



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

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

Third Floor/Measure 37 Fax: (503) 378-5318

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

NOTICE OF ADOPTED AMENDMENT

November 9, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Canby Plan Amendment
DLCD File Number 001-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 24, 2006

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) 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 MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Stacy Humphrey, DLCD Regional Representative
Matthew Crall, Dlcd Transportation Planner
Kevin Cook, City of Canby

<paa> ya/ph



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

Hand delivered email mailed

DEPT OF

NOV 06 2006

LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: Canby Local file number: ZC 06-02

Date of Adoption: 11/1/2006 Date Mailed: 11/3/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 7/21/2006

- | | |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

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

Three contiguous properties have received approval to change the zoning to their respective Comp. Plan zoning designations. The three properties represented an island of Low Density Residential (R-1). Two properties are now zoned Highway Commercial (C-2) and one property is now zoned Light Industrial (M-1). As a result of the zone change, all properties in the immediate area have zoning consistent with the Comp. Plan Map.

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: _____ to: _____

Zone Map Changed from: Low Density Res. (R-1) to: Hwy. Com. C-2 & L. Ind. M-1

Location: 221 S. Pine, 883 SE 1st, 254 S. Pine Acres Involved: 3.36

Specify Density: Previous: 1 dwelling per lot New: N/A

Applicable Statewide Planning Goals: 1, 2, 9, 10, 11, 12

Was and Exception Adopted? YES NO

DLCD File No.: 001-06 (15409)

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:

Oregon Department of Transportation

Local Contact: **Kevin Cook** Phone: **(503) 266-7001** Extension: **212**

Address: **170 NW 2nd Ave.** City: **Canby**

Zip Code + 4: **97013-3729** Email Address: **cookk@ci.canby.or.us**

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 **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF CANBY**

**A REQUEST TO CHANGE THE ZONING) FINDINGS, CONCLUSION & FINAL ORDER
FROM LOW DENSITY RESIDENTIAL) ZC 06-02
TO MATCH THE CANBY)
COMPREHENSIVE PLAN ZONING)**

NATURE OF APPLICATION

The applicants are seeking to change the zoning for three separate parcels, all currently zoned R-1, Low Density Residential. The zone change would be from the current R-1 zoning district to Comprehensive Plan designation for the properties, which breaks down as follows:

- 221 S. Pine, owned by the Canby Fire Dist. would change to C-2, Highway Commercial.
- 883 SE 1st Ave., owned by Ray Hellhake would change to C-2, Highway Commercial; this property is currently split zoned and the portion fronting Highway 99E is already zoned C-2 and contains a Space Age service station.
- 254 S Pine, owned by Greg Page would change to M-1, Light Industrial.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of June 26, 2006. The City Council held a public hearing and considered this application at its meeting of October 18, 2006.

CRITERIA AND STANDARDS

In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider:

- A. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefor, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development;
- B. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

FINDINGS AND REASONS

After holding a public hearing and considering the June 11, 2006 staff report, the Planning Commission's record, and subsequent supplemental testimony and evidence submitted to the record, the City Council deliberated and reached a decision on October 18, 2006 to approve the applicant's request for zone change. The City Council found that the applicant's request is in compliance with the Comprehensive Plan of the City of Canby and the Council adopted the findings and conclusions contained in the July 10, 2006 Planning Commission Findings insofar as they do not conflict with the following City Council findings:

***Finding:** The City Council finds that the following conditions of approval adequately address concerns surrounding future impacts to the surrounding road system; in particular the future functioning of the intersection of Pine Street and Highway 99E:*

***Condition #1:** The proposed zone change is approved provided that any change in the intensity or use of the affected properties is reviewed with the benefit of a thorough traffic study addressing all ODOT and City concerns raised at the time of the proposed change in use and/or intensity. Further, any mitigation recommended as a result of the outcome of a traffic study shall be made a condition of any approval. The requirement for a traffic study may be waived only if deemed unnecessary by the City and ODOT.*

***Condition #2:** Tax Lot 804 shall continue to be used for the provision of fire and other emergency services. Private retail and commercial uses will not be allowed on Tax Lot 804, until such time appropriate mitigation is applied to the intersection of South Pine Street and Highway 99E as required by way of the approval of any future Modification application. A Modification application will require new findings addressing the Transportation Planning Rule at the time of application.*

***Finding:** This application is in compliance with all elements of the Comprehensive Plan of the City, including Policy 6 of the Land Use Element, and the plans and policies of the County, state and local districts.*

***Finding:** All required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation. This finding is based upon expectation of no undue impacts to the local road system as referred to in Finding 1.*

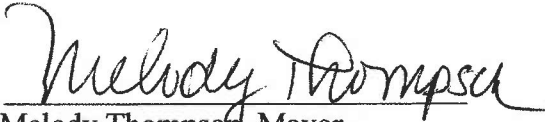
DECISION


THE CITY COUNCIL of the City of Canby hereby approves **ZC 06-02**.

ORDER

I CERTIFY THAT THIS ORDER approving **ZC 06-02** was presented to and **APPROVED** by the Canby City Council.

DATED this 1st day of November, 2006.


Melody Thompson, Mayor
Canby City Council


Kevin C. Cook
Associate Planner

ATTEST:

ORAL DECISION – October 18, 2006

AYES: Blackwell, Oliver, Harris, Daniels, Carson, ~~Thompson~~ ^{Sgt}

NOES: None.

ABSTAIN: None.

ABSENT: Helbling

WRITTEN FINDINGS – November 1, 2006

AYES: Blackwell, Oliver, Harris, Daniels & Carson

NOES: None

ABSTAIN: Helbling

ABSENT: None.

ORDINANCE NO. 1225

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON FOR TAX LOTS 804 AND 800 OF TAX MAP 3-1E-33DA AND TAX LOT 500 OF TAX MAP 3-1E-34C.

WHEREAS, an application was filed with the City by the Canby Fire District, Ray Hellhake, and Greg Page to change the zoning of a single 1.98 acre parcel known as Tax Lot 804 of tax map 3-1E-33DA from Low Density Residential (R-1) to Highway Commercial (C-2), a 1.64 acre parcel known as Tax Lot 800 of tax map 3-1E-33DA from Low Density Residential (R-1) to Highway Commercial (C-2), a single 0.59 acre parcel known as Tax Lot 500 of tax map 3-1E-34C from Low Density Residential (R-1) to Light Industrial (M-1); and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on June 26, 2006 after public notices were mailed, posted and printed in the Canby Herald, as required by law; and

WHEREAS, the Canby Planning Commission heard and considered public testimony regarding the proposed zone change at the public hearing. At the conclusion of the public hearing, the Planning Commission voted 4-0 to recommend that the City Council approve the application provided that the final traffic study prepared by Lancaster Engineering will not identify any insurmountable burden(s) to the local road system. The Findings, Conclusions and Order was approved by the Planning Commission and forwarded to the Council with its recommendation; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission including the Lancaster Engineering traffic study dated September 27, 2006 at a regular meeting on October 18, 2006; and

WHEREAS, the Canby City Council, after the staff report and review of the record, voted to accept the Planning Commission's recommendation; and

WHEREAS, the Canby City Council adopts a condition of approval, which states, "Any change in the intensity or use of the affected properties shall be reviewed with the benefit of a thorough traffic study addressing all ODOT and City concerns raised at the time of the proposed change in use and/or intensity. Further, any mitigation recommended as a result of outcome of a traffic study shall be made a condition of any approval prior to the issuance of a building permit. The requirement for a traffic study may be waived only if deemed unnecessary by the City and ODOT."; and

WHEREAS, the Canby City Council adopts a condition of approval, which states, "Development on Tax Lot 804 shall be limited to public fire and emergency service facilities. Private retail and commercial uses shall not be allowed on Tax Lot 804 unless an application to modify this condition is approved by the City. A modification application will require new information to demonstrate compliance with the state Transportation Planning Rule, OAR 660-12-060.

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Tax lot 804 of tax map 3-1E-33DA is rezoned from Low Density Residential (R-1) to Highway Commercial (C-2) as called for in Canby's Comprehensive Plan.

Section 2. Tax lot 800 of tax map 3-1E-33DA is rezoned from Low Density Residential (R-1) to Highway Commercial (C-2) as called for in Canby's Comprehensive Plan.

Section 3. Tax lot 500 of tax map 3-1E-34C is rezoned from Low Density Residential (R-1) to Light Industrial (M-1) as called for in Canby's Comprehensive Plan.

Section 4. The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate changes on the City's zoning map in accordance with the dictates of Sections 1, 2, and 3 of this Ordinance.

SUBMITTED to the Council and read the first time at a regular meeting thereof on October 18, 2006, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on November 1, 2006, commencing after the hour of 7:30 p.m., at the Council's regular meeting chambers at the Canby City Hall in Canby, Oregon.

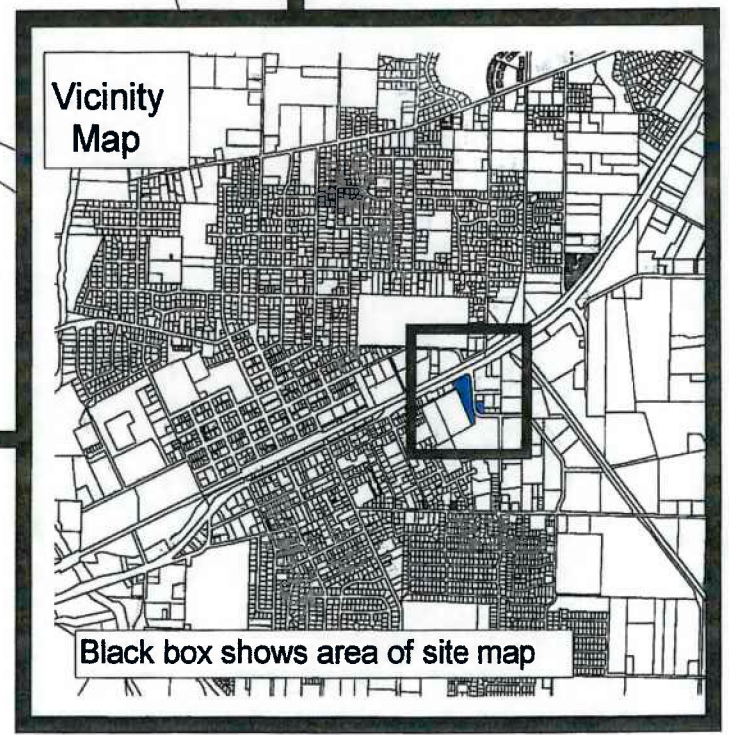
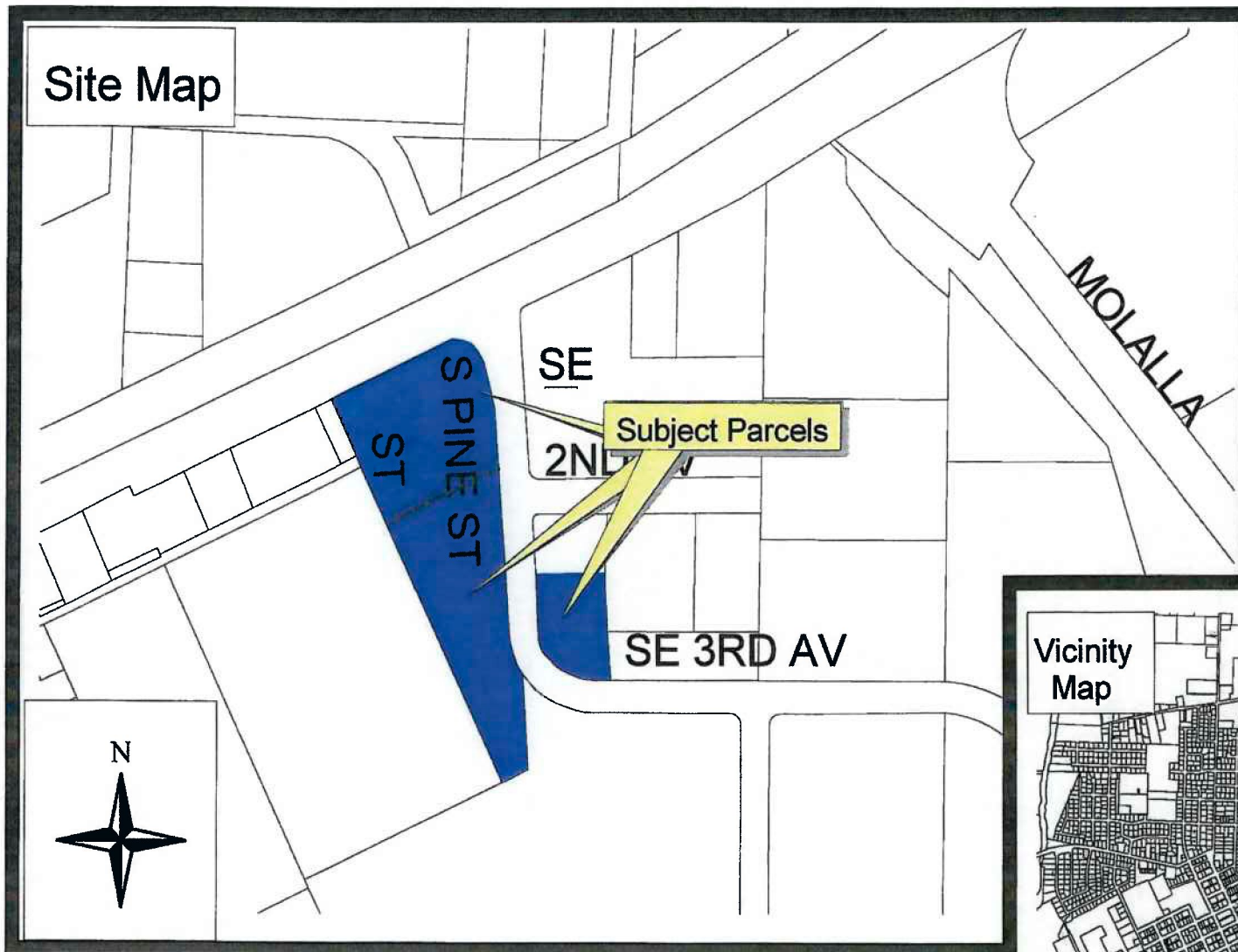
ENACTED on the second and final reading by the Canby City Council at a regular meeting thereof on November 1, 2006 by the following vote:

YEAS 6 NAYS 0


Melody Thompson, Mayor

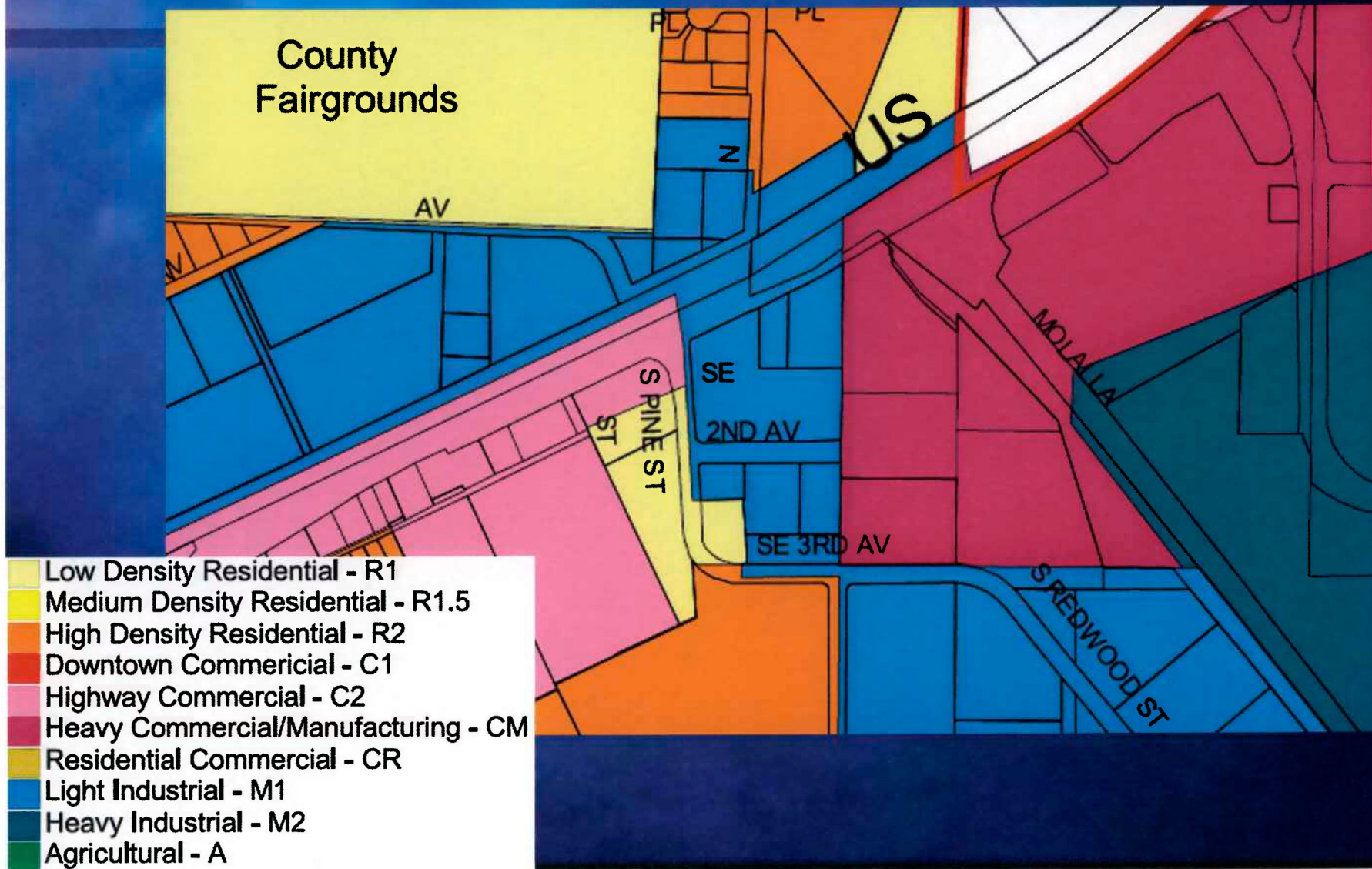
ATTEST:


Kimberly Scheafer, City Recorder Pro Tem



Site and Vicinity Maps

Current Zoning



Comp. Plan Zoning

