



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

October 28, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Benton County Plan Amendment
DLCD File Number 003-06 R



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: November 12, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. 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 ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Gloria Gardiner, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative
Matthew Crall, DLCD Transportation Planner
Greg Verret, Benton County

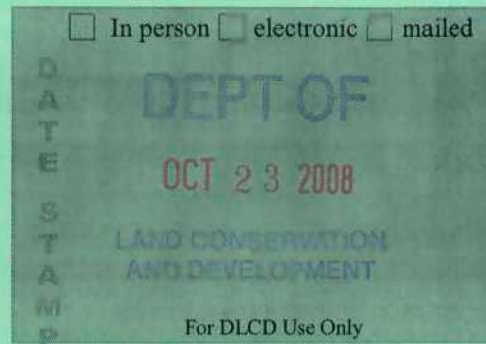
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FORM 2

DLCD

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



Jurisdiction: **Benton County**
Date of Adoption: **10/21/2008**

Local file number: **LU-06-025**
Date Mailed: **10/22/2008** *W. Bennett*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/6/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: **UGB Expansion**

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

Decision on remand from Court of Appeals and LUBA. Adopted 127.5-acre expansion of Adair Village Urban Growth Boundary.

Does the Adoption differ from proposal? Yes, Please explain below:

Original proposal was for 169.2-acre UGB expansion.

Plan Map Changed from: **Agriculture**

to: **High-Density Resid., and Open Space**

Zone Map Changed from: **EFU**

to: **UR-50, and Open Space**

Location: **Directly south of Adair Village city limits**

Acres Involved: **127**

Specify Density: Previous: **N/A**

New: **1 parcel per 50 acre**

Applicable statewide planning goals:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

003-06 R (15070)

*LUBA 2007-093 REM
COA A136850 R&R*

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

ODOT, ODFW, DSL, OWRD, DEQ, Corvallis School District.

Local Contact: **Greg Verret**

Phone: **(541) 766-6819** Extension: **6294**

Address: **360 SW Avery Ave**

Fax Number: **541-766-6891**

City: **Corvallis**

Zip: **97321-**

E-mail Address: **greg.verret@co.benton.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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also 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 BOARD OF COMMISSIONERS

FOR THE STATE OF OREGON, COUNTY OF BENTON

In the Matter of Amending)
The Urban Growth Boundary of the) Ordinance No. 2008-0228
City of Adair Village and Repealing)
Ordinance No. 2007-0216)

THE BENTON COUNTY BOARD OF COMMISSIONERS HEREBY ORDAIN
AS FOLLOWS:

WHEREAS, J.T. Smith Companies, Inc., submitted an application to Benton County and the City of Adair Village for an amendment to the City of Adair Urban Growth Boundary (UGB); and

WHEREAS, the UGB amendment, as currently proposed, would also require changing the Benton County comprehensive plan designation for 103.5 acres from Agriculture to High Density Residential and 24 acres to Open Space; and

WHEREAS, the UGB amendment, as currently proposed, would also require changing the applicable zoning for 103.5 acres from Exclusive Farm Use (EFU) to Urban Residential (UR-50) and 24 acres to Open Space; and

WHEREAS, the Benton County and City of Adair Village Planning Commissions held a duly advertised joint public hearing on June 26 and July 11, 2006, at which time the Benton County Planning Commission voted to recommend denial of the application to the Benton County Board of Commissioners; and

WHEREAS, the Benton County Board of Commissioners and the City Council of Adair Village held a duly advertised joint public hearing on September 20, 2006, December 5, 2006 and February 27, 2007, at which time the two bodies considered all testimony and materials submitted during the proceedings; and

WHEREAS, the Benton County Board of Commissioners approved the UGB amendment application and enacted Ordinance No. 2007-0216 to amend the Benton County Comprehensive Plan Map to change 118.2 acres from Agriculture to High Density Residential and 24 acres to Open Space and to amend the Benton County Zone Map to change the applicable zoning for 118.2 acres from Exclusive Farm Use (EFU) to Urban Residential (UR-50) and 24 acres to Open Space; and

WHEREAS, the original decision approving the UGB amendment was appealed to the Land Use Board of Appeals (LUBA), followed by an appeal to the Court of Appeals, which remanded it back to LUBA.

WHEREAS, LUBA remanded the case and issued a Final Opinion and Order on April 24, 2008. The Court of Appeals and LUBA directed the City and County to address two specific issues on remand. All other issues related to the UGB expansion are resolved and not reviewable under this remand order.

WHEREAS, a public hearing notice was mailed to all previous hearing participants and to property owners west of Highway 99W in the areas zoned Rural Residential on July 3, 2008. A legal ad was also published July 9, 2008 in the *Gazette Times* newspaper.

WHEREAS, with regard to the LUBA remand issue, the Benton County Board of Commissioners finds that the modified proposed UGB amendment, as well as the corresponding comprehensive plan and zone map changes, comply with the criteria of Goal 14 and OAR 660-024-0040, in that a need for 127.5 acres has been demonstrated and the applicants have revised their application to propose adding 127.5 acres to the Adair Village Urban Growth Boundary; and

WHEREAS, with regard to the Court of Appeals remand issue, the Benton County Board of Commissioners finds that the issue was resolved by the City of Adair Village interpretation and application of the Adair Village Comprehensive Plan Policy 4 in Section 9.800; and

WHEREAS, the Benton County Board of Commissioners concludes that, the only issues on remand having been satisfied, the proposed UGB amendment, zoning map amendment and comprehensive plan map amendment comply with all applicable state and local criteria;

NOW, THEREFORE, the Board of Commissioners of Benton County ordain as follows:

- I. Short Title.** This ordinance shall be known as “Amendment to the City of Adair Village Urban Growth Boundary and Repealing Ordinance No. 2007-0216.”
- II. Authority.** The Benton County Board of Commissioners has authority to amend the City of Adair Village Urban Growth Boundary, the Zoning Map and the Comprehensive Plan Map pursuant to ORS chapter 215 and the Benton County Charter.
- III.** The Urban Growth Boundary amendment, along with the corresponding Zone Map and Comprehensive Plan Map changes as requested in application no. LU-06-025, as modified before the Board of Commissioners, is hereby approved, based on the Findings of Fact and Conclusions contained in the attached Exhibit 1, which are incorporated herein as if fully set forth.
- IV.** The legal descriptions for the UGB expansion, Comprehensive Plan Map amendment, and Zoning Map amendment are contained in the attached Exhibit 2, which are incorporated herein as if fully set forth.

V. A map of the UGB Expansion Area is attached as Exhibit 3, which is incorporated herein as if fully set forth.

VI. The Benton County Comprehensive Plan Map is hereby amended to change 103.5 acres from Agriculture to High Density Residential and 24 acres from Agriculture to Open Space as shown on the attached Exhibit 4, which is incorporated herein as if fully set forth.

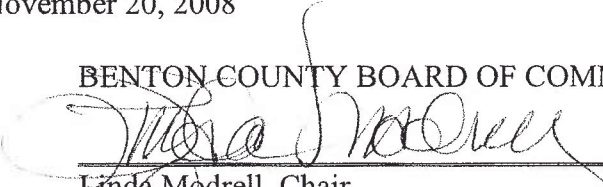
VII. The Benton County Zone Map is hereby amended to change the applicable zoning for 103.5 acres from Exclusive Farm Use (EFU) to Urban Residential (UR-50) and 24 acres from Exclusive Farm Use (EFU) to Open Space (OS) as shown on the attached Exhibit 5, which is incorporated herein as if fully set forth.

VIII. Ordinance No. 2007-0216 is hereby repealed. It is the intent of the Benton County Board of Commissioners that Ordinance No. 2007-0216 will be replaced by this ordinance. The findings in support of Ordinance No. 2007-0216 are readopted by this Ordinance in order to avoid confusion that could result from having two separate ordinances addressing the same land use decision. The Board of Commissioners is not re-examining any of its previous findings in support of Ordinance No. 2007-0216 other than the two issues remanded by LUBA and the Court of Appeals, which are identified in the notice for the July 29, 2008 public hearing and addressed in Section X of the Findings attached as Exhibit 1.

This Ordinance shall become effective on the 20th day of November, 2008.

1st Reading: October 7, 2008
2nd Reading: October 21, 2008
Effective Date: November 20, 2008


BENTON COUNTY BOARD OF COMMISSIONERS



Linda Modrell, Chair


Annabelle Jaramillo, Commissioner


Jay Dixon, Commissioner

Approved As to Form:


County Counsel


Recording Secretary

**FINDINGS OF THE BENTON COUNTY BOARD OF COMMISSIONERS
IN SUPPORT OF ADAIR VILLAGE
URBAN GROWTH BOUNDARY AMENDMENT**

I. INTRODUCTION

These findings support the decision of Benton County ("County") adopting Ordinance No. 2008-0228, approving an expansion of the Urban Growth Boundary ("UGB") for the City of Adair Village ("City") by approximately 127.5 acres. This decision is adopted on remand from the Land Use Board of Appeals ("LUBA") and the Oregon Court of Appeals in *Hildenbrand v. City of Adair Village*, 54 Or LUBA 734 (2007), *rev'd and remanded* 217 Or App 623 (2008).

Ordinance No. 2008-0228 also approves related amendments to the Benton County Comprehensive Plan and Zoning Maps for the expansion area, changing the Comprehensive Plan designation for 103.5 acres from Agriculture to High Density Residential and 24 acres from Agriculture to Open Space, as shown on **Exhibit 4**, and changing the applicable zoning for 103.5 acres of the expansion area from Exclusive Farm Use (EFU) to Urban Residential (UR-50), and changing 24 acres from EFU to Open Space, as shown on **Exhibit 5**.

Ordinance No. 2008-0228 also repeals Ordinance 2007-0216, which originally approved the UGB expansion. The findings of the 2007 ordinance are included in this 2008 ordinance for clarity, ease of reference, and improved accessibility for the public and staff. Two separate ordinances dealing with the same land use action could be a source of confusion; re-adoption of the findings of the 2007 ordinance puts the entire decision package into this single document.

II. NATURE OF THE PROCEEDINGS

In March, 2006, J.T. Smith Companies, Inc. ("Applicant") submitted an application to expand the City's UGB by 169 acres and to amend the County comprehensive plan and zoning maps to allow for residential development and new athletic fields. The property is zoned EFU by the County.

The City and County planning commissions held joint public hearings in June and July of 2006. After these hearings, the applicant amended the application to decrease the UGB expansion to approximately 142 acres.

The Adair Village City Council ("City Council") and Benton County Board of Commissioners ("Board") held joint public hearings on the amended proposal and, following deliberation, approved the application in February, 2007.

Opponents appealed the decisions to LUBA, and then to the Court of Appeals, which reversed LUBA on one issue and remanded back to LUBA. LUBA issued a Final Opinion and Order on April 24, 2008, remanding the case. In its remand order, LUBA directed the City and County to address two very specific issues. All other issues related to the UGB expansion were resolved and not reviewable under LUBA's final decision.

First, LUBA held that the City and County failed to adopt adequate findings to justify the need for 14.5 acres in the expanded UGB due to the fact that the decision failed to adequately explain why 14.5 acres of underdeveloped land within the existing UGB could not be utilized. Based on LUBA's remand on this issue, the proposed expansion area has been reduced by 14.5 acres and is now 127.5 acres, as shown on **Exhibit 3**.

Second, the Court of Appeals concluded that the City and County failed to establish the particular need for the quantity of residential land being added under Goal 14 and City of Adair Village Comprehensive Plan Section 9.800, Policy 4 ("Policy 4") which formerly provided that "the City will provide for new minimum lot sizes that result in an overall average lot size of 6,000 square feet." On July 1, 2008, the City adopted Ordinance No. 2008-07, amending Policy 4 to clarify its purpose and intent. Application of amended Policy 4 is addressed in the City Council's findings approving the revised UGB expansion.

The County mailed a notice of public hearing to all previous hearing participants and to property owners west of Highway 99W in the areas zoned Rural Residential on July 3, 2008. The County also published notice on July 9, 2008 in the *Gazette Times* newspaper.

III. CITY AND COUNTY PROCEDURES

This matter came before a joint public hearing of the Board and City Council on July 29, 2008. Each body had a quorum present. Steve Bittner, Adair Village City Councilor, recused himself as he is a staff member of Santiam Christian school, a party to the application. Board Chair Linda Modrell opened the public hearing and noted that the applicant had requested a continuance to September 16, 2008. No party objected to the continuation of the hearing. Chair Modrell read the hearing requirements, and testimony was opened for any member of the public who would be unable to attend the continued hearing. No party objected. Chair Modrell noted that

the public hearing was limited to the two issues on remand and that comments on other issues would not be considered. For the purposes of these findings, issues raised by participants that are outside of the two issues described below are expressly excluded from the record.

The two issues considered at the public hearing were: (1) the exclusion of 14.5 acres from the UGB expansion and (2) findings regarding the application of Policy 4. Chair Modrell noted that both bodies would act on the 14.5 acre issue but only the City Council would act on the Adair Village Comprehensive Plan policy since, pursuant to ORS 197.829(1), only the City Council is due deference from LUBA because it is a City policy.

Earl Boissonou submitted and read a letter from his wife, Cheryl Boissonou, regarding the proposed expansion and an editorial written by Mayor Currier and published in the Corvallis Gazette-Times on July 26, 2008. The editorial itself was subsequently placed in the record by staff.

On September 16, 2008, Board Chair Linda Modrell opened the public hearing and noted that the hearing had been continued from July 29, 2008. The Board and City Council relied upon the reading of the hearing requirements at the July 29, 2008 public hearing. No party objected. Chair Modrell noted again that the public hearing was limited to the two issues on remand and that comments on other issues would not be considered.

No present member of the Board or City Council revealed any *ex parte* contacts or conflict of interest. Mayor Currier noted Councilor Bittner was not present due to the conflict of interest he had declared at the previous hearing. Chair Modrell described the public hearing process as follows:

- County Planner to provide the staff report.
- Applicant to have 10 minutes to make its presentation.
- Proponents of the application to have three minutes each.
- Opponents of the application to have three minutes each. Other parties, including the Oregon Department of Land Conservation and Development ("DLCD") will also have three minutes to testify.
- Applicant rebuttal.

No party raised any objection to the process. The Board and City Council noted that the entire Planning Department file was physically before the bodies and included the applicant's July 14 and 28, 2008 letter and other letters received by the Board prior to the hearing. County staff Planner Greg Verret provided the staff report. Mike Robinson testified on behalf of the applicant.

Three opponents testified. Mr. Hildenbrand submitted a letter and testified orally. Mr. Hildenbrand requested more than three minutes to testify and the Board and City Council granted his request. Mr. Ken Funk testified orally. Ms. Abigail Haberman testified via a letter that she submitted. The applicant then provided rebuttal.

No party asked that the public hearing be continued or that the written record be held open. Chair Modrell closed the public hearing and the record following the applicant's rebuttal testimony.

The City Council deliberated first. Councilor King moved to tentatively approve an expansion of the City UGB by 127.5 acres as shown on the site plan before the City Council and Board, to interpret the prior version of City of Adair Village Comprehensive Plan Section 9.800, Policy 4 as proposed in the draft findings prepared by the applicant and, alternatively, to apply the new version of City of Adair Village Comprehensive Plan Section 9.800, Policy 4. Councilor Tucker seconded the motion. The City Council voted 4-0 in favor of the motion. The City Council noted that it would consider proposed findings at its regularly scheduled public meeting on October 7, 2008 at 7:00 p.m. at Adair Village City Hall.

The Board deliberated next. Commissioner Dixon moved to tentatively approve the expansion of the City UGB by 127.5 acres as shown on the site plan before the City Council and Board, deferring to the Council to interpret Policy 4 of the City Comprehensive Plan. Commissioner Jaramillo seconded the motion. The Board voted 3-0 in favor of the motion. The Board noted that the County would consider proposed findings at their regularly scheduled public meeting on October 7, 2008.

The City Council and Board closed the public hearing following the votes to tentatively approve the application.

IV. INCORPORATION OF DOCUMENTS

The Board hereby adopts and incorporates by reference the consolidated staff report prepared for the July 29, 2008 hearing, with attachments. To the extent there are discrepancies between the incorporated materials and these findings, the express findings of the Board of Commissioners shall govern.

The Board also expressly adopts and incorporates by reference the record of joint City and County proceedings leading to the 2007 UGB expansion, as submitted to LUBA in consolidated LUBA cases numbered 2007-092 and 2007-093.

V. DESCRIPTION OF EXPANSION AREA

The revised UGB expansion area contains approximately 127.5 acres directly south of the existing Adair Village UGB and Arnold Avenue, east of State Highway 99W, and west of the Southern Pacific Railroad tracks, as shown on **Exhibit 3**. The property that is the subject of the UGB expansion is identified on County Assessor's map as: T10S-R4W-Section 29, Tax Lot 400; T10S-R4W-Section 30, Tax Lot 1400 and 1401; T10-4-Section 30D, Tax Lot 1501; T10S-R4W-Section 31, Tax Lot 205; T10S-R4W-Section 32, Tax Lot 201. The revised comprehensive plan and zoning designations are shown on **Exhibit 4** and **Exhibit 5**.

VI. FINDINGS REGARDING ALL CRITERIA EXCEPT REMAND ISSUES

Note: The following are the substantive findings that demonstrate compliance with all applicable state and local criteria for this application, except for the two issues that were remanded by LUBA and the Court of Appeals. The findings in Sections VI through IX of this document are unchanged from their original adoption as Exhibit 1 of Ordinance No. 2007-0216, except that the four paragraphs addressing available land within the UGB have been deleted and replaced with new findings in Section X of this document, which section contains the Board's findings addressing the two remand issues. To the extent there is a discrepancy between the re-adopted findings in Sections VI through IX and the other sections of this document, the Board's current findings shall govern (e.g., the size of the UGB expansion area is now 127.5 acres rather than 142).

This application involves an amendment to the Adair Village UGB and related map amendments. The UGB amendment is governed primarily by Statewide Planning Goal 14 and implementing rules at OAR 660 Division 4, as well as ORS 197.298. As discussed in more detail below, the amendments must also demonstrate compliance with certain provisions of the City and County Comprehensive Plans and Development Codes.

In these findings, applicable standards and criteria are set forth in bold-face headings and/or italicized type followed by the findings including facts, reasons and legal conclusions. These findings are organized so that the analysis begins with state law and proceeds to local law. Thus, the next section deals with the Statewide Planning Goals and their implementing administrative rules, followed by a section

addressing applicable statutes and their implementing administrative rules. Those sections are followed by sections addressing applicable standards and criteria from the City and County Comprehensive Plans and local land use regulations. Often the same or similar criteria are found in more than one source. These findings attempt to minimize repetition and redundancy, using cross-references where possible and adding or repeating material only where necessary.

VII. STATEWIDE PLANNING GOALS

The Board and City Council find that the requested amendments are consistent with all of the applicable Statewide Planning Goals, as addressed below.

A. Goal 1 - Citizen Involvement

Goal 1 requires local government to develop a citizen involvement program to ensure the opportunity for citizens to be involved in all phases of the planning process. Because Goal 1 establishes a requirement for local government to develop a program, it is not directly applicable to this decision. However, the city and county have adopted citizen involvement plans that are acknowledged by the Land Conservation and Development Commission. The hearings and local review process for this application has been governed by that acknowledged program. For this particular request, multiple public hearings have been held by the county. The Board and City Council find that Goal 1 has been met generally by the county and specifically in this instance.

B. Goal 2 - Land Use Planning

Part I of Goal 2 requires the establishment of the land use planning and policy framework as a basis for all decisions and actions. Part II of Goal 2 relates to the exception process that must be followed when an applicant or local jurisdiction requests an exception to a Statewide Planning Goal. The first part of Goal 2 has been met by acknowledgement of the City and County Comprehensive Plans by LCDC. Regarding the second part of Goal 2, the applicable rule governing the exception process at OAR 660-004-0010(1)(c) provides that a goal exception is not required for the amendment of an established UGB.

C. Goal 3 – Agricultural Lands

Goal 3 relates to the preservation of agricultural lands. Agricultural land in western Oregon is land of predominantly Class I, II, III, and IV soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil

fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4.

Although the subject property does not contain any Class I soils, those that are present are all classified as high-value farm land. The property is currently in grass seed production. The proposed expansion area includes several manmade barriers that would buffer residential uses from existing agricultural activities. The impact of redesignating the property for residential uses should not impact the ability of adjacent farm uses to maintain viable operations.

The UGB amendment at issue involves the urbanization of agricultural lands, and compliance with Goal 3 is achieved through the application of Goal 14 and applicable rules governing expansion of the UGB. Under OAR 660-004-0010(1)(c), an exception to Goal 3 is not required for the amendment of an established UGB

D. Goal 4 – Forest Lands

Goal 4 relates to the preservation of forest lands. The UGB expansion area does not impact forest lands, and Goal 4 is therefore not applicable. The site is adjacent to the OSU Research Forests to the west. However, that forest land is separated from the expansion site by Highway 99W, an effective buffer to any potential conflicts between forest and urban uses.

E. Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

No inventoried Goal 5 natural resources (wetlands, riparian areas, wildlife habitat, etc.) are present within the expansion area. The property does include some wetlands and drainage corridors. These areas have been delineated and surveyed and will be required to satisfy the protection and preservation requirements of the respective jurisdiction at the time that the properties are developed. The proposed amendments are consistent with Goal 5.

F. Goal 6 – Air, Water and Land Resources Quality

Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not threaten to violate or violate applicable state or

federal environmental quality statutes, rules and standards. The amendments at issue does not implicate Goal 6.

G. Goal 7 – Area Subject to Natural Disasters and Hazards

A portion of tax lot 205 (T10-R4W-Section 31) is located within the mapped floodplain of Calloway Creek. This narrow band of floodplain along Calloway Creek can be accommodated in planning and developing the area. The area up to the creek has been farmed and degraded. The area above the bank does not appear to be susceptible to land movement or other hazardous land conditions. In the event of future development, the governing jurisdiction will require mitigating measures in, and construction in, the area to be consistent with local and federal regulations that are applicable to development in any floodplain. No other hazards exist in the expansion area. The proposed amendments are consistent with Goal 7.

H. Goal 8 – Recreational Needs

The expansion area is not identified as a recreational resource by the county, and Goal 8 is not applicable.

I. Goal 9 – Economic Development

Goal 9 requires that local government provide adequate opportunities for a variety of economic activities vital to the health, welfare and prosperity of the citizens of Oregon. The proposed amendments will result in development that contributes to the state and local economy by providing for housing and commercial activities that would help the City of Adair Village grow economically. The Board and City Council find that the amendments are consistent with Goal 9.

J. Goal 10 – Housing

Goal 10 requires local governments to provide for housing needs, and to inventory buildable lands for residential use. The proposed amendments will provide buildable lands for housing purposes. The starting point for the Adair Village UGB expansion request is based on the estimated number of new residents during the 20-year planning period and the projected residential land need to accommodate that population. Under Oregon law, this number must be coordinated between Adair Village and Benton County. The 1998 "coordinated" population projection for the City of Adair Village was a projected population of 913 people in the year 2020.

The Center for Urban Population at Portland State University established the City's population at 870 by July 2004. According to the US Census statistics and the

numbers provided by the Center for Urban Population at Portland State University, the population of the City of Adair Village increased by approximately 62 percent over the four-year period of 2000 through 2004.

In response to the rapid growth being experienced by the City, Otak, Inc. was hired through a state TGM grant to prepare the Adair Village Town Plan Study. The study projected a population of 2,100 for Adair Village in the year 2020 and called for an expansion of the UGB amendment to accommodate the growth. The population projection was adopted by the Benton County Board of Commissioners and the City of Adair Village Council in 2003.

In 2006, Adair Village submitted a formal request to the Benton County Board of Commissioners for a new 20-year population projection, this time to the year 2026. On March 14, 2006 the County adopted Order D2006-037, providing the Adair Village with an estimated 2026 population of 2,814 persons, based on the previously approved 2020 population of 2,100 and a 5-percent rate of growth.

There is a demonstrated need for additional land for housing to insure appropriate types and amounts of land are provided in the urban growth boundary. Additional residential land is needed to provide for adequate numbers of needed housing units to allow for flexibility of housing location, type, and density. The subject property contains unique qualities that make it the best location to meet the identified need as discussed below.

The Board and City Council find that the UGB expansion is consistent with Goal 10 because it will provide enough land to accommodate the projected 2026 population of 2,814 people.

In demonstrating the amount of land needed, the applicant took into consideration the following facts, which are accepted and adopted by the Board of Commissioners and the City Council: (a) the City of Adair Village desires to maintain an overall average lot size of 6,000 square feet per unit; (b) up to 20 to 25 percent of the land that would be brought into the UGB would be utilized for resource protection and rights-of-way; (c) approximately 24 acres of the proposed expansion area would be dedicated to sports fields or other educational/open space facilities for Santiam Christian School and not dedicated to residential uses.

As explained in correspondence from OTAK dated September 29, 2006, the current (2005) population of the City of Adair Village is 905. The projected population in 20 years is 2,814, which is an additional 1,909 people. In order to accommodate an additional 1,909 people over the next 20 years, at the accepted

average household size of 2.75 persons per household, 694 additional homes are needed.

The Board and City Council accept the evidence in the record submitted by OTAK and the applicant, which establishes that in order to provide 694 housing units at the city's average lot size of 6,000 square feet would require 118 gross acres, which results in 95 net developable acres. In order to provide the necessary sports fields for the Santiam Christian School, 24 additional acres are required, which results in 142 gross acres total.

The UGB expansion is necessary to accommodate the housing needs of the projected population of 2,814 people for the City of Adair Village over the next 20 years and is consistent with statewide planning Goal 10 (Housing).

K. Goal 11 – Public Facilities and Services

Goal 11 requires local governments 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. The applicant has established that necessary public services are available.

The proposed amendment to expand the UGB and rezone the properties for residential development will require the expansion of public facilities and services to accommodate development. The intent of Goal 11 is to provide for the necessary public facilities and services for accommodating urban development, and the expansion of these services would not be in conflict with this goal. The Board and City Council adopt the following assessment of utilities provided by the city manager.

Water: The Adair Village Water Treatment Plant was originally constructed in 1942 by the Army to serve 50,000 service personnel at the Camp Adair Army Base. The original design capacity was 8 million gallons per day (MGD). The plant is currently treating 0.4 to 0.6 MGD with part-time operation on two or three days a week. Only half of the original filter area is in use. The Oregon Health Division has limited the maximum treatment capacity of the plant to 1,600 gallons per minute (gpm) or 2.304 MGD in its current state. This is the approximate maximum intake flow that can be delivered to the plant with both raw water pumps on. The City has approximately 1.75 million gallons of water storage to meet domestic and fire suppression demands. This is comprised of Voss Hill Reservoir (1.0 MG), Hospital Hill Reservoir (0.50 MG), and the Water Treatment Plant clear well (0.25 MG). The City's water system is sufficient to accommodate the expansion.

Wastewater: HGE, Inc. completed a Wastewater Facilities Plan Supplement in 1990. Phase I improvements were made to the plant in 1991 and 1992. Phase II improvements were constructed in 1994. Phase I improvements consisted of a collection system lining, two new pump stations, and 20,000 lineal feet of an 8-inch pressure main for discharge to the Willamette River. Phase II improvements consisted of upgrades to the wastewater treatment plant, construction of the holding pond, installing an irrigation system for summer discharge of stored effluent, and construction of an effluent pump station. In November 1994, HGE, Inc. completed a performance evaluation of the constructed improvements. Portions of the treatment plant design data used in that evaluation are shown in the table below. The evaluation concluded that a projected population of 1,775 in 2010 could be served by the constructed sewerage treatment facilities.

Item	Present	Design (Year 2010)
Population	870 ¹	1,775
Avg. Dry Weather Flow, GPD	57,000	115,000
Peak Monthly Flow, GPD	82,800	167,000
Peak Daily Flow, GPD	171,000	346,000
Peak Instantaneous Flow, GPD	268,000	543,000

Improvements to the City's wastewater system would have to be planned and completed prior to exceeding the capacity. Mechanisms such as System Development Charges (SDC) and direct developer contributions can finance new facilities. Capital funding for maintenance projects, such as I/I reduction, can be developer and user financed.

Stormwater: Section 5.126 of the City's Land Development Code requires new developments to provide proper drainage and protect all runoff and drainageways from disruption or contamination. Drainage controls shall be designed to regulate surface water run-off into receiving streams, drainage facilities, or onto adjoining properties. Controls may include, but are not limited to: (1) detention ponds, swales or

¹ This number was the preliminary population released by PSU; it was later adjusted to 905.

storage cells; (2) minimization of impervious surfaces; (3) use of open greenway drainageways; (4) flow controls; or (5) offsite stabilization of drainage channels.

The City has sufficient water to meet its 20-year population needs. The City is developing a Wastewater Master Facility Plan that will provide an assessment of needs and a finance plan to meet those needs. There is not a requirement that this work be completed prior to expansion of the UGB. These issues will be addressed outside of this process. Storm drainage improvements will be designed and constructed as development occurs. The Board and City Council find that the amendments are consistent with Goal 11.

L. Goal 12 – Transportation

Goal 12 requires a safe, convenient, and economic transportation system. The traffic impact analysis (TIA) prepared by DKS Associates dated June 16, 2006 and the supplemental correspondence from Carl Springer of DKS Associates dated August 17, 2006 demonstrate that the proposed amendments will not have significant adverse impact on the transportation system and will not prevent the City or County from meeting any of their citizens' transportation needs.

Goal 12 is implemented by the Transportation Planning Rule (TPR), which is set forth at OAR Chapter 660, Division 12. The TPR creates specific requirements for compliance and coordination among affected units of local government for the preparation, adoption, refinement, implementation and amendment of transportation system plans and local comprehensive plans and land use regulations.

The TPR requires that any amendments to comprehensive plans or land use regulations that "significantly affect a transportation facility" must assure that the allowed land uses "are consistent with the identified function, capacity and performance standards of the facility." An amendment "significantly affects" a transportation facility if it would: (1) change the functional classification of an existing or planned transportation facility; (2) change standards implementing a functional classification system; (3) allow types land uses or levels of development that are inconsistent with the functional classification of an existing or planned transportation facility; (4) reduce the performance standards of an existing or planned facility below minimally acceptable levels identified in the local transportation system plan; or (5) worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan. OAR 660-012-0060(1).

For the proposed amendments to demonstrate compliance with the TPR, the Board must conclude that the traffic impacts from the proposed hotel are either within

the performance standards of the impacted transportation facility or that adverse impacts will be mitigated.

The TIA considers whether any transportation facilities would be "significantly affected" by the proposed facility within the meaning of the TPR. The TIA concludes that, with mitigation, affected transportation facilities will be adequate through the planning horizon year of 2026. Table B to Mr. Springer's August 17, 2006 letter demonstrates that the intersection of Highway 99W and N.E. Ryals Road, with mitigation, will operate at a v/c ratio of 0.89 in the morning peak hour and a v/c ratio of 0.67 in the afternoon peak hour. The v/c ratio standard is the applicable standard adopted by ODOT for state transportation facilities.

The Board and City Council find that Goal 12 and the TPR are satisfied. The Board and City Council expressly adopt and incorporate into their findings the DKS Associates TIA dated June 16, 2006, as well as the supplemental correspondence from Mr. Springer dated August 17, 2006 regarding "Summary of Transportation Impacts and Mitigation Associated with the Proposed UGB Expansion in Adair Village." To the extent there is any discrepancy between the incorporated materials and these findings, the express findings in this document shall govern.

M. Goal 13 – Energy Conservation

Goal 13 requires that land uses maximize conservation of all forms of energy based on sound economic principles. The goal is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. The expansion area's future location within an urban area with convenient access to activity centers such as shopping and employment opportunities will enable present and future residents to drive shorter distances and achieve more tasks on the same trip. This reduces the travel-distance gasoline consumption and, thereby, contributes to energy conservation. In addition, new development, residential and commercial, is often times regulated or encouraged to be constructed with the most recent acceptable building practices respective to energy conservation. The amendments are consistent with Goal 13.

N. Goal 14 – Urbanization

Goal 14 provides for an orderly and efficient transition from rural to urban land use, and provides the primary criteria applicable to expansions of UGBs, along with ORS 197.298. The review process under Goal 14 can be generally divided into two parts: (1) Land Need and (2) Boundary Location.

1. Land Need

Goal 14 includes two "Land Need Factors," providing that establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with the affected local governments; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection.

Goal 14 goes on to explain that in determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need, and that prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary. These additional issues are addressed in the findings associated with factors (1) and (2) above.

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with the affected local governments.

The "need" factors are addressed on pages 15-16 of the applicant's narrative and in supplemental materials submitted by the applicant. The Board and City Council adopt the following findings in support of a conclusion that there is a "demonstrated need" for the UGB expansion consistent with the 20-year population forecast:

Adair Village is projected to grow by 1,909 persons over the next 20 years from its current (July, 2005 estimate) of 905 persons. As explained in the findings adopted in Section VI above regarding the projected growth of Adair Village and in Section VII.J addressing Goal 10, housing for an additional 1,909 people will require 694 additional homes, which requires 118 gross acres of additional land (95 gross acres. In order to provide the necessary sports fields for the Santiam Christian School, 24 additional acres are required, which results in 142 gross acres total.

The UGB expansion is necessary to accommodate the housing needs of the projected population of 2,814 people for the City of Adair Village over the next 20 years and is consistent with factor (1) of Goal 14.

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection.

The demonstrated need for housing to accommodate 20-year population growth in Adair Village is addressed above and in the findings regarding Goal 10. The Board and City Council adopt the following additional findings in support of the "need" factors of Goal 14.

Household Size: The unusual lot sizes and housing stock resulting from the military days has also impacted the average household size in Adair Village. While the 2000 census, taken prior to the recent 122 new dwellings, provides for an average household of 3.1 persons, this figure is recognized as being an anomaly given the base housing developed by the Air Force in the 1950s. The houses are all 3 or 4 bedroom homes with generally lower rents attracting larger families. In looking at average household sizes around Benton County the average household size in Benton County is 2.43, which newer development is more likely to mirror with smaller homes and families. The City's Comprehensive Plan anticipates an average household size of 2.75 persons per household.

Despite the historically large lots provided in Adair Village from its military base days, the City has adopted policies allowing for higher densities and a desired average lot size of 6,000 square feet per lot. While this might seem high (Adair Village is not a typical city given the community's history) it is a logical progression to more efficient use of land.

Needed Housing: The City of Adair Village has an extremely homogeneous stock of housing from its original development as a military base. With the exception of the one four-plex the housing stock from the original base consists of 80 percent (120) duplexes and 20 percent (30) single-family dwellings. Original lots in Adair Village generally exceed the 10,000 square foot minimum in the R-1 zone. The original single-family homes are 3 and 4 bedroom units and valued in the \$110,000 to \$130,000 and quite inexpensive in the Benton County housing market. The duplexes are 3 and 4 bedroom units constructed in the 1950s and have an appraised value of \$140,000 to \$150,000. Because of this inordinate amount of duplexes and rental units, the City's R-1 and R-2 zones residential zones make no allowances for dwellings other than single family units. The 2000 census, and comprehensive plan updated in 2000, indicates the City now has 180 dwelling units; of which 65 are single-family and 115 duplexes.

During the years of 2001 to 2004 the City added approximately 122 single-family dwellings to its housing stock. These dwelling average 1,300 to 1,500 square feet with two to three bedrooms and constructed on lots averaging 8,000 square feet in size. The lots and household sizes are smaller than originally provided for in Adair Village and is indicative of the trend toward smaller homes and smaller lots. While

this has improved the housing ratio of duplexes to single-family units, there still remains no high-density zone or lands within the City and the City must expand its boundary to be able to zone lands for such uses.

To rectify this imbalance in densities and type the City Council amended its Development Code in 2006 after three years of review to allow for higher densities, multiple family units, and mixed use developments. The new Development Code language provides for a new R-3 zone with lots as small as 1,200 square feet. The Council also adopted new comprehensive plan policies providing for an average lot size of 6,000 square feet. These new zones will provide for a broader mix of housing type, style and cost based on the smaller lots size and allowances for multi-family housing. To assure that development occurs at densities sufficient to accommodate the housing needs without another expansion the City's Code also provides for maximum lot size in the R-3 zone. Housing development will then be monitored and evaluated during the City's periodic review to ensure that housing types and densities are meeting the housing needs.

In order to preserve the otherwise homogeneous nature of the existing community this high-density residential development would not occur within the original R-1 or recently platted R-2 areas of the community. To meet the City's need for additional housing to meet projected populations and diversify its housing stock the City must expand its boundary to new areas.

Employment Opportunities: The City of Adair Village currently has only two parcels in the entire City that are zoned for commercial uses and two parcels zoned for industrial uses. The commercial lands encompass less than two acres and are developed with a neighborhood grocery/tavern, coffee shop, and four-plex residential structure. The industrial lands include the 7.2 acres. These lands contain a cabinet shop and five acres where the Air Force radar facility was housed commonly referred to now as the "Block Building." The Block Building encompasses roughly 160,000 square feet on four stories and while the building has been privately owned for about three years and houses limited commercial business the building remains idle for the most part. There are other under-developed lands in the central community that are owned by the City of Adair Village and Benton County. However, these lands remain constrained for any development due to deed restrictions placed on them by the Federal government when it deeded the land to the local governments. These deed restrictions require the lands to remain used for public park and recreation purposes in perpetuity and are therefore not considered for in-fill residential or commercial development.

The economic analysis developed in the Adair Village study indicates a high level of disposable income. With no available commercial lands in the City additional lands must be provided in the expansion area to meet basic needs. The 2005 Urbswork Study reflects the need for 3-5 acres of commercial land. To partially address this deficiency the expansion area will provide 2.2 acres of planned neighborhood commercial land.

Public Facilities: This new housing stock in the expansion area will require basic public facilities, which has generally been recognized as requiring 20-25% of the gross acreage. Additional open space is not necessarily required given the surrounding community amenities of the McDonald Dunn Forests, Adair County Park, Fish and Wildlife property and E.E. Wilson Wildlife Refuge. However, neighborhood parks are required with such residential development as provided for in the City's Comprehensive Plan at 2.5 acres of park land per 1,000 people. This will require 4.75 acres of park land to meet the need from 1,900 persons.

Schools: Santiam Christian School, private school serving grades K-12, is located within the City's UGB. Currently it has only one athletic field that serves for practices. All outdoor athletic events must be played on facilities outside of Adair Village. Football games are played in Adair Village, but on the school's lone practice field, which makes them unplayable for state playoffs and must be played elsewhere. Soccer matches are played at LBCC. Track events were also held at LBCC, but the School has recently learned that those facilities are no longer available and the school had to work a hurried agreement to hold those events at Cheldelin Middle School in Corvallis. Baseball and softball must be played on leased fields in Adair County Park. The School has finally after many years of negotiations acquired the land immediately to the south of its campus from ODF&W with the hope of developing a portion of the land for its athletic fields, which will also provide the community with needed open space.

The School is, however, precluded by State and County rules from developing this athletic field complex on its property immediately south of the campus since it is outside, but within 3 miles, of the UGB. OAR 660-33-120(2) and (18) prohibit churches and schools from being located within three miles of an Urban Growth Boundary unless an exception is obtained. If such facilities are proposed to be located on high value farm land, an exception is not permitted. Because the UGB expansion area includes high value farm land, Santiam Christian School would not be able to expand its facilities outside of the UGB even with an exception. The Board and City Council find that there is a need to provide recreational facilities adjacent to the school that they serve and not require children to ride buses to distant facilities or

require parents to transport their children to those facilities. To develop these facilities next to the school a UGB expansion is needed.

The School has an established need to provide its own athletic fields and has proposed a very efficient design consolidating soccer, baseball and football fields to meet this need on about 24 acres. The Board and City Council find that the 24 acres proposed by Santiam Christian School to meet their identified needs is a reasonable and accurate description of the necessary acreage.

The Corvallis School District 509J has been apprised of the proposed development. Many of the anticipated student population can be accommodated in Mountain View Elementary School, Cheldelin Middle School, and Crescent Valley high school.

The breakdown of proposed land uses (excluding Ryals Avenue) is shown on the following table:

Proposed Acreage (rounded)	Percentage of Total (rounded)	Proposed Use
84 acres	59%	Net needed developable acres for housing
21 acres	15%	Road rights-of-way and other public infrastructure
2 acres	1.4%	Neighborhood commercial (upon annexation)
6 acres	4%	Wetlands
24 acres	17%	This land is already owned by Santiam Christian School and will be designated as open space for a sports field complex.
5 acres	4%	This acreage was not included by the applicant. However, the City requires 2.5 acres of park for every 1000 persons, or approximately 5 acres.
142 acres	100%	Total acreage not including the road ROW.

Land Within Existing UGB: The first two "need" factors for a UGB expansion include a requirement that the identified need cannot be accommodated

~~within the existing UGB. The Board and City Council adopt the following findings explaining why the identified need cannot be established within the existing UGB.~~

~~OTAK submitted a Vacant Lands Analysis Summary dated May 2006, accompanied by two tables identifying vacant and underbuilt lands, and an aerial photo identifying the precise location of such lands. According to the OTAK analysis, there are approximately 19 acres of buildable underdeveloped and vacant land within the existing UGB, as depicted on the aerial photo.~~

~~The 19-acre figure is reached after removing lands that are constrained by development limitations, lack of access, or natural resource and hazards policies restricting development adjacent to the E.E. Wilson Game Management Areas. However, the Board and City Council find that there is no evidence in the record to support a finding that these lands can reasonably accommodate the specific needs described above, because there is no evidence to establish that these lands are available for development or that there is willingness on behalf of the private property owners to develop their land for needed housing. For example, one of the vacant parcels identified in the OTAK analysis is a 4.48-acre parcel that is owned by the Prince of Peace Community Church, for the construction of a future church and is therefore unavailable for residential development, as is the land in the proposed expansion area.~~

~~**Conclusion Regarding Land Need:** The applicant has demonstrated there is a need to accommodate long range urban population, consistent with a 20-year population forecast adopted by the City and Benton County Board of Commissioners. Furthermore, the applicant has demonstrated that there is a need for housing of a modest parcel size, as well as consolidated lands of adequate size and proximity to accommodate the need for school athletic fields. This need cannot be accommodated within the existing UGB, and the need for expansion onto the adjacent 142 acres is justified under the first two factors of Goal 14.~~

2. Location Factors

The second part of Goal 14 involves the application of four factors that relate to the location of the proposed expansion. The applicable portion of Goal 14 provides:

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration given to the following factors.

(1) Efficient accommodation of identified land needs;

7. *Arterials shall provide for the convenient movement of traffic around the periphery of main concentrations of community activity.*
8. *The use of land adjacent to arterials shall not be allowed to conflict with the safe and efficient movement of traffic.*

The above-quoted provisions of the City Comprehensive Plan require, among other things, "compact community development" that does not "disrupt or bisect areas with a natural unity," as well as "an efficient circulation network" that "provides for convenient movement of traffic and access to all parts of the community." The Board and City Council find that the above-cited provisions of the City Comprehensive Plan identify a need for efficient traffic circulation and compact development that are not consistent with the expansion of the UGB across Highway 99W.

In 2006 the City also adopted (in Ordinance #06-2) twelve Growth Management Principles into Section 9.100 of the City Comprehensive Plan. Expanding the community across the highway into the Tampico Road Area would be inconsistent with the following four of those principles:

Section 9.100: Planning

Growth Principle 5: Provide for a village center that is the heart of the city's civic life and is representative of the village's unique identity.

Expanding the City of Adair Village across Highway 99W would create a dangerous barrier bisecting the heart of Adair Village, and separating the community into an "East Adair Village" and a "West Adair Village." In order to create a village center that is the heart of the city's civic life, the City must make the center of town easily accessible, including by foot and by bicycle, to all members of the community. Adding a new development on the other side of the highway in the Tampico Road area would be inconsistent with this goal by making the village center significantly less accessible to those who reside on the other side of the highway.

Growth Principle 6: Provide for a network of collector and local streets that avoids reliance on the state highway for local trips and disburse access to the highway to all available intersections.

Expanding the City of Adair Village across Highway 99W would diminish the City's ability to provide for local circulation via an internal network of local streets, because half of the city would only be accessible via one or two connections across

the highway. Also, it would obviously increase reliance on the state highway for local trips.

Growth Principle 8: Promote alternatives to automobile use through street designs and a transportation network that facilitates safe and convenient bicycle and pedestrian travel.

Creating a city that is bisected by a highway will increase reliance on the automobile by significantly reducing connectivity within the community through reduced access points across the highway, and will also diminish the ability of residents to safely travel across the city by foot or by bicycle due to the hazards associated with crossing a busy and high-speed state highway.

Growth Principle 9: Ensure efficient urban development through compact pedestrian friendly development within natural and man-made boundaries.

Extending the city across Highway 99W would result in less efficient urban development than extending to the south, due to increased costs associated with extending services across the highway and creating an artificial barrier that separates the city into an "East Adair Village" and a "West Adair Village," which results in less pedestrian friendly development. Also, the Tampico Road area has fewer natural and man-made boundaries than the proposed expansion area.

The above-quoted Growth Management Principles reflect a need that has been identified by the City of Adair Village for increased livability in the City. This is an identified need within the meaning of Goal 14 factor (2) that can be considered as part of the determination under the locational factors regarding which area would provide the most efficient accommodation of identified land needs. The Board and City Council find that, for the reasons outlined in this section, the Tampico Road Area does not satisfy the City's identified need for livability as expressed in its Growth Management Principles and elsewhere in its Comprehensive Plan, and that the proposed exception area is more consistent with the City's livability needs.

In addition to the other reasons cited above, the Board and City Council find that the Tampico Road Area is not an appropriate location to expand the UGB because it would conflict with City of Adair Village Transportation Goal Policies and Growth Management Principles adopted by the City of Adair Village by resulting in increased conflicts with highway traffic, creating a barrier to foot or bicycle travel, and requiring an inefficient and costly extension of sewer service.

(b) Northeast Area Lands

The area described as the "Northeast Area Lands" is located north and east of the existing UGB, and includes four individual lots containing approximately 41 acres. Like the proposed expansion area, it includes a combination of EFU-zoned Class II and III soils, as depicted on the aerial photos included in the Alternative Lands Analysis submitted by OTAK. The area includes the following properties:

Owner	Assessment Map	Size (acres)
Amandi, Antonio and Elizabeth	Tax lot 600; T10-R4-20	9
Wright, Thomas and Caroline	Tax lot 1000; T10-R4-29	4
Olarra, Alex and Jennifer	Tax lot 1100; T10-R4-29	15
Amandi, Antonio and Elizabeth	Tax lot 4100; T10-R4-19DD	1
Cornelius, Timothy	Tax lot 900; T10-R4-29	12

The area is made up of approximately 41 acres ranging in size from 4.07 acres in size up to 15.57 acres in size. The area is made up of five individual properties. The area is bound on the north by the E.E. Wilson Wildlife Area and on the south by the Adair County Park. The area is relatively flat and includes some wetlands. The properties within this area are zoned EFU within Benton County and, according to the aerials available, are actively being farmed. The majority of the soils identified in this area are Class II, but the area also includes a small area of Class III soils as defined by the NRCS.

Although the characteristics of this land are similar to the proposed expansion area, it is not large enough to accommodate the entire 20-year projected growth need, and would therefore need to be combined with an expansion of approximately 100 additional acres to the south. Also, the area is not well defined by any natural or man-made boundaries to the east and north. There are no known physical or natural boundaries that would hinder the extension of infrastructure into this area. The area is suitable for housing and commercial development. Policy #86 in the Upland Game section of the Natural Resources and Hazards Chapter of the Benton County Comprehensive Plan states, "Lands adjacent to the E.E. Wilson Game Management Areas should remain in agriculture use. The density of dwellings which currently

exists should not be increased." This policy would exclude portions of this area from being included in the UGB and developed.

The Board and City Council find that expansion in this direction would result in expensive inefficiencies regarding extension of utilities and services, because it would require extension of utilities both to the northeast and to additional acreage in the south. It would be less cost effective to expand the UGB in two different directions. Also, this area has limited transportation access because of wetlands and the location of Adair County Park.

Development of these properties would be less compatible with nearby resource lands because there are no natural or man-made buffers separating urban from resource lands.

The Northeast Area does not provide sufficient land to meet the projected 20-year population growth. In addition, this area also does not have any clear overriding advantages over the applicant's property considering the boundary location factors contained in Goal 14.

(c) Proposed Expansion Area

The proposed expansion area consists of 142 acres in two ownerships, approximately 80 acres of former ODF&W land acquired by Santiam Christian School, and approximately 62 acres owned by the Dorothy A. Weigel Trust. The land is in EFU zoning, and evenly split between Class II and III soil types. The Weigel Trust property is farmed for grass seed and the former ODF&W land is idle and currently open space. The area is located directly south of the existing city limits and is bound on the east by the Southern Pacific Railroad, on the west by the ODFW Regional Offices and Highway 99W, and on the south by Crane Road. The area is relatively flat and includes some wetlands and riparian corridors. The majority of the soils identified in this area are classified by the NRCS as being not classified, Class II or III and evenly split between the two soil types.

In this instance, the area is well defined by man-made barriers and can accommodate the entire projected 20-year population. There are no known physical boundaries that would hinder the extension of infrastructure into this area. The area is suitable for housing and commercial development.

Including the proposed land within the UGB will create an efficient land use pattern and will minimize potential compatibility issues both with urban and agricultural uses. Including the proposed area into the current UGB would not create any foreseeable adverse impacts as they will be separated from the adjacent uses by

the Southern Pacific Railroad right-of-way, and the buffer area between the revised UGB location and the Crane Road right-of-way. As reduced to 142 acres, the modified UGB location provides a significant buffer area north of Crane Road and west of the railroad tracks in addition to the buffers created by those facilities, and provides more compatibility with nearby agricultural uses than other expansion areas.

As previously stated in these findings, all of Adair Village is surrounded by governmental or resource uses, and there must be some expectation that the City will have to grow into these resource areas. The City can impose restrictions on lands adjacent to agricultural lands that preclude the land owner from taking action against nearby agricultural uses. The City can choose to impose buffers between urban and agricultural uses, or impose lower densities on areas adjacent to agricultural uses, to imply that there is a transition between the uses.

In considering the long-term environmental, economic, social, and energy consequences, the Board and City Council find that the proposed expansion of the UGB to the south is the best location because it borders existing urban uses to the north, it provides for the economical extension of existing facilities and services, and it is no more agriculturally productive than the other surrounding available resource lands. The subject property contains no Class I soils and a large portion of the property currently lays fallow. Other portions of the property are currently planted with grass seed. Equally important, is the fact that the crops grown in and around the existing UGB are all similar, and that the proposed expansion in the proposed area is not likely to adversely affect agriculture. As proposed, the UGB will be expanded to two logical man-made boundaries.

Environmental Consequences: The environmental consequences of bringing in the proposed expansion area revolve around the potential degradation of wetland areas for future development and conflicts between the ODFW Regional Offices, which has a small wildlife refuge, and any new development on the proposed expansion lands. Other issues such as air and noise pollution as a result of added traffic could be attributed to the proposed expansion as well. The implementation of existing state and local laws designed to preserve wetland functions and values will be enforced on any proposed land uses within the expansion areas. Air and noise pollution are also limited by existing state, local, and federal regulations. By establishing a vegetated buffer between conflicting uses, any proposed development could occur without adversely degrading wetland functions and values, or affecting the existing wildlife refuge on the adjacent ODFW Regional Offices.

Economic Consequences: The economic consequences of converting the proposed expansion area to urban uses are twofold. First and foremost is the apparent

loss of farmland. The offsetting circumstance to this argument is that the expansion of the UGB will provide more land that will allow the City of Adair Village to grow and expand its infrastructure and tax base without expanding into any protected state, federal, or locally protected resource lands such as the McDonald State Forest, the E.E. Wilson Wildlife Refuge, Adair County Park, and the ODFW wildlife refuge. By providing more housing opportunities, the City of Adair Village will enhance its economic development opportunities.

Social Consequences: Expansion of the UGB in the proposed location would provide potential opportunities for additional recreation and education on the Santiam Christian School site and provide additional land for needed housing within the area.

Energy Consequences: The proposed expansion will result in added traffic and capacity issues for existing utilities. Travel trips may be reduced locally, by promoting denser development and alternative forms of transportation (e.g., walking and biking). Issues related to existing utilities can be mitigated by systems development charges and improvements to the local infrastructure as a result of increased development. In addition, compliance with existing building, fire, and safety regulations will reduce overall energy consumption and expenditures over time.

For all of the reasons explained above with regard to the potential locations for expansion of the UGB, the Board and City Council find that the proposed expansion area, when compared against the other two alternative sites, is more consistent with the four locational factors of Goal 14. The proposed expansion area provides the most efficient means in which the City can accommodate the identified need for additional housing and school facilities. The proposed expansion area will also provide for the most orderly and economic provision of public facilities. The proposed expansion area would have no greater adverse environmental, energy, economic, and social consequences in comparison to the other areas examined. And finally, the proposed urban uses on the subject properties will provide a greater degree of separation from resource uses on adjacent land than the properties in the Northeast Area or in the Tampico Road Area. No significant compatibility problems with resource uses have been identified on any of the sites examined.

While the Tampico Road Area is not in a resource zone, for the reasons described above, expanding onto that area involves barriers to efficient, orderly and economic extension of services. Further, expanding to the west into the Tampico Road Area would result in the city being bisected by Highway 99W, which is not consistent with the City's identified need for livability as expressed in its Growth Management Principles, and is also inconsistent with the City's Comprehensive Plan policies discussed above.

The Northeast Area alternative site is also zoned EFU, and has similar soil types to the applicant's parcels. However, that area is too small to accommodate the City's 20-year population, is more constrained by natural resource issues and proximity to the E.E. Wilson Wildlife Area, and the transportation network would be significantly more difficult to develop. The Board and City Council conclude that the alternative sites provide no clear advantage to the proposed expansion area, and that the proposed expansion area, on balance, is more consistent with the Goal 14 location factors.

O. Goal 15 – Willamette River Greenway

This Statewide Planning Goal is not applicable to this application.

P. Goal 16 – Estuarine Resources

This Statewide Planning Goal is not applicable in Yamhill County.

Q. Goal 17 - Coastal Shorelands

This Statewide Planning Goal is not applicable in Yamhill County.

R. Goal 18 – Beaches and Dunes

This Statewide Planning Goal is not applicable in Yamhill County.

S. Goal 19 – Ocean Resources

This Statewide Planning Goal is not applicable in Yamhill County.

For the reasons stated above, the Board and City Council find that the proposed amendments are consistent with all applicable Statewide Planning Goals.

VIII. BENTON COUNTY CRITERIA

In addition to Plan amendments being reviewed against all applicable Statewide Planning Goals, they also need to be reviewed against local plan and code criteria.

A. Comprehensive Plan Amendment

Chapter V: *Monitoring and Updating the Comprehensive Plan* of the Benton County Comprehensive Plan provides the process for a Comprehensive Plan Map Amendment. This process is described in Section 4.b and Section 5:

Criteria for Amendments:

Amendment to the text may be considered to correct an error, improve the accuracy of information, expand the data contained in the Plan, bring the Plan into compliance or more into compliance with statewide land use planning goals, or to reflect a public need in compliance with the State goals. Map amendments may be considered when compliance with all elements of the Comprehensive Plan and with statewide land use planning goals can be shown and a public need exists for the proposed amendment.

The comprehensive plan provisions provide the process by which the County amends its Comprehensive Plan and Plan map. The Statewide Planning Goals are addressed above. A public need is met through planning for urban areas in a manner that efficiently accommodates future growth. The Board finds that the proposed amendments comply with the goals and there is a public need for the proposed amendment; therefore, these criteria are met.

B. Zone Map Amendment Criteria

The criteria for a zone change to the Benton County Zone Map are contained in BCC 53.505:

The Official Zoning Map may be amended if:

(1) The proposed zoning for the property is more appropriate than the current zoning, when considering existing uses, changes in circumstances since the current zoning was applied, or information that indicates that the current zoning was not properly applied;

Because of the expansion of the UGB, the proposed rezoning is more appropriate than the current EFU designation. Rezoning the property as Urban Residential-50 (UR-50) and Open Space (OS) by the County will allow the City of Adair Village to begin implementing its plan for this area as spelled out in the Adair Village Town Plan Study. With approval of the UGB amendment application, the circumstances will have changed such that the rezone is warranted.

(2) The impact on adjacent properties will be minimal;

The impacts on adjacent properties are considered in the findings addressing Goal 14, and those findings are adopted and incorporated here. This subject property is separated from adjacent properties by the Southern Pacific Railroad, a state

highway, and Crane Lane, which is essentially a private drive. The impact to adjacent properties, particularly farmlands to the east and south of the proposed area, as a result of this application will be minimal given the physical separation. Once within the UGB, annexed and developed, adjacent properties will notice impacts created by added traffic and population, but the added population and traffic have been planned over the last three years and will be realized over the next 20. The impacts will be mitigated through compliance with state and local ordinances.

(3) Any significant increase in the level of public services which would be demanded as a result of the proposed zone change can be made available to the area, and

The proposed UGB expansion will likely increase the level of public services once the property within the area is developed. The expansion of future public services can be currently accommodated or improved at the cost of development. The costs of additional public services can be offset or avoided through application of system development charges, ensuring dedication and development of park space to meet the City's ratio of 2.5 acres/1000 persons, and ensuring that when property is subdivided the developer is required to pay a proportional amount of the costs of needed public improvements. There will be no significant increase to the level of public services required of Benton County. The main public services would be road infrastructure costs, including future traffic signals on Highway 99W, expanding the City's sewage treatment capabilities, and developing park space.

(4) The proposed zone change is consistent with the policies of the Comprehensive Plan.

Chapter B of the Benton County Comprehensive Plan relates to the local economy. The proposed amendments do not conflict with any of the policies of Chapter B. In fact, the proposed amendments are consistent with the directives identified in Policy 5, which state, "Benton County shall cooperate with Cities within the County, Chambers of Commerce, the State Economic Development Department, the Council of Governments, utility companies and other state and regional economic development organizations in coordinating resources and activities towards promoting economic development and meeting economic development objectives." The proposed amendments are also consistent with Policy 14, which states, "The County shall encourage the expansion of the retail and service sectors of the local economy which captures local market demand and disposable income." The amendments will enhance the economic development of the City of Adair Village.

Chapter C of the Benton County Comprehensive Plan relates to Natural Resources and Hazards. The proposed UGB expansion will displace some high-class farmland adjacent to the current City of Adair Village UGB, and portions of the expansion area do include streams, wetlands, and floodplains that will warrant protection when the property is developed. The amendments are consistent with the policies of Chapter C.

Chapter D of the Benton County Comprehensive Plan deals with Housing and focuses on ensuring a variety of housing types, costs, and measures to ensure that demand is monitored. The proposed amendments do not conflict with any of the policies within this chapter.

Chapter E of the Benton County Comprehensive Plan relates to Transportation. The proposed amendment does not conflict with any of the policies within this chapter. In fact, the expansion to the proposed area, as opposed to the Tampico Road Area, will prove more conducive to realizing Policy 3, which states, "Benton County shall support ODOT's efforts to maintain highway mobility and implement access management standards." By expanding the UGB to the south, the City of Adair Village can minimize the amount of traffic that has to cross the highway to access services. The proposal will also promote a more efficient extension of public services by expanding the local roads that already serve portions of the current UGB.

Chapter F of the Benton County Comprehensive Plan relates to Public Facilities and Services. As it relates to this specific proposal, the Comprehensive Plan encourages the provision of urban services by cities as opposed to the County. Rezoning portions of the property from agricultural to residential, commercial, and open space will eventually lead to the demand for more services such as schools, police and fire protection, and social services, but these impacts can be expected as a result of any addition of population. In this instance, the City of Adair Village has recognized that increased services will be required and is committed to working with the individual service districts and developers to ensure that the costs of providing these services are offset by systems development charges where applicable. There are no requests from the County for urban services with the proposed expansion. The proposed amendments do not conflict with the policies of this chapter.

Chapter G of the Benton County Comprehensive Plan relates to Energy. The policies are directives to the County to promote research and conservation efforts for existing systems, future development, and to foster the growth of renewable energy sources. The proposed amendments do not conflict with the policies of this chapter.

Chapter H of the Benton County Comprehensive Plan relates to Environmental Quality. As indicated previously in this narrative, future residential use of the property will likely have more negative effects upon air, water, and land resources by way of non-point source pollutants, automobile exhaust, and land consumption over what currently occurs. It should also be noted that any land converted from rural to urban uses would be subjected to the same changes regardless of the location. The policies of this chapter tend to encourage compliance with federal, state, and local laws over outright prohibition. Any new development resulting from the proposed UGB expansion and rezone will ultimately require direct mitigation such as connecting to sanitary sewer, treating and managing stormwater, connecting to the public water supply, and complying with other applicable local and state regulations. The proposed amendments do not conflict with the policies of this chapter.

Chapter I of the Benton County Comprehensive Plan relates to the identification and protection of Open Space, Scenic, and Historic Areas within Benton County. Specifically, this chapter requires the identification and protection of areas associated with open space uses, historic and prehistoric uses, scenic waterways, scenic views, and cultural resources. There are no identified view corridors on this property and future development will comply with all applicable state and local laws to protect any cultural, historic, or prehistoric resources on the property. The proposed amendments do not conflict with the policies of this chapter.

Chapter L of the Benton County Comprehensive Plan relates to Rural Land Use. Policy 1 provides that lands designated for agricultural use on the Comprehensive Plan Map "shall be preserved and maintained to encourage their utilization for agricultural production as specified by Statewide Planning Goal 3 (Agriculture)." Policy 2 allows conversion of agricultural lands only when an Exception to statewide planning Goal 3 is granted. An exception to statewide Planning Goal 3 is not required due to the concurrent expansion of the UGB onto agricultural land under the applicable provisions of Goal 14, which necessarily converts those lands from resource to urban use independent of the related mapping exercise, which could otherwise trigger a Goal 3 exception. The City of Adair Village is surrounded by prime agricultural lands and, when it grows, it will have to grow into prime agricultural lands simply because of its location. The amendments are consistent the policies outlined in this chapter.

The Board concludes the applicant has met the burden of proof for the UGB expansion considering the applicable Statewide Planning Goals and applicable sections of the Benton County Comprehensive Plan.

IX. CITY OF ADAIR VILLAGE CRITERIA

Amending the urban growth boundary is a process conducted jointly by the City and County. The Urban Growth Management Agreement between Adair Village and Benton County governs the coordination of joint legislative amendments. An amendment may be approved, denied, or altered by mutual approval of both the City and County. Section 2.700 of the City's Land Development Code governs amendments to the Comprehensive Plan Map and the resultant County zoning.

A. Land Development Code Section 2.700

Decision Criteria.

(2) *All requests for an amendment to the text, zoning map or comprehensive plan map of this Code may be permitted upon authorization by the City Council in accordance with following findings:*

(a) *The proposed amendment is consistent with the intent of the Comprehensive Plan.*

The purpose of the Comprehensive Plan is to provide guidelines for conservation and development of community resources and to promote the public health, safety and general welfare of community residents. There is no single description of the "intent" of the plan, but the City Council finds that, taking all relevant aspects of the plan into consideration, the primary intent of the plan is to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change. The City Council finds that the proposed amendments are consistent with the intent of the Comprehensive Plan by allowing the City to expand its boundaries in an orderly fashion to allow for planned development sufficient to accommodate the City's 20-year growth estimates.

(b) *There is a public need for the proposed amendment to comply with changing conditions or new laws.*

According to the US Census statistics and the numbers provided by the Center for Urban Population at Portland State University, the population of the City of Adair Village increased by approximately 62 percent over the four-year period of 2000 through 2004. According to the adopted Adair Village Town Plan Study, there was approximately 20 acres of underdeveloped land within the current UGB to accommodate future growth in 2003.

The City of Adair Village has added 122 new homes over the previous three years, as opposed to approximately 10 in the prior 25 years. And, according to population forecasts for the City of Adair Village, an additional population of 1,909 to 2,814 people can be expected to locate within the City of Adair Village over the next twenty years. These amendments are proposed to begin facilitating future growth of the City in an orderly and efficient manner. As a result of the development the City has found it necessary to expand the UGB and change the plan designation on this property from EFU to residential, commercial, and open space.

It has previously been determined that there is a need to expand the City of Adair Village's Urban Growth Boundary. Since resource lands are not an allowed designation within UGBs, there is a need to amend the plan and zone designations within this area. The plan and zone designations have been proved for open space (to allow for future school facilities of which there is no corresponding zone in the County), urban residential, and a limited area of commercial zoning.

For the above-stated reasons and the reasons set forth above in Section VII.J of these findings, the City Council finds that there is a public need for the proposed amendments to comply with changing conditions.

(c) The amendment will not have an undue adverse impact on adjacent areas or the land use plan of the City.

The UGB amendment extends the UGB to three logical man-made boundaries that will separate future development from adjacent areas. The adjacent non-urban uses include rural residential development to the west, and farming operations to the east and south.

The anticipated athletic fields and residential development will compliment the urban uses to the north. The rural residential uses to the west and farm practices to the south and east will be impacted by the expected change in land use from farming to residential with such things as traffic, noise and lighting and other activities associated with urban development. However, given the natural barrier of the state highway separating the adjacent rural residential uses from the subject property, the uses would not prove an undue adverse impact.

Regarding the farm operations to the south and east, these are again well separated by Crane Lane and the Southern Pacific Railroad lines and the tree lines and natural vegetation. The concern is not so much that that residential uses will adversely impact the farm operations. Rather the concern is that adjacent farm practices will adversely impact the residential uses and result in conflicts that might otherwise be avoided. In the City's development review process, extra measures can be ensured

through the imposition of conditions on the developing residential areas to mitigate against any perceived impacts.

The City has spent three years working on its land development code and comprehensive plan policies to accommodate the UGB expansion and these new zone designations. As such the amendment will be in keeping with land use plan of the City. The City Council finds that the amendments will not adversely impact adjacent areas or the land use plan of the City.

(d) The amendment will not have an undue adverse environmental impact.

The amendments will not create any known undue adverse environmental impacts. When development is proposed, the City of Adair Village, Benton County, and the State of Oregon all have regulations pertaining to identification and preservation of environmental resources that will require compliance. These include water and wastewater to be provided by the City, protection of riparian corridors and wetland areas, and storm water management. The City Council finds that the amendments will not have an undue adverse environmental impact.

(e) The amendment will not have an undue adverse impact on public facilities.

The UGB amendment will extend the City of Adair Village UGB to include approximately 142 acres. Addition of land to the UGB, when developed, will create a greater demand on public facilities, which can be met by the City of Adair Village. The impacts can be offset by future improvements, or, in the case of immediate deficiencies, direct improvements to the affected facilities and financed via system development charges or directly by future developers.

Such improvements will actually have beneficial impacts on the overall operations for the City. For example, improvements to the inflow and infiltration will reduce the cost of pumping and treating rainwater at the wastewater treatment plant. Furthermore, increased flows in the summer will be beneficial to the wastewater treatment process during low flow months. The increased water demand and resulting system development charges may require and afford the City the ability to improve and expand treatment capabilities that would benefit all of the community.

The City Council finds that the amendments will not have an adverse impact on public facilities.

(f) The amendment will not have an undue adverse impact on transportation.

Once the new area within the UGB is expanded, there will be a stronger demand for new roads, but this is characteristic of urban development. The City of Adair Village already has an established street system that can be extended in the event of future development. According to the TIA prepared by DKS Associates and the supplemental materials submitted by DKS, with required mitigation the proposed amendments will not have a significant affect on state or local transportation facilities. That cost burden for mitigation can be placed onto the developer that triggers the warrant as long as the improvements are proportional to the impacts of the proposed development. The City Council finds that the proposed amendments will not have an undue adverse impact on transportation.

(g) The amendment will not have an undue adverse impact on economy of the area.

The amendments will have a positive affect on the local economy by converting undeveloped land into buildable land that will foster local growth. Future development will result in expanded commercial opportunities and reduce travel time and trips to surrounding commercial centers. The City Council finds that the amendments will not have an adverse impact on the economy of the area.

(h) The amendment is consistent with the intent of the applicable Statewide Planning Goals.

For the reasons explained in Section VII of these findings, the amendments are consistent with the intent of the Statewide Planning Goals.

B. Growth Management Principles

In 2006 the City also adopted (in Ordinance #06-2) twelve Growth Management Principles into Section 9.100 of the City Comprehensive Plan. Expanding the community across the highway into the Tampico Road Area would be inconsistent with the following four of those principles:

GMP 1: Comply with state planning requirements.

The City Council finds that, for the reasons explained above in Section VII of these findings, the applicant has demonstrated compliance with all applicable state planning requirements.

GMP 2: Accommodate 20-year population and employment projections and related land needs.

As described above in Section VII of these findings, the purpose of the UGB amendment is to accommodate the city's 20-year population and employment projections.

GMP 3: Establish urban reserve areas to accommodate growth projections beyond the 20-year planning horizon.

The present amendment address the City's growth projections within the 20-year planning horizon. Consideration and potential adoption of urban reserve areas for the City will be part of a separate and subsequent planning process.

GMP 4: Celebrate the unique history and character of Adair Village.

The City will ensure that the design of future development in the expansion area will reflect the City's unique history and character.

GMP 5: Provide for a village center that is the heart of the city's civic life and is representative of the village's unique identity.

The amendments are consistent with the policy of creating a village center that is the heart of the City's civic life. As described above, the City's population growth requires expansion of the UGB to accommodated needed housing and employment. The only remaining question is which direction to expand, and expansion into the proposed area is the most consistent with this policy. Expanding the City of Adair Village across Highway 99W to the Tampico Road Area would create a dangerous seam that bisects the heart of Adair Village, and separates the community into an "East Adair Village" and a "West Adair Village." In order to create a village center that is the heart of the city's civic life, the City must make the center of town easily accessible, including by foot and by bicycle, to all members of the community. Adding a new development on the other side of the highway in the Tampico Road area would be inconsistent with this goal by making the village center significantly less accessible to those who reside on the other side of the highway.

GMP 6: Provide for a network of arterial, collector and local streets that avoid reliance on the state highway for local trips and disburse access to the highway to all available intersections.

Highway 99W carries high volumes of vehicular traffic at high speeds through the Willamette Valley. It is designed for inter-city vehicle travel and has a posted

speed of 55 mph through Adair Village. Expanding the UGB into the proposed expansion area will allow for a local street network that will enable residents to access important community destinations in a safe and direct manner and without relying on Highway 99W for intra-city trips. Expanding across the highway to the west would be inconsistent with this policy.

GMP 7: Provide for a network of arterial, collector and local streets to provide a range of choices for traveling within Adair Village.

The proposed amendments are consistent with this policy because the southern expansion will allow a wider range of choices for travel within the city, including bicycle and pedestrian travel.

GMP 8: Promote alternatives to automobile use through street designs and a transportation network that facilitates safe and convenient bicycle and pedestrian travel.

The existing street network combined with large-scale land ownership discourages convenient bicycle movement and pedestrian use. The proposed amendments will help encourage convenient bicycle and pedestrian travel by providing safe and convenient roads within the City that do not require hazardous crossing of Highway 99W in order to move from one part of the City to another.

GMP 9: Ensure efficient urban development through compact pedestrian friendly development within natural and man-made boundaries.

Adair Village can maximize the efficiency of existing utilities and streets by growing in an orderly way in areas directly adjacent to existing development and within boundaries formed by natural features such as creeks and ravines and man-made barriers such as rail lines and highways. The City shall reduce existing minimum lot sizes and plan for neighborhoods that include a mix of housing types and lot sizes.

GMP 10: Protect natural resources and avoid development in known hazard areas.

The proposed amendments are consistent with this policy. The only potential hazard in the expansion area is the Calloway Creek floodplain, which can be accommodated in planning and developing the area. The proposed plan amendments do not involve proposed development; however, future development of the future UGB expansion area will be planned and permitted in accordance with all applicable City policies and standards regarding protection of natural resources and avoidance of known hazard areas.

GMP 11: *Utilize green infrastructure techniques for future utility and street improvements.*

The proposed plan amendments do not implicate this policy.

GMP 12: *Encourage the City's large, significant institutional uses to be fully integrated with the community and the town center.*

The proposed plan amendments do not implicate this policy.

X. FINDINGS REGARDING REMAND ISSUES

The Board adopts the following findings regarding the two issues that must be addressed on remand: (1) the existence of 14.5 acres of underdeveloped land inside the existing UGB; and (2) application of Section 9.800, Policy 4 of the City of Adair Village Comprehensive Plan.

1. Reduction of UGB expansion area by 14.5 acres.

Under Statewide Planning Goal 14-*Urbanization*, the UGB must be based on the adopted 20-year population forecast for the urban area and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks, and open space. The 20-year need determinations are estimates based on best available information.

In 2006, Adair Village submitted a formal request to the Benton County Board of Commissioners for a new 20-year population projection, this time to the year 2026. On March 14, 2006 the County adopted Order D2006-037, providing the City of Adair Village with an estimated population of 2,814 persons, based on the previously approved 2020 population of 2,100 and a 5 percent growth rate. The 20-year population projection was raised as an issue at LUBA but was resolved in favor of the City and County.

Goal 14 and OAR 660-024-0050(1) require that prior to enlarging a UGB, local governments must demonstrate that the needs cannot be reasonably accommodated on land already inside the urban growth boundary. At LUBA, opponents argued that the City and County incorrectly determined that 19 acres of buildable underdeveloped land within the existing UGB could not reasonably accommodate projected urban land needs. LUBA concluded that 4.48 acres of land owned by the Prince of Peace Community Church could not be developed for residential purposes and was properly

excluded from the analysis; however, LUBA agreed with opponents that the City and County findings regarding the remaining 14.5 acres were inadequate.

LUBA's decision effectively reduced the city's identified need for additional urban land to 127.5 acres, unless the applicant provides justification for expanding the UGB by an additional 14.5 acres. Rather than submitting additional analysis to justify the additional 14.5 acres, the applicant requested the City and County reduce the UGB expansion by 14.5 acres in order to comply with this remand issue. The applicant is not conceding that no need exists for an additional 14.5 acres for the UGB expansion, but rather the applicant proposes to address the 14.5 acre need in a separate application. There is no requirement that the entire UGB expansion needed under Goal 14 and the City's acknowledged plan provisions be satisfied in a single application.

The Board finds that this LUBA remand issue has been resolved by removal of 14.5 acres of land from the proposed UGB expansion, resulting in an expansion area of 127.5 acres as shown on **Exhibit 3**.

2. Application of Policy 4.

Under OAR 660-024-0050(1), a local government must inventory land inside the UGB to determine whether there is an adequate development capacity to accommodate the 20-year needs. For residential land, the buildable land inventory must include vacant and redevelopable land, and must be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute.

At the time of the 2007 decision approving the UGB expansion, Section 9.800, Policy 4 in the City's Comprehensive Plan provided as follows: "In order to provide for the efficient utilization of residential lands, the City will provide for new minimum lot sizes that result in overall average lot size of 6,000 square feet." Applying this policy, the prior UGB expansion decision included 142 acres based in part on 6,000 square feet per lot for all new homes in the expansion area. This approach was adopted by the City, and affirmed by LUBA on appeal. Opponents argued to the Court of Appeals that because existing lots in the City are on average larger than 6,000 square feet, new lots in the expansion area must be smaller than 6,000 square feet in order to move toward a citywide average lot size of 6,000 square feet.

The Court of Appeals agreed with opponents and reversed LUBA on this point, concluding that the policy does not require that the average size of lots in all new development must be 6,000 square feet. Rather, the court held that "it requires that lot sizes in new development be arrayed in a way that brings the citywide average lot size

closer to the 6,000 square foot standard." Therefore, the Court concluded that the assumption regarding lot sizes was not substantial evidence of a demonstrated need for a UGB expansion of 142 acres under Goal 14.

This aspect of the court's decision refers to an ambiguity in Policy 4 of City Plan Section 9.800, which would apply to all existing and future UGB expansions to determine how much land is needed to accommodate growth under Statewide Goal 14. In order to address this ambiguity, the City initiated a legislative process to clarify the City's intent with respect to Policy 4.

On July 1, 2008 the City of Adair Village adopted Ordinance No. 2008-07, which amends Policy 4 to read as follows:

"In order to provide for the efficient utilization of lands in urban growth boundary expansion areas and to meet the city's identified and acknowledged needs, such expansion areas shall be planned and zoned to result in an average of six point five (6.5) dwelling units per net residential area. For purposes of this policy, a 'net residential acre' shall consist of 43,560 square feet of residentially designated buildable land, after excluding present and future right-of-way, restricted hazard areas, public open spaces and restricted resource protection areas."

The City's findings adopting this legislative amendment state:

"The reason for this amendment is the Court of Appeals decision in *Hildenbrand* wherein the court found that Plan Section 9.800, Policy 4, might apply to the entire city. Notwithstanding that the City Council can interpret this provision on remand to direct future changes to the Plan or LUDC to implement this policy, it is prudent to amend Policy 4 to specify that it applies only to UGB expansion areas. The City Council finds that this is the case for two reasons. First, as noted above, the purpose of the Plan is to guide development of the City consistent with the Goals. Second, Plan Policy 4 is in the section of the Plan entitled 'Growth Management Practices.' The intent of Policy 4 is to guide density for expansion areas, not density for existing urban areas."

Policy 4 is a City policy that is being applied by the City in its findings. Because Policy 4 is not a County policy, the County is not adopting its own findings addressing compliance with the policy either before or after it was amended by the City. The Board relies on the City's interpretation of its own Comprehensive Plan Policy regarding the adoption of a revised UGB expansion area on remand.

The Board notes that no opponents argued, either in person or in writing, that the applicant cannot rely upon the amendments to Section 9.800, Policy 4 as part of this quasi-judicial land use application. Therefore any such issues are waived for purposes of appeal to LUBA.

XI. RESPONSES TO ISSUES RAISED BY OPPONENTS

This portion of the Board's findings responds to relevant issues raised by opponents of the UGB expansion that are not addressed above. Issues raised by opponents that are not related to the two specific remand issues are not properly considered as part of this decision.

Written and oral testimony was submitted by Jerry Hildenbrand. Mr. Hildenbrand argued that the proposed expansion conflicts with three Growth Management Principles in the City's Comprehensive Plan, as well as certain other plan policies. However, the City's prior decision approving the UGB expansion made determinations regarding consistency with all applicable elements of the City Comprehensive Plan. Such issues were either not raised in the LUBA appeal or were resolved against the opponents. Therefore these issues may not be considered in this proceeding. The only City Comprehensive Plan policy at issue is Policy 4, which is addressed above and in the City's findings. Mr. Hildenbrand also argues that the City should, as a matter of policy, require higher density and provide for affordable housing; however, Mr. Hildenbrand does not explain the relevance of this testimony to the narrow scope of the proceedings on remand.

Written testimony was submitted by Abigail Haberman. Ms. Haberman raised concerns regarding traffic issues, which are not properly considered as part of this proceeding. Ms. Haberman questioned the need for additional residential lands. Issues concerning the City's population growth and need for additional residential lands were either not raised in the prior LUBA appeal or were resolved against the opponents. Ms. Haberman also asserted that the City should develop undeveloped land within the existing UGB to accommodate needed housing. This issue relates to the 14.5 acres of underdeveloped land identified by LUBA, which has been addressed through the removal of 14.5 acres from the UGB expansion.

Correspondence dated July 9, 2008 was submitted by Millie Burton-Funk, who stated that there is no demonstrated need for additional housing in the City of Adair Village. However, the demonstration of need for the proposed UGB expansion was raised and addressed in the prior local proceedings and at LUBA, and cannot be raised again in this remand proceeding. Similarly, in correspondence dated July 29, 2008, Rana Foster contends that the proposed UGB expansion is "inconsistent with the

BLI." Mr. Foster does not develop this argument except to state that the expansion area will be used for low density housing rather than high density housing. However, this issue is not within the scope of the remand proceedings. Findings regarding consistency with the City's BLI and the demonstrated need for the expansion were previously adopted in the prior proceedings and affirmed by LUBA.

Other opponents raised additional issues that are either outside of the scope of the remand proceeding, or are barred by the "law of the case" doctrine because they were not raised previously, or were resolved by LUBA.

XII. CONCLUSION

Based on all of the findings set forth above and all of the evidence in the record, the Board of Commissioners approves the proposed amendments.

Exhibit 2
Description
June 18, 2008

A tract of land in the southwest one-quarter of Section 29, the southeast one-quarter of Section 30, the northeast one-quarter of Section 31, and the northwest one-quarter of Section 32, Township 10 South, Range 4 West, W.M., Benton County, Oregon, to wit:

Beginning at the northwest corner of that property described in M-330614-02, Microfilm Records of Benton County, said point bearing North, a distance of 2961.92 feet, and East, a distance of 3342.08 feet from the southwest corner of the Mark Cahoon D.L.C. No. 58; thence S.04°13'36"E. along the west line of said M-330614-02 property, a distance of 1588.21 feet to the southerly right of way line of Ryals Avenue, County Road No. 04395; thence N.88°10'57"W. along said southerly right of way line, a distance of 1108.67 feet; thence leaving said southerly right of way line S.07°32'03"E., a distance of 217.90 feet; thence S.88°10'57"E., a distance of 88.41 feet; thence S.36°08'12"E., a distance of 63.41 feet; thence S.01°49'03"W., a distance of 60.00 feet; thence S.88°10'57"E., a distance of 250.00 feet; thence S.01°49'03"W., a distance of 347.42 feet; thence S.88°04'09"E., a distance of 403.56 feet; thence S.68°17'51"E., a distance of 186.04 feet; thence S.62°39'22"E., a distance of 58.47 feet; thence S.61°13'07"E., a distance of 54.79 feet; thence S.81°15'03"E., a distance of 26.82 feet; thence S.45°47'49"E., a distance of 63.52 feet; thence S.59°52'05"E., a distance of 154.02 feet; thence S.23°17'31"E., a distance of 63.02 feet; thence S.00°47'39"W., a distance of 121.55 feet; thence S.88°04'09"E., a distance of 304.71 feet to the point of curve left of a 395.00 foot radius curve; thence along the arc of said curve left through a central angle of 19°34'50", a distance of 134.99 feet (chord bears N.82°08'26"E., a distance of 134.33 feet) to the point of curve right of a 75.00 foot radius curve; thence along the arc of said curve right through a central angle of 47°33'08", a distance of 62.25 feet (chord bears S.83°52'25"E., a distance of 60.47 feet); thence S.60°05'51"E., a distance of 4.99 feet to the point of curve right of a 14.00 foot radius curve; thence along the arc of said curve right through a central angle of 92°17'18", a distance of 22.55 feet (chord bears S.13°57'12"E., a distance of 20.19 feet); thence S.57°48'33"E., a distance of 70.00 feet; thence N.32°11'27"E., a distance of 689.22 feet to the point of curve left of a 335.00 foot radius curve; thence along the arc of said curve left through a central angle of 30°40'16", a distance of 179.33 feet (chord bears N.16°51'19"E., a distance of 177.20 feet); thence N.01°31'11"E., a distance of 38.22 feet; thence S.88°10'57"E., a distance of 314.82 feet to a point of nontangent curvature on the westerly right of way line of the Union Pacific

Railroad right of way; thence tracing said westerly right of way line along the following courses: northeasterly along the arc of a 5699.65 foot radius curve left (the radius point of which bears N.59°49'35"W.) through a central angle of 12°21'06", a distance of 1228.71 feet (chord bears N.23°59'52"E., a distance of 1226.34 feet) to a point of parallel spiral to the left; thence along said parallel spiral, a distance of 89.76 feet (chord bears N.17°31'18"E., a distance of 89.76 feet); thence N.17°22'19"E., a distance of 1059.41 feet to the northeast corner of said M-330614-02 property; thence leaving said westerly railroad right of way line and tracing the boundary of said M-330614-02 property along the following courses: N.87°45'51"W., a distance of 1339.94 feet; thence S.03°35'45"E., a distance of 252.16 feet; thence S.86°41'34"W., a distance of 338.97 feet; thence N.03°25'16"W., a distance of 2.11 feet; thence S.86°26'15"W., a distance of 787.23 feet to the Point of Beginning.

This parcel contains 127.232 acres, more or less.

The basis of bearings for this description is the Oregon Coordinate System of 1983, North Zone.



RENEWAL 12/31/2008

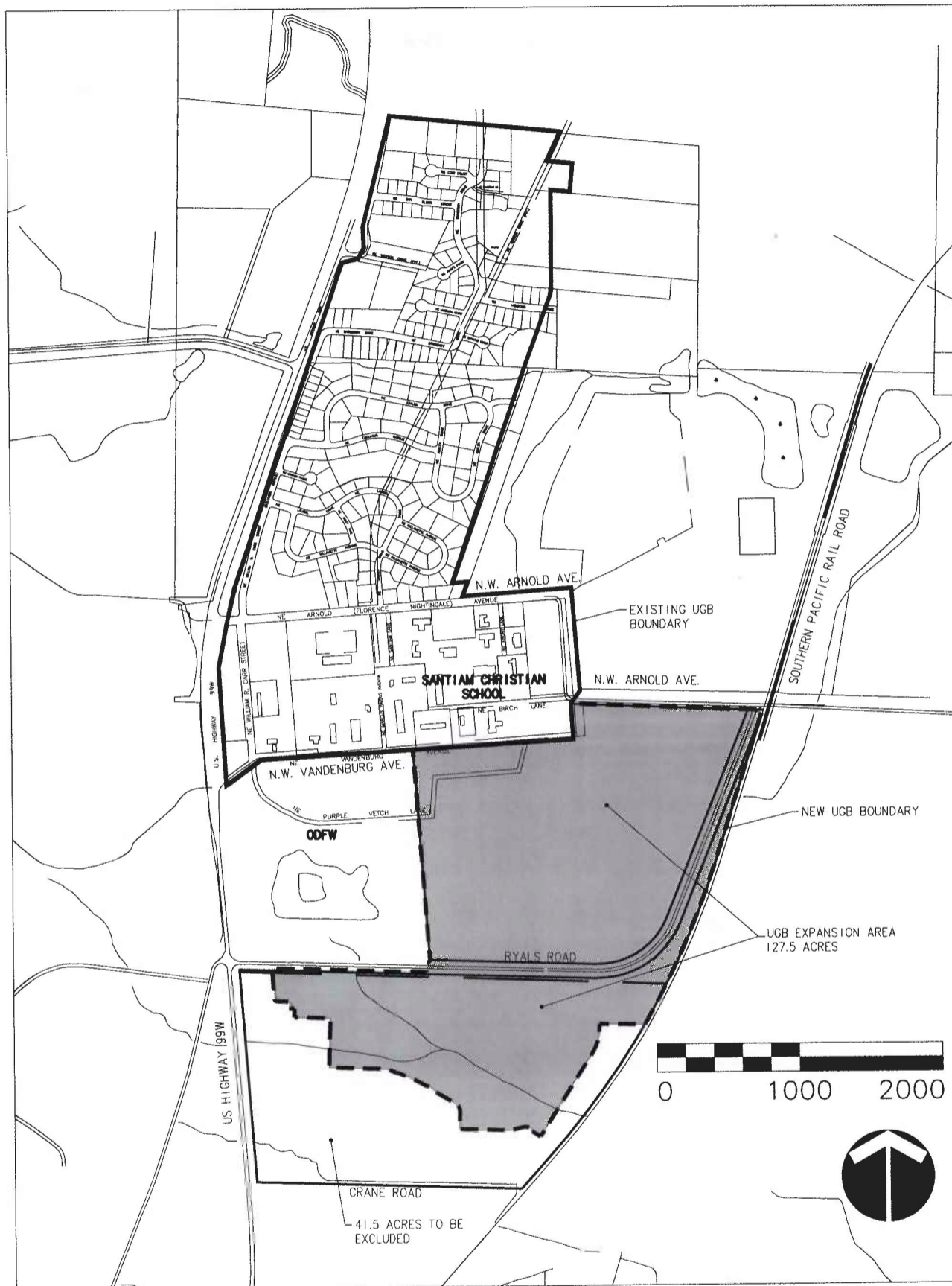


EXHIBIT 3. UGB EXPANSION AREA ADAIR VILLAGE, OREGON

April 23, 2008

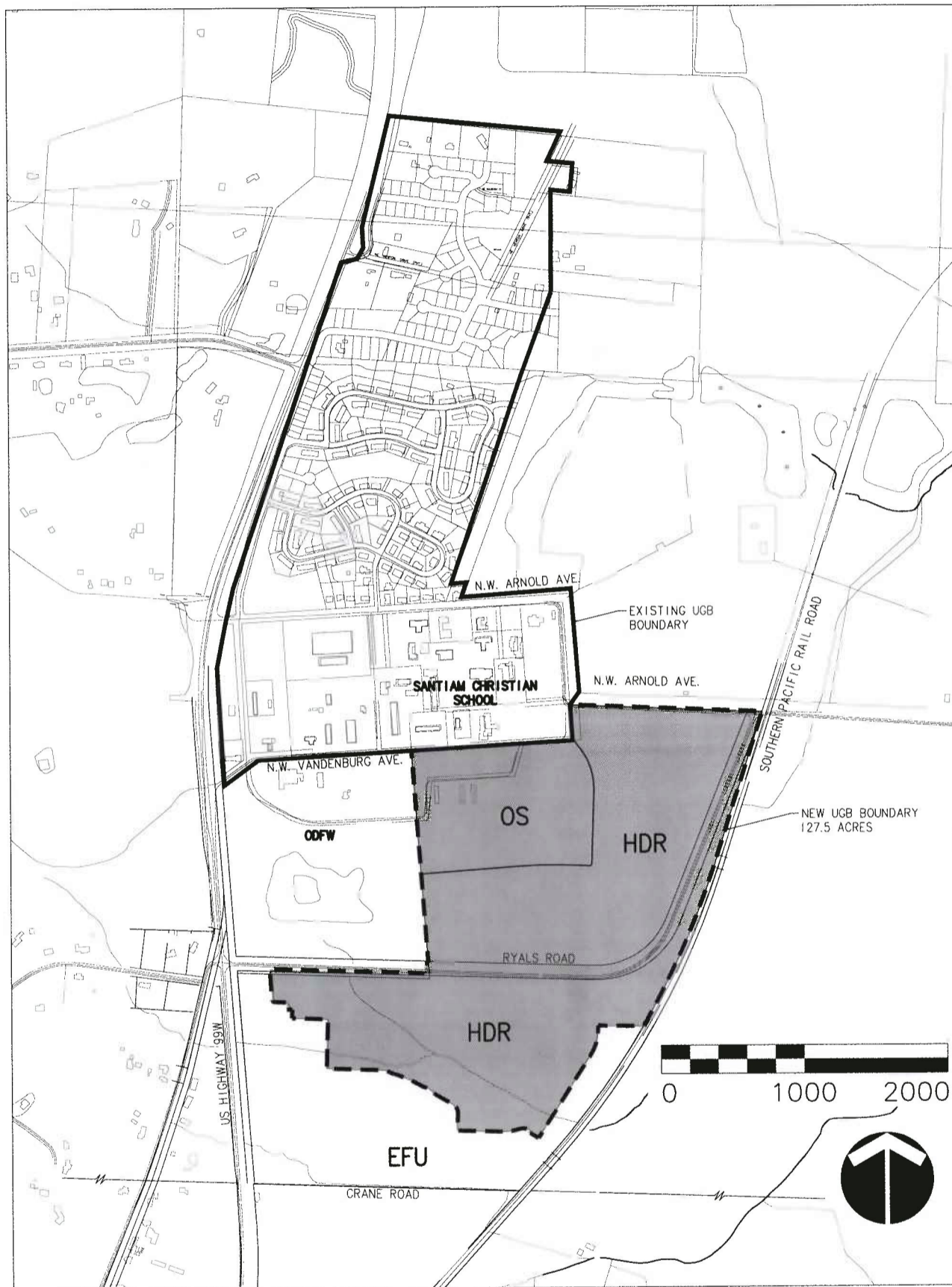


EXHIBIT 4. COMPREHENSIVE PLAN MAP
 ADAIR VILLAGE, OREGON

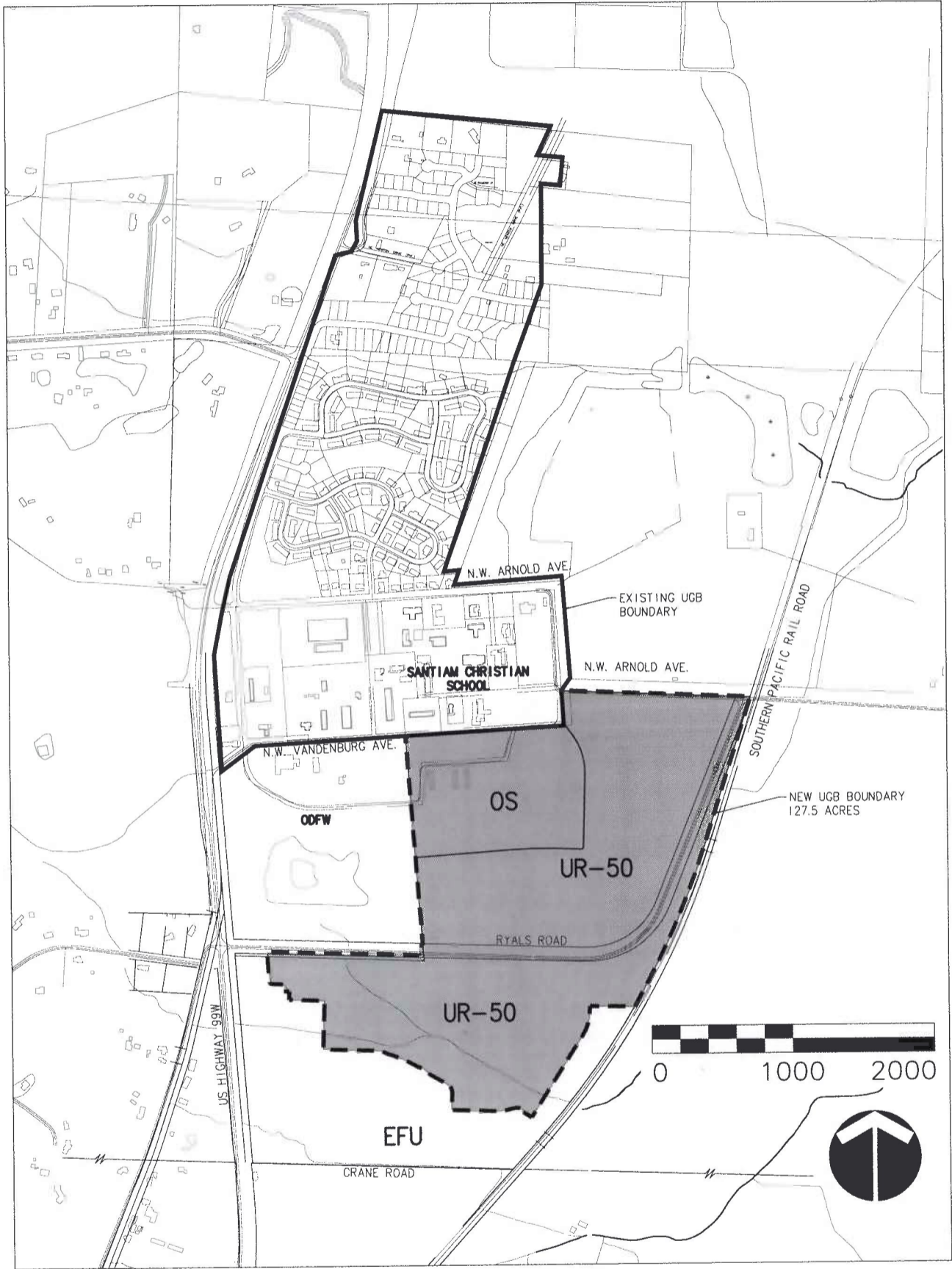


EXHIBIT 5. ZONING MAP
 ADAIR VILLAGE, OREGON

ment Dept
-1139



ATTN: PLAN AMENDMENT SPECIALIST
DEPT OF LAND CONSERVATION & DEVELOPMENT
635 CAPITOL ST NE SUITE 150
SALEM OR 97301-2540