11."*

The subject property is within the Sutherlin city limits, and it is therefore eligible to receive City water and sewer services. The applicants have submitted a conceptual site plan depicting building footprints of 14 townhouses proposed to be constructed on the site. No new infrastructure or access is depicted on the conceptual site plan.

Following review of the conceptual site plan, the Sutherlin Public Works Director noted that plans for access and infrastructure improvements will have to be approved by the City prior to any site development. Access to the site is more fully discussed in a later section of this document (see City Zone Change Criteria #2).

As-built drawings of the adjacent Oak Hills Plaza Commercial PUD prepared by *i.e.* Engineering show a 12-inch waterline extending north along Dakota Street, then heading northeast behind Ray's Food Place. The waterline terminates in a blow-off assembly located approximately 330 feet northeast of the southwesternmost boundary of the subject property. It appears that the waterline can be readily extended further to the northeast to serve the developable portion of the property.

The as-builts also indicate that a sanitary sewer main runs north from the interceptor along Highway 138, just west of Dakota Street Pizza, turning east across the north end of Dakota Street and continuing east within the access road serving the Ray's Food Place parking lot. The sanitary sewer main then heads north across the eastern portion of the parking lot, ultimately terminating in cleanouts located on the east and west end of the Ray's building. A new sewer main will probably have to be constructed from a manhole in Dakota Street northward and then northeast to serve the subject property. Plans for the new sewer main will have to be reviewed and approved by both the City and the Oregon Department of Environmental Quality prior to its construction.

With sufficient infrastructure investment on the part of the developers, it is expected that the property can be served by city water and sewer main extensions, as well as other utilities (a gas line is shown on the as-built drawings as already extending onto the property). Therefore, development of the 1.77-acre subject property with up to 14 townhouses is not expected to place a burden on public facilities and services.

**Conclusion:** Based on the above findings, the City of Sutherlin concludes that the proposal is consistent with Statewide Planning Goal 11.

**Goal 12: Transportation.** To provide and encourage a safe, convenient, and economic transportation system.

**Findings:** The applicant addressed Goal 12 with the following statements: *"To determine how the proposed Plan Amendment and Zone Change might affect nearby transportation facilities, the applicant retained the services of the traffic engineering firm of Lancaster Engineering. Tom Lancaster evaluated the compatibility of the proposed land use change with the existing transportation system in the area. The subject property utilizes Dakota Street as its access to State Highway 138 and the area road system. The Dakota*

*Street/State Highway 138 intersection was analyzed as part of the traffic study. A written report prepared by Mr. Lancaster PE, and owner of the firm, is attached to demonstrate that the proposed Plan Amendment and Zone Change are consistent with the identified function, capacity and performance standards of the area transportation facilities and subsequently Statewide Planning Goal 12. Due to the relatively low volume of traffic associated with the requested amendment, no special traffic controls or other mitigation measures will be required.*

The subject property has no public street frontage. Because the property is sandwiched between the commercial PUD and the adjacent golf course, it is unlikely that the property will have public street frontage in the near future. Access to the property is expected to be via private roadways within the Oak Hills Plaza commercial PUD, which is located between the subject property and State Highway 138. These private roadways connect to the public street network via Dakota Street, which intersects State Highway 138 approximately 1,280 feet west of Interstate-5.

Currently, 0.99 acre of the subject property is zoned C-3 (Community Commercial). The remaining 0.78 acre is currently zoned R-1 (Low Density Residential). Because the property is essentially split between these two zones, and because the shape and location of the parcel effectively limits the range of potential uses of the property, it is difficult to compare the anticipated traffic impact of the current zoning to that of the proposed zoning.

If the entire 1.77-acre property is rezoned to R-3, the anticipated traffic generation (based on zoning alone) could be in the neighborhood of 95 round trips per day, on average. Assuming 50% of theoretical density (to account for parking, access, yard requirements, structure height limits, and other design standards), 1.77 acres of R-3 property could accommodate 29 dwelling units (0.88 acres @ 1,300 square feet of land for each family per Sutherlin Municipal Code Section 17.32.080). The ITE *Trip Generation* manual classifies R-3 multi-family dwellings with a 35-foot height limit as Low-Rise Apartments (including duplexes, triplexes, fourplexes, etc.). The ITE manual estimates that 29 dwelling units in this category would generate 191 vehicle trip ends per day (6.59 trip ends/day X 29), or 95 round trips per weekday.

The above calculations assume that a generic multi-family development will be constructed. However, the applicants submitted a conceptual site plan with their zone change application that depicts the building footprints of 14 townhouses (although no access, parking, or landscaping is shown). Assuming that 14 townhouses are ultimately constructed on the site, the traffic generation calculation would be as follows:  $14 \times 5.86 \text{ trip ends/day (per the ITE manual)} / 2 = 41 \text{ round trips per weekday}$ . According to the ITE manual, the 14 townhouses depicted on the conceptual site plan would generate less than half the traffic that would be expected of a more typical R-3 apartment development.

The traffic impact assessment prepared for the applicants by Lancaster Engineering compared the proposed 14 townhouse development to a development consisting of 10



single-family homes (rather than attempting to deal with the split C-3/R-1 zoning on the property). Lancaster's assessment yielded the following raw traffic generation result:

10 single-family homes = 48 round trips per weekday  
14 townhouses = 41 round trips per weekday  
41 is less than 48, so 14 townhouses is better than 10 single-family homes.

In addition to calculating the raw traffic generation of these two scenarios, Lancaster included a capacity analysis in which he identified the impact of the 14-townhouse development on traffic movements at the Dakota Street/State Highway 138 intersection. Lancaster found that the proposed 14-townhouse development would not change the level of service at that intersection.

Based on this information, the applicants conclude that the proposed map amendments are consistent with the identified function, capacity and performance standards of the area transportation facilities and subsequently Statewide Planning Goal 12. The applicants additionally conclude that, due to the relatively low volume of traffic associated with the requested amendment, no special traffic controls or other mitigation measures will be required. The applicants' conclusions appear to be reasonable based on the evidence provided.

**Conclusion:** As described in the traffic impact study prepared by Lancaster Engineering, the proposed map amendments will have no significant effect on state or local transportation facilities. The transportation needs of future development on the site under R-3 zoning can be accommodated by the existing transportation infrastructure. As a separate matter, the location and configuration of access to the property will be addressed by the City at the time a specific development proposal is reviewed. Based on the above findings, the requested map amendments appear consistent with Statewide Planning Goal 12.

**Goal 13: Energy Conservation.** To conserve energy.

**Findings:** Statewide Planning Goal 13 requires that land uses be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. The proposed map amendments would eliminate the current split R-1/C-3 zoning of the property and change the Comprehensive Plan and zoning designations of the entire parcel to High Density Residential and R-3, respectively. Development of any C-3 property that abuts residentially zoned land requires a 25-foot (for rear yard) or 15-foot (for side yard) setback/buffer. Because the parcel is not deep enough to accommodate both commercial and residential development, particularly given the above buffer requirements, removing the split zoning on the property increases the probability that the parcel will be efficiently developed.

R-3 zoning is the most flexible residential zoning available in the City of Sutherlin, supporting a higher residential density than is permitted elsewhere in the area. To the

extent that residential density is increased, land is used more efficiently and energy tends to be conserved. Given that the proposed townhouse development is located within easy walking distance of a grocery store and restaurants, it seems likely that the proposed map amendments may yield residential development that generates proportionately fewer vehicle trips than similar residential projects in the area. In addition, the property will be subject to development standards and building codes that provide for a minimum level of energy efficiency. The proposal is therefore consistent with principles of efficient land use and energy efficiency.

Conclusion: The map amendment requests are consistent with Goal 13.

**Goal 14: Urbanization.** To provide for an orderly and efficient transition from rural to urban land use.

Findings: The subject property is located within the Sutherlin Urban Growth Boundary and city limits near the Interstate-5/Central Avenue interchange. The state has previously acknowledged the Sutherlin UGB as being in compliance with Goal 14.

Conclusion: The requested Comprehensive Plan Map and Zoning Map amendments are consistent with the purposes and intent of Statewide Planning Goal 14.

### **COMPLIANCE WITH CITY OF SUTHERLIN ZONE CHANGE CRITERIA**

Section 17.12.060 of the Sutherlin Municipal Code (*Zone Changes*) provides the following criteria for approving a zone change:

*"The approving authority may grant a zone change only if the following circumstances are found to exist:*

- 1. The rezoning will conform with the Sutherlin Comprehensive Plan, including the land use map and written policies; and*
- 2. The site is suitable to the proposed zone with respect to the public health, safety, and welfare of the surrounding area."*

**City Zone Change Criteria #1:** Whether the rezoning will conform with the Sutherlin Comprehensive Plan, including the land use map and written policies.

Findings: That the proposed zone change is generally in conformance with the City's acknowledged Comprehensive Plan is demonstrated in the above discussion of compliance with the Statewide Planning Goals. These Goals must be reflected in the City's Comprehensive Plan to gain state acknowledgment of the Plan. Conformance

with specific, applicable written policies is addressed below. Once the Comprehensive Plan Map amendment for the site is approved, the corresponding Zoning Map amendment to R-3 will be necessary to ensure consistency between the Comprehensive Plan and its implementing ordinances (including the Zoning Ordinance).

**Population and Economy Element Conformance**

*Policy A15: The City shall ensure that adequate land areas are designated for development of regional community retail trade and services.*

The proposed zone change would convert approximately one acre of C-3 zoned land to high density residential zoning, resulting in a loss of a small amount of commercial land. However, as previously mentioned, the portion of the parcel that contains this existing commercial zoning is severely constrained for development purposes by virtue of its narrow shape and its location at the top of a cut bank. Therefore, the commercial land to be converted to residential zoning is not expected to be particularly attractive for commercial development. At the same time, a number of vacant C-3 zoned parcels are located adjacent to the site. The applicant's proposal is not expected to result in any significant reduction of land areas designated for development of regional community retail trade and services. Therefore, as a practical matter, the proposed map amendments are not inconsistent with Policy A15 and the Population and Economy Element of the Comprehensive Plan.

**Public Facilities Plan Conformance**

*Policy A1: The City shall ensure that appropriate support systems are installed prior to or concurrent with the development of a particular area. Costs of constructing water and sewer ties to new developments shall be borne by the developer.*

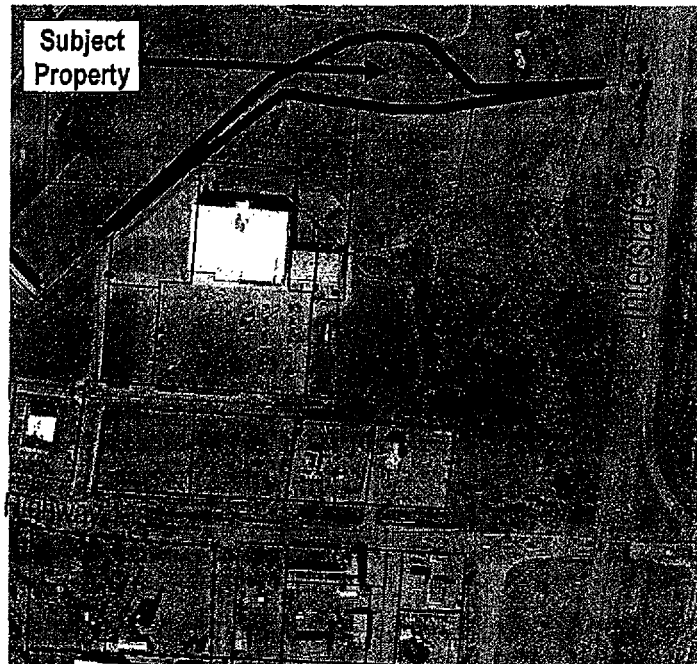
*Policy A14: Ensure that as new development occurs, public facilities and services to support the development are available or will be available within a reasonable time.*

*Policy A20: New development, including but not limited to subdivisions, residential or commercial, or industrial construction, should be responsible for constructing, paying for, or depositing funds for an improved street with curbs, gutters, sidewalks, as well as sewer, water, storm drainage facilities, fire hydrants, and street lights, in addition to all utilities.*

While the zone change by itself will not create an immediate need for public facilities and services, subsequent development of the site will. It is therefore necessary to ensure that the zone change will not lead to development that is inconsistent with the City's Public Facilities Plan. Along with the map amendment applications, the applicants submitted a conceptual site plan depicting 14 townhouse units on the site. In accordance with the Public Facilities Plan and the Municipal Code, the owner(s) of the subject property will be responsible for installing infrastructure as appropriate in conjunction with any such future development.

As discussed in the Goal 11 section of these findings, as-built drawings of the adjacent Oak Hills Plaza Commercial PUD (through which the subject property will gain access and be served by public utilities) depict the locations of existing water and sewer mains that will likely serve the subject property. It appears that these water and sewer mains can be extended further to the northeast to serve the developable portion of the property. With the extension of these mains, it is expected City water and

sewer service can be provided to the subject property without adversely impacting the community or the surrounding neighborhood.



Unfortunately, a number of sewer manholes, lampholes, and water valve covers within the Oak Hills Plaza commercial PUD were covered by asphalt when the private access drives and parking lots were paved. Despite repeated requests by the City, the developer of the PUD has not uncovered these important fixtures. In order to ensure that the Sutherlin Public Works Department can find and access the public utilities within the PUD area, all of the covered utility fixtures need to be found and properly uncovered so they may be inspected and mapped by Public Works. **Because the property owned by the applicants is expected to use the existing private access drives and utilities located within the commercial PUD, and because the applicants were also involved in the design and approval of the adjacent commercial PUD, a condition of approval is warranted requiring the owner(s) of the property to work with the owner(s) of the commercial PUD property to uncover all utility fixtures so they can be inspected and mapped by the Sutherlin Public Works Department prior to the submittal of a development plan for the subject property.**

The Sutherlin Public Works Department reviewed the zone change proposal and deferred specific requirements regarding access and water/sewer main extensions until more detailed infrastructure plans for the proposed townhouse development are available. Similarly, the Sutherlin Fire Department reviewed the conceptual site plan submitted with the zone change application and noted that development plans will have to be submitted for Fire & Life Safety Review prior to any site development.

With sufficient infrastructure investment on the part of the developers – and following the location and uncovering of all the paved-over manholes, lampholes, and water valve covers – it is expected that the property can be served by city water and sewer main extensions, as well as other utilities. The development of the 1.77-acre subject property with up to 14 townhouses is therefore not expected to place a burden on public facilities and services.

With a condition of approval requiring that the covered manholes, lampholes, and water valves within the adjacent commercial PUD be uncovered, the proposal submitted by the applicants can be made consistent with the Public Facilities Plan.

### **Housing Element Conformance**

*Policy B1: Encourage innovative designs for various types of multi-family housing in order to meet the diverse needs of smaller households such as those of the elderly and young families.*

The applicants addressed housing concerns generally in their proposed Goal 10 findings, including the following statement that is pertinent to the Housing Element policy cited above: *“The proposed Plan Amendment and Zone Change will allow development of the townhouse units at an increased density under the “High Density Residential” Plan designation then would otherwise be allowed by its present “Low Density Residential” Plan designation and R-1 zoning. However, the site limitations set out above would preclude development of the property at its maximum density. Consequently, the proposed amendment will result in an increase of the urban area’s present inventory of buildable land. The changes will allow the efficient in-fill development of a parcel of land that cannot, as a practical matter, be developed in accordance with its present Plan designation and zoning.”*

The proposed change from split C-3/R-1 zoning to R-3 zoning would allow higher density residential development to occur immediately adjacent to the Oak Hills Plaza Commercial PUD. In addition, the more flexible design standards of the R-3 zone – particularly those contained in the draft development code (if adopted) – would be better suited to innovative designs, such as the proposed townhouses. The proposal appears to be consistent with this policy and the Housing Element of the Comprehensive Plan.

### **Land Use Element Conformance**

*Land Use Policy A2: Work toward development of “open” lands identified as suitable for development within the existing city limits before annexing additional lands.*

*Residential Land Use Policy 1: Promote development involving varied housing types at medium and high densities adjacent to the community’s two service areas.*

The 1.77-acre vacant parcel is located within the existing city limits adjacent to the Oak Hills Plaza commercial PUD, which is part of the I-5/Central Avenue interchange service area referred to in Residential Land Use Policy 1. As stated

above, the applicants propose to develop townhouse units on the property. The proposed R-3 zoning supports the development of varied housing types at medium and high densities adjacent to the Interstate-5/Central Avenue interchange, which is one of the City's two main service areas. In addition, little vacant R-3 zoned land remains within the city limits, so the requested zone change will help alleviate this shortage. As discussed previously under *Consistency With The Statewide Planning Goals*, public facilities and services are readily available to the site.

To ensure that the zone change conforms to the Sutherlin Comprehensive Plan's land use map, a corresponding amendment to the City's Comprehensive Plan Map is necessary. A Plan amendment to change the property's Comprehensive Plan Map designation from Community Commercial and Low Density Residential to High Density Residential is being processed concurrently with the zone change.

**Conclusion:** With the application of certain conditions of approval described above, the proposed zone change is expected to conform with the Sutherlin Comprehensive Plan, including the land use map and written policies.

**City Zone Change Criteria #2:** Whether the site is suitable to the proposed zone with respect to the public health, safety, and welfare of the surrounding area.

**Findings:** The subject property, which is identified as Parcel 2 of Partition Plat 2005-18, is an irregularly shaped 1.77-acre parcel located north of Dakota Street between the Oak Hills Golf Course and Ray's Food Place approximately 400 feet west of Interstate-5. The applicants' currently vacant parcel is sandwiched between a golf course fairway and the Oak Hills Plaza Commercial Planned Unit Development property. Approximately 0.99 acre of the property is zoned C-3, while 0.78 acre is zoned R-1.

The proposed map amendments would eliminate the current split C-3/R-1 zoning of the property and change the Comprehensive Plan and zoning designations of the entire parcel to High Density Residential and R-3, respectively. The proposed change in designations would allow the property to be developed with a variety of low to high density residential uses, ranging from single-family homes to apartment complexes. The applicants have submitted a conceptual site plan depicting a townhouse style development with 14 units.

Development of any C-3 property that abuts residentially zoned land requires a 25-foot (for rear yard) or 15-foot (for side yard) setback/buffer. Because the parcel is not deep enough to accommodate both commercial and residential development, particularly given the above buffer requirements, removing the split zoning on the property increases the probability that the parcel will be efficiently developed. Furthermore, R-3 zoning is appropriate in this location because it serves as a buffer between the adjacent C-3 zoned property and nearby low density residential zoning and uses.

As mentioned in the earlier Goal 11 Public Facilities discussion, City water and sewer service can be made available to the property through an existing waterline on the

property and with the extension of a sewer main located in Dakota Street. Other utilities are also expected to be available to the site. Police and fire service capacity is not expected to be burdened by residential development on the 1.77-acre site following approval of the requested map amendments. However, emergency services access to the development site may be of some concern.

As discussed under Statewide Planning Goal 12, the subject property has no public street frontage, and vehicle access to the proposed development site has not yet been constructed. The nearest accessible public right-of-way is over 1,000 feet away (Dakota Street, which terminates at the north entrance to Dakota Street Pizza). The lack of public street frontage will likely preclude subsequent divisions of the subject property but, as stated in the applicants' proposed findings, *"The applicant is proposing to develop the property as a single undivided parcel containing fourteen townhouse units that would gain access via the private extension of Dakota Street."*

The only available access to the proposed building site appears to be via a 550-foot extension of an existing 24-foot wide private drive serving the commercial PUD. The 24-foot wide private drive was apparently stubbed out for this purpose at the time it was originally constructed, but it is unclear whether the subject property has easement rights to use the private drives within the PUD. **Documentation of such access easement rights should be provided to the City prior to submittal of a development plan for the site.**

Because a preexisting hillside adjacent to the property was removed when the commercial PUD site was originally graded, a steep cut slope up to 30 feet in height is located along the southern boundary of the buildable portion of the property. The cut slope creates a physical barrier that separates the subject property from the commercial PUD. Because of this grade separation, construction of a second vehicle access to the subject property may prove to be impractical.

Without a second vehicle access to the proposed townhouse development – again via private access drives within the commercial PUD – the site would have only one point of ingress and egress. While access will be further evaluated by the City of Sutherlin at the time a specific development proposal is submitted, the applicants should be aware that **a second vehicle access could be made a requirement of building permit approval, depending upon the specifics of the development proposal.**

No objections to the proposed Comprehensive Plan Map and Zoning Map amendment were raised on the basis of the public health, safety, and welfare of the surrounding area. In fact, the Planning Department received no correspondence at all in response to the public hearing notice mailed to the owners of property within 300 feet of the subject properties.

**Conclusion:** The site is suitable to the proposed zone with respect to the public health, safety, and welfare of the surrounding area.

**IV. DECISION**

**NOW, THEREFORE**, based on the evidence received and the foregoing Findings of Fact, the Sutherlin City Council hereby **APPROVES** the Comprehensive Plan Map amendment and Zoning Map amendment requested by Oak Hills Plaza LLC to change the zoning designation of the 1.77-acre subject property to High Density Residential/R-3 from Low Density Residential/R-1 and Community Commercial/C-3, **subject to the following conditions:**

1. The owner(s) of the subject property shall work with the owner(s) of the adjacent commercial PUD property to uncover all paved-over manholes, lampholes, and water valves so they can be inspected and mapped by the Sutherlin Public Works Department prior to the submittal of a development plan for the subject property.
2. Documentation of appropriate access easement rights shall be provided to the City prior to submittal of a development plan for the site.

DATED THIS 14<sup>TH</sup> DAY OF February, 2006.

Joe Mongiovi  
Joe Mongiovi, Mayor

ATTEST:

Vicki G. Luther  
Vicki Luther, City Recorder