

MEMORANDUM

TO: Mayor and City Council

FROM: Eric Mongan, City Planner

SUBJECT: PUBLIC HEARING FOR ORDINANCE AMENDING THE COTTAGE GROVE COMPREHENSIVE PLAN LAND USE DIAGRAM MAP & TITLE 14 LAND USE DISTRICT MAP FOR AN UNADDRESSED TRACT OF LAND ALSO KNOWN AS MAP/TAX LOT: 20-03-32-00-03101 (MCPA 2-23)

DATE: October 4, 2023

Background

The purpose of this Public Hearing is to receive comments on the proposed amendment of the Comprehensive Plan land use diagram map and the Title 14, Cottage Grove Development Code land use district map for 25.95 acres of land recently purchased by the City of Cottage Grove located between the Coast Fork Willamette River and HWY 99S just north of Rachel Road from the current M – Medium Density Residential designation and R2 – Multi-Family Residential zoning to I – Industrial designation and M – Industrial.

The Planning Commission held a public hearing on September 20, 2023 and recommended approval to Council.

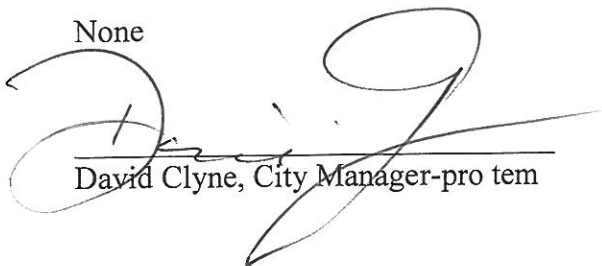
It is now appropriate that Council to hold the public hearing on the Ordinance. This Ordinance has been available for more than one week prior to this meeting and staff is recommending adoption.

Recommendation


That the public hearing be held.

Cost

None



David Clyne, City Manager-pro tem



Eric Mongan, City Planner



**PLANNING COMMISSION PUBLIC HEARING
ON A COMPREHENSIVE PLAN AMENDMENT WITH MAP CHANGE
APPLICATION, MCPA 2-23
COMPREHENSIVE PLAN AMENDMENT WITH MAP CHANGE FROM M-MEDIUM DENSITY
RESIDENTIAL/R2-MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL TO I-INDUSTRIAL/M-
INDUSTRIAL
7:00 P.M., WEDNESDAY, SEPTEMBER 20, 2023 –
CITY HALL COUNCIL CHAMBERS & VIRTUALLY (www.cottagegroveor.gov/meetings)**

OWNER:

Name: Grace West Properties, LLC
Mailing Address: PO Box 8000
Sisters, OR 97759

Status: Owner

APPLICANT:

Name: City of Cottage Grove
Mailing Address: 400 East Main Street
Cottage Grove, OR 97424

Status: Agent

LOCATION OF PROPERTY:

Location: Unaddressed parcel

Assessor’s Map and Tax Lot No.: Map/TL: 20-03-32-00-03101
25.96 acres

PROPOSED ACTIVITY:

Comprehensive Plan Amendment with Map Change for 25.96 acres of M-Medium Density Residential/R2-Medium Density Multiple Family Residential to I-Industrial/M-Industrial

CRITERIA FOR REVIEW:

14.47.500 Criteria for Legislative & Quasi-Judicial Amendments

Copies of the Application: All documents and evidence relied upon by the applicant are available for inspection at the Public Works & Development Department and copies will be provided at reasonable cost upon request.

Copies of the Staff Report will be available at the Public Works & Development Department no later than seven days prior to the hearing. Copies will be provided at a reasonable cost upon request.

SUBMISSION OF TESTIMONY

Statements, testimony and evidence may be submitted in writing to the Public Works & Development Department, City Hall, 400 E. Main Street at any time prior to 5:00pm on the date of the hearing. Oral or written statements, testimony or evidence may be presented during the public hearing portion of the application review. If you have questions or concerns regarding a proposal, **it is helpful to submit both written and oral testimony.** Submitting written testimony gives staff the opportunity to research the issues and allows the Planning Commissioners the opportunity to review the issues prior to the public hearing. Speaking at the public hearing allows the participant to

elaborate on his/her support, issues, or concerns, and gives the Planning Commissioners the opportunity to ask questions.

Statements, testimony and evidence must be directed toward the applicable criteria for review listed in this notice, other criteria in the Cottage Grove Comprehensive Plan or land use regulation which the person believes to apply to the decision. The Comprehensive Plan is available for review in the Public Works & Development Department and the Cottage Grove Library. Staff is available in the Public Works & Development Department to aid with questions regarding land use regulations.

NATURE AND CONDUCT OF HEARING

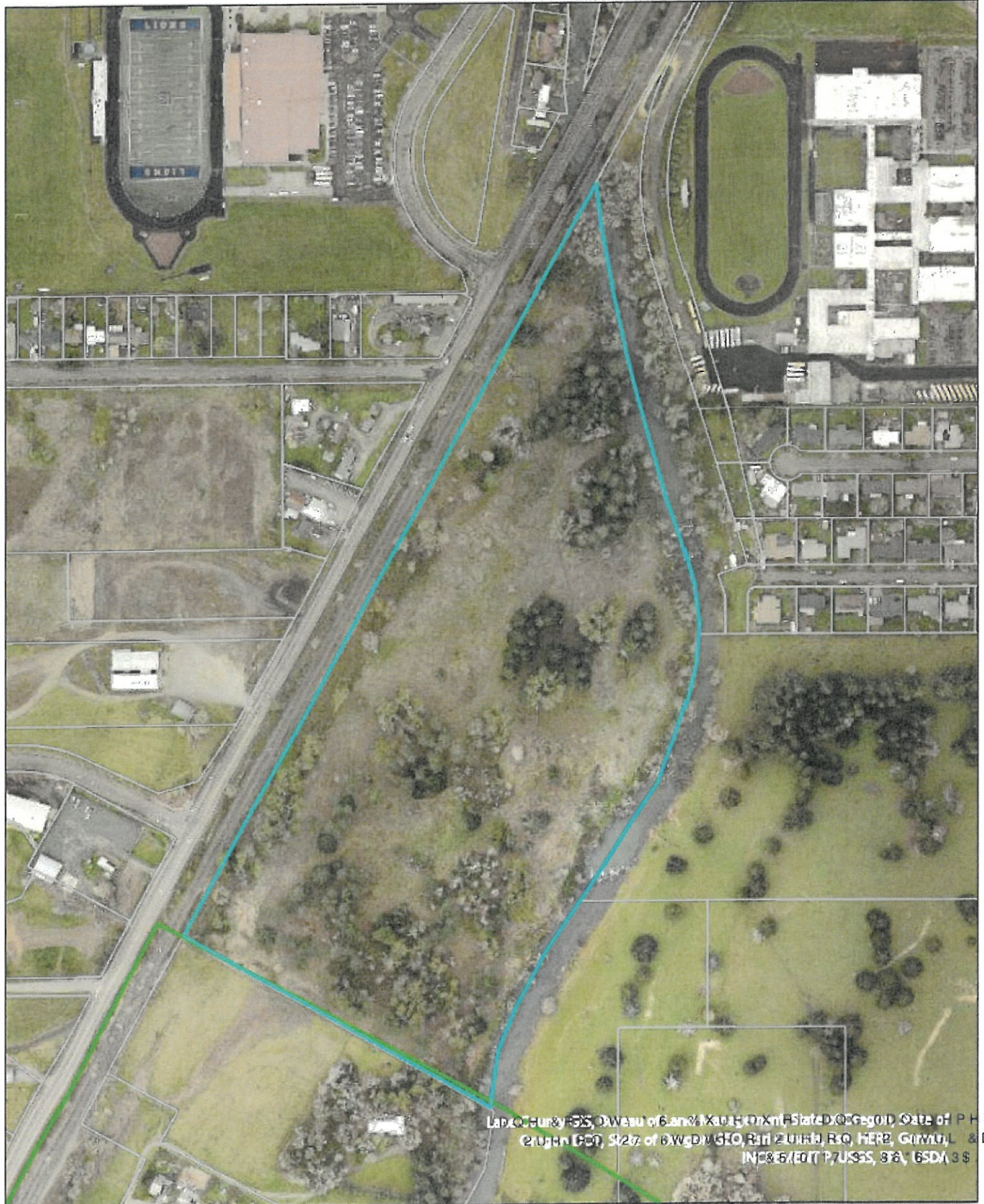
1. The planning staff will present the matter, action and considerations required by law and any other information deemed necessary to establish appropriate considerations prior to public discussion or hearing. The permanent report of the Planning Commission may be substituted for such a presentation.
2. The Commission Chair will open the public hearing. Unless waived, interested parties shall be entitled to an opportunity to be heard, to present and rebut evidence, and to have the proceedings recorded. The Planning Commissioners may question any persons who appear.
3. No person speaking at a public hearing shall testify prior to receiving recognition from the Commission Chair.
4. All speakers shall first identify themselves by name and address, and if appearing in a representative capacity, identify who is being represented.
5. Testimony and evidence must be directed toward the applicable criteria or other criteria in the City Comprehensive Plan or toward other land use regulations which the person believes to apply to the decision.
6. Proponents of the matter shall present their case.
7. Opponents of the matter shall present their case.
8. Proponents shall have an opportunity to rebut any new matters presented by the opponents.
9. City staff members and representatives of other public agencies shall be afforded an opportunity to make presentations, followed by a summation by the planning staff, if considered necessary or desirable.
10. The Planning Commission may discuss the matter and take action.
11. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Commission shall grant such request by either continuing the hearing to a date, time and place certain at least seven (7) days from the date of the initial hearing, or by leaving the record open for additional written evidence and testimony for at least seven (7) days.
12. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing, and there shall be no audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the meeting.
13. Attendees are free to come and go during the course of the meeting.

NOTE: The City of Cottage Grove complies with state and federal laws and regulations relating to discrimination, including the Americans with Disabilities Act of 1990 (ADA). Individuals with disabilities requiring accommodations should contact Tina MacDonald at (541) 942-3340 at least 48 hours prior to the hearing.

CONTACT FOR ADDITIONAL INFORMATION

Eric Mongan, City Planner
City of Cottage Grove, Public Works & Development Department
400 Main Street, Cottage Grove, OR 97424
Telephone: (541) 942-3340

IMPORTANT NOTICE ON APPEAL PROCEDURES
FAILURE OF AN ISSUE TO BE RAISED IN A HEARING, IN PERSON OR BY LETTER, OR FAILURE TO PROVIDE STATEMENTS OR EVIDENCE SUFFICIENT TO AFFORD THE DECISION MAKER AN OPPORTUNITY TO RESPOND TO THE ISSUE PRECLUDES APPEAL TO THE STATE LAND USE BOARD OF APPEALS (LUBA) BASED ON THAT ISSUE (ORS 197.763(3)(e) and (5)(c)).



Lap. County GIS, Division of Land & Planning, State of Oregon, Date of PHOW
 Original File, State of Oregon GIS, File 201111_R0_HF2_Growth & DC
 IN 8/10/17, 3:35, 8'6, 6SDA, 35' 86'

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NOT TO SCALE



MCPA 2-23
 R2 to M
 20-03-32-00-03101

IE 0

STAFF REPORT
MCPA 2-23
GRACE WEST PROPERTIES
COMPREHENSIVE PLAN AMENDMENT/LAND USE MAP AMENDMENT
Map 20-03-32-00 TL 3101
UNADDRESSED PARCEL

PROPOSAL DESCRIPTION

Date application filed: August 11, 2023

Date deemed complete: August 14, 2023

Owner: Grace West Properties, LLC
PO Box 8000
Sisters, OR 97759

Applicant: City of Cottage Grove
400 East Main Street
Cottage Grove, OR 97424

Location: Unaddressed parcel
Map/TL: 20-03-32-00-03101
25.96 acres

Current Comp Plan: M – Medium Density Residential

Current Zoning: R2 – Medium Density Multiple Family Residential

Proposed Comp Plan: I - Industrial

Proposed Zoning: M - Industrial

MATERIALS TO BE PART OF THE RECORD

City of Cottage Grove File(s): MCPA 2-23

- Applicant's Application
- Applicant's Narrative
- Site Map
- City of Cottage Grove Completeness Correspondence
- Affidavit of Posting
- Affidavit of Notice
- Annexation Agreement
- Access/Utility Easements

Proposal:

The City of Cottage Grove is currently under contract with the owner of the subject property to purchase this property and four other parcels just east of the subject property across the Coast Fork Willamette River. The subject property and the adjacent lands to be purchased are currently zoned R2 – Multi-family Residential at a total of 61.40 acres. The subject property is located at the south end of town and is one of the southernmost incorporated parcels on HWY 99 S. The subject property can be accessed via an easement(s) over the adjacent private property to the south. Those easements recorded at Lane County Deeds and Records on October 18, 2007 (2007-72047 and 2007-71729) are attached to this staff report as Exhibit 1.

The City is seeking to purchase these properties in an effort to establish ~25 acres of developable industrial land and to catalyze the development of all housing types on the other 35.44 acres by constructing roads, water/sewer/storm infrastructure, and building a bridge over the Coast Fork Willamette River. Once the infrastructure is ready the City will work with a consultant to create an area plan for the residential lands with the goal of providing all housing types.

The need for additional industrial lands is seen by the City as a crucial component of meeting our Goal 9 objectives by having lands of sufficient size to recruit and/or retain job producing lands within the City of Cottage Grove. At this time the largest available parcel in the City's industrial lands inventory is 6.45 acres. While the City is fortunate to have shovel ready lands available for development it is always disappointing to tell a prospective business/industry/developer that we do not have enough land in a contiguous piece to meet their needs. The successful re-designation of the subject property will make the City of Cottage Grove competitive with other communities in the recruitment of large employers in alignment with the City's Comprehensive Plan.

There are two parts to this application:

- a. Amend the Comprehensive Plan Land Use Map to re-designate the subject property described in Exhibit A as TL 3101 from M - Medium Density Residential to I – Industrial; and
- b. Amend Title 14, Cottage Grove Development Code land use district map to rezone the subject property described in Exhibit A as TL 3101 from R2 - Medium Density Multiple Family Residential to M – Industrial.

COMMENTS RECEIVED

None.

APPROVAL CRITERIA AND FINDINGS; MCPA 2-23

14.4.1.500.H Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. *Approval of the request is consistent with the Statewide Planning Goals;*

Staff response and findings of fact:

The following Statewide Planning Goals are applicable and the amendment and concurrent zone change complies with them as noted below:

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The acknowledged Cottage Grove Comprehensive Plan (Plan) and Title 14 Cottage Grove Development Code complies with Goal 1. The Type IV Permit Application process required by Title 14 has been used for the Plan amendment/zone change proposal and is in compliance with Goal 1. Proper public notice of the proposed change has been provided through the Type IV public notice process as specified in Section 14.41.500A of the Development Code. The Department of Land Conservation and Development was notified of the intended amendments on August 16, 2023. Public hearings will be held at the Planning Commission and City Council levels to consider this re-designation/rezoning. Our process involves various forms of notification of the public in the immediate area, notification in local media, and notification of impacted governmental agencies and a recognized neighborhood group.

Goal 2: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The land use planning process used by Cottage Grove to review this application is consistent with Goal 2. The City has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The proposed changes followed the process established in Title 14 of the City of Cottage Grove Municipal Code and have been found compatible with the City's Comprehensive Plan.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

This goal does not apply to the application as land within acknowledged urban growth boundaries is not considered agricultural. The subject properties are within the acknowledged urban growth boundary of Cottage Grove, and are within the city limits.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

This goal does not apply to the application. Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. The subject properties have never been acknowledged as forest lands.

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

No known wetlands or historic areas are located on the subject properties. The subject property is bounded to the east by the Coast Fork Willamette River and is encumbered by the Special Flood Hazard Area and the Willamette River Greenway (see inset photo).

Conversion of the subject property from M – Medium Density Residential/R2 Multi-family Residential to I – Industrial/M - Industrial aligns well with the location of the subject property as it is located adjacent to an active rail line. Additionally, just across the railroad tracks is the Cottage Grove Industrial Park.

As mentioned the Willamette River Greenway, riparian area, and Special Flood Hazard area along the eastern boundary of the subject property will require that any development of the subject property meet Federal, State, and local standards. In meeting these standards any development will create and protect the view shed from as seen from along the banks of the Coast Fork Willamette and therefor maintaining open space along the river.



This proposed plan amendment/zone change is in alignment with existing development and adjacent zoning and is in compliance with Goal 5.

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

There are no anticipated capacity problems with the existing (none) and planned facilities in the area to accommodate existing or potential industrial uses. Any new development will be required to comply with Development Code requirements for stormwater management (Chapter 14.35 of the CGMC) and Comprehensive Plan requirements related to air and water resource quality. Hence Goal 6 does not apply at this time.

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

The subject property lies along the left bank of the Coast Fork Willamette River. Per FEMA FIRM's (June 1, 1999) the property is encumbered by the Special Flood Hazard Area (100-year and 500-year). The floodplain extends into the subject property approximately 290' in a semi uniform pattern along the eastern side from north to south. Any proposed development in this area will be required to adhere to Section 14.37.200 Flood Damage Prevention. There are no other known potential natural hazards that are not city-wide in nature (such as earthquakes). Compliance with building code and development code regulations when developing industrial uses will be a requirement for all future work to ensure that damage from natural hazards is mitigated to the greatest extent possible. The proposed change is in compliance with Goal 7.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

The subject property lies along the left bank of the Coast Fork Willamette River and is in the Willamette River Greenway. As a condition of any Greenway Permit that is applied for and approved the areas within 50-100' of top of bank will remain accessible to the public for access to this portion of the river. The proposed designation/zone change enhances the city's ability to protect this important recreational resource and is in compliance with Goal 8.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The proposed Plan amendment from M – Medium Density Residential to I – Industrial is an effort by the City to increase our competitive edge in regard to having shovel ready industrial sites within the incorporated city limits of Cottage Grove. The 2009 Economic Opportunities Analysis identified that there was a significant lack of developable or re-developable industrial lands within city limits or the UGB. Specifically, there were no industrial lands larger than 10 acres available for development. In the same EOA, it was identified that the City needed an additional 100 acres of industrial lands to meet the growth projections identified in the report. In 2010, the City of Cottage Grove completed a Plan Amendment with Boundary Adjustment. In that application it was identified via memorandum from Winterbrook Planning that the City needed an additional 24 acres of gross useable industrial lands. To accommodate this, staff engaged with Weyerhaeuser, an existing development located just south of the UGB at the time. At that time Weyerhaeuser expressed some interest in incorporating into city limits but to date that has not occurred due to the significant increase in overhead that Weyerhaeuser would endure. As of today, it is understood that Weyerhaeuser does not plan on incorporating into city limits. This leaves the City still needing at least one large 20+ acre tract of industrial lands.

Per an Annexation Agreement between the City of Cottage Grove and the property owners executed and recorded in 1981 (81-49163 LCDR, Exhibit 2), the City and property owners established that the subject property be designated industrial lands upon annexation. Unfortunately, likely through the passing of time, this agreement was not adhered to. This proposed Plan amendment will correct a missed opportunity to have a large tract of industrial land that is flat and has access to rail, HWY 99, and following the construction of a new bridge across the Coast Fork Willamette River, will have access to NB Interstate-5. Having this large tract in our inventory will position the City to be competitive in our recruitment efforts to bring a larger scale employer to the City of Cottage Grove. The proposed change is in compliance with Goal 9.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

Goal 10 is applicable. The proposed comprehensive Plan change/zone change will convert 25.96 acres of the existing housing lands inventory to industrial. Per the 2018 Housing Needs Analysis the following findings were determined:

Exhibit 55 shows the following needed densities, in net and gross acres. Exhibit 55 converts between net acres and gross acres to account for land needed for rights-of-way based on empirical analysis of existing rights-of-way by Plan designation in Cottage Grove. For example, in

residential development in the Medium Density designation, 20% of developed land is in rights-of-way.

- **Low Density Residential:** 22% of land is in rights-of-way. The densities by zone in this Plan Designation area are between 4.0 dwelling units per net acre and 6.0 dwelling units per net acre.
- **Medium Density Residential:** 20% of land is in rights-of-way. The densities by zone in this Plan Designation area are between 6.0 dwelling units per net acre and 12.0 dwelling units per net acre. Development in the Medium Density Designation is generally occurring towards the lower end of the density range, in recent years.
- **High Density Residential:** 18% of land is in rights-of-way. The densities by zone in this Plan Designation area are a minimum of 10.0 dwelling units per net acre, with no specified maximum density. The maximum density is regulated by the maximum height limit (40 feet). For example, single-family detached housing is not allowed in this Designation, unless it is built as new cottage housing at a density of at least 10 dwelling units per acre.

Exhibit 55. Needed density for housing built in the Cottage Grove UGB, 2018 to 2038

Source: ECONorthwest. Note: DU is dwelling unit.

Plan Designation	Average Net Density (du/acre)	Percentage for Rights-of-Way	Average Gross Density (du/acre)
Low Density Residential	5	22%	3.9
Medium Density Residential	8	20%	6.4
High Density Residential	21	18%	17.2
Commercial Plan Designations	30	25%	22.5

As the study shows in the Medium Density development the trend at the time was development at densities closer to the minimum requirement. To address this staff convened a committee to conduct a residential code audit. In that process the following amendments were proposed and adopted:

- Removal of maximum densities from all residential zones
- Reduction of minimum lot sizes (width, depth, square footage)
- Increased allowed lot coverage

These amendments coupled with the adoption of a Multi-Unit Property Tax Exemption Program have spurred new development of multi-family housing. The table below shows the number of new developments by zone type and units per acre.

Plan Designation	Min units/acre	Total new units January 1, 2019 to August 1, 2023	Total Acreage	Avg Density
Low-Density Residential	4	51	8.77	5.8
Medium-Density Residential	8	99	4.77	20.8
High-Density Residential	14	20	1.37	14.6
C2P	n/a	5	0.63	7.9
RC	8	40	2.01	19.9
	Total new	215	17.55	
		Average Density of Development Across All Zones		12.25

The removal of maximum densities has allowed for developers to maximize the use of lands available achieving densities of 20+ units per acre and overall an increase in the density of development citywide with an average across all zones of 12.25 units/acre.

With the current inventory of buildable residential lands and the ability for developers to achieve 17-22 units/acre the City believes that the conversion of the 25.96 acres to industrial lands will not inhibit the City's ability to have an adequate supply of lands for all housing types.

Lastly, the location of the subject property with the railroad and Cottage Grove Industrial Park to the west the lands are better suited to be re-designated to M – Industrial and fill a much needed gap in the City's buildable industrial lands inventory.

The proposed change is in compliance with Goal 10.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The subject property and adjoining properties part of the purchase agreement can be adequately served with public facilities. Street and sidewalk infrastructure will be installed as a condition of approval at such time the property owner submits a development permit (land use review or site design review). The properties are adequately served by police/fire service, public transit, and a thorough transportation network. The proposed change is in compliance with Goal 11.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

At present the subject property can only be accessed via an easement over private property to the south. However, per that same easement(s) the City is named to benefit as the owner has the right to convert the easement area into right-of-way for the purpose of constructing a road and all necessary utilities (2007-71729 & 2007-72047 LCDR). The City's 2015 Transportation System Plan calls for the construction of a bridge over the Coast Fork Willamette River as an extension of Cleveland Avenue. Prior to the development of the subject property the City will construct said bridge for the benefit of the subject parcel and the adjacent residential lands on the east side of the river. The cross-section Cleveland Avenue extension, bridge and connection to HWY 99 S will meet the standards of a Minor Arterial per Chapter 14.34 Public Facilities and provide ADA accessibility and bicycle lanes. The improvements to the transportation system as shown in the adopted TSP will create the necessary capacity to the transportation system to safely serve the proposed change from multi-family residential to industrial. Additionally, the construction of a fifth river crossing within the City provides for shorter travel distances and resiliency in the event of a natural disaster. Hence, the proposed change is in compliance with Goal 12.

Goal 13: Energy Conservation

To conserve energy.

The Plan amendment/zone change will promote more energy efficient development through the implementation of the Development Code and the Oregon Specialty Code. This includes the conservation of mature trees, creation of new pedestrian routes, and the construction of a new crossing of the Coast Fork Willamette River. The new river crossing will reduce the vehicle trip distance for those on the south end of town wishing to get to the other side of town, thus reducing vehicle miles. The proposed change is in compliance with Goal 13.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject property has been annexed to the City of Cottage Grove and is inside the City's acknowledged Urban Growth Boundary. Per a Deed Restriction recorded against the property in 1981 between the property owners and the City of Cottage Grove, the proposed industrial designation should have been applied to the subject property upon time of annexation given its proximity to the State Highway and railroad. This application for Plan amendment and zone change will allow for the highest best use of the subject property and meet the terms of the annexation agreement from 1981 (81-49163-Lane County Deeds and Records). This application is in compliance with Goal 14.

Goal 15: Willamette River Greenway

To protect, enhance and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities along the Willamette River.

The subject parcel is encumbered by the Willamette River Greenway along its eastern boundary. The implementation and enforcement of the Chapter 14.37 Sensitive Lands will ensure that this section of the Greenway will be preserved for its natural benefits to the riparian area of the Coast Fork Willamette River. The proposed designation of Industrial to the subject parcel does not affect the development regulations in the Greenway and Riparian Setbacks. The proposed amendment is in compliance with Goal 15.

Non-applicable coastal goals

- Goal 16: Estuarine Resources
- Goal 17: Coastal Shorelands
- Goal 18: Beaches and Dunes
- Goal 19: Ocean Resources

This criterion has been met.

2. Approval of the request is consistent with the Comprehensive Plan; and

Staff response and findings of fact:

This request is consistent with the Comprehensive Plan, as modifications to the Comp Plan and its adopted implementing documents are expected overtime.

The Plan amendment and concurrent zone change is consistent with the following components of the Comprehensive Plan.

Land Use

To assure wise and efficient use of our urbanizable lands.

The land proposed for re-designation/rezoning is currently undeveloped and only accessible via access easement. The City is party to the easement and as owner will dedicate the necessary right-of-way to establish a connection to HWY 99 S and a bridge will be constructed connecting the subject property to Cleveland Avenue. The proposed amendment will allow for a greater use of the land, filling a gap in the City's buildable industrial land supply, and that is within proximity to existing city services and public transportation.

This criterion has been met.

Economy

To encourage opportunities to broaden our economic base, but this should be a gradual transition that will not destroy our rich historical heritage and the natural amenities of the area.

Per an Annexation Agreement between the City of Cottage Grove and the property owners executed and recorded in 1981 (81-49163 LCDR, Exhibit 2). The City and property owners established that the subject property be designated as industrial lands upon annexation. Unfortunately, likely through the passing of time, this agreement was not adhered to. This proposed Plan amendment will correct a missed opportunity to have a large tract of industrial land that is flat and has access to rail, HWY 99, and following the construction of a new bridge across the Coast Fork Willamette River, will have access to NB Interstate-5. Having this large tract in our inventory will position the City to be competitive in our recruitment efforts to bring a larger scale employer to the City of Cottage Grove, thus broadening our economic base while preserving our history.

This criterion has been met.

Energy Conservation Goal

To strive to conserve all forms of energy through efficient use of our lands and promotion of sound energy conservation techniques.

The Plan amendment/zone change will promote more energy efficient development through the implementation of the Development Code and the Oregon Specialty Code. This includes the conservation of mature trees, creation of new pedestrian routes, and the construction of a new crossing of the Coast Fork Willamette River. The new river crossing will reduce the vehicle trip distance for those on the south end of town wishing to get to the other side of town, thus reducing vehicle miles.

This criterion has been met.

- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.*

Staff response and findings of fact:

Public utilities such as water, sanitary sewer, and storm sewer will be constructed concurrently with development to ensure adequate sizing for the use and capacity for future growth.

This criterion has been met.

- 4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application;*

Per an Annexation Agreement between the City of Cottage Grove and the property owners executed and recorded in 1981 (81-49163 LCDR, Exhibit 2). The City and property owners established that the subject property be designated industrial lands upon annexation. Unfortunately, likely through the passing of time, this agreement was not adhered to. This proposed plan amendment will correct a missed opportunity to have a large tract of industrial land that is flat and has access to rail, HWY 99, and following the construction of a new bridge across the Coast Fork Willamette River, will have access to NB Interstate-5.

This criterion has been met.

5. *The change is consistent with the function, capacity and performance standards for the streets used for access, consistent with the Cottage Grove TSP, the Oregon Highway Plan, and the Transportation Planning Rule (OAR 660-12) and;*

The land proposed for re-designation/rezoning is currently undeveloped and only accessible via access easement. The City is party to the easement and as owner will dedicate the necessary right-of-way to establish a connection to HWY 99 S and a bridge will be constructed connecting the subject property to Cleveland Avenue. The 2015 Transportation System Plan identifies the need for full development of Cleveland Avenue as a minor arterial and the construction of a bridge over the Coast Fork Willamette River to make a connection to HWY 99 S. This item of the 2015 TSP has been in place for several iterations of TSP's dating back to the late 1990's.

This criterion has been met.

6. *The amendment conforms to the Transportation Planning Rule provisions under Section 14.47.800.*

No impact is expected from the change of designation/rezoning, as there is existing capacity in the adjacent local road and the road infrastructure connecting the parcel to the right-of-way has yet to be constructed. The 2015 TSP identifies that the improvement to Cleveland Avenue and the bridge and connection to HWY 99 S shall be designed as a minor arterial. Development on the site will go through additional review for TPR compliance once a specific use is identified.

This criterion has been met.

CONCLUSION

Ordinance amendment approval pursuant to Sections 14.41.500.H Decision-Making Criteria is supported by the findings of fact that establish compliance with the applicable state and local standards.

STAFF RECOMMENDATION

Approval of MCPA 2-23 to amend the Comprehensive Plan Land Use Map, pursuant to Section 14.41.500, which is supported by findings of fact, to:

- a. Amend the Cottage Grove Comprehensive Plan from M – Medium Density Residential to I – Industrial for the 25.96 acre unaddressed parcel known as Map/TL: 20-03-32-00-3101.
- b. Amend the Cottage Grove Land Use Map from R2 – Medium Density Multiple Family Residential to M – Industrial for the 25.96 acre unaddressed parcel known as Map/TL: 20-03-32-00-3101.

CONDITIONS OF APPROVAL

None.

MATERIALS TO BE PART OF THE RECORD

City of Cottage Grove File(s): MCPA 2-23

- Applicant's Application
- Applicant's Narrative
- Site Map
- City of Cottage Grove Completeness Correspondence
- Affidavit of Posting
- Affidavit of Notice
- Annexation Agreement
- Access/Utility Easements

EXHIBITS

- A. Draft Ordinance amending the Comprehensive Plan Map and Cottage Grove Land Use Map (MCPA 2-23)
 - 1. Easements (2007-72047 and 2007-71729)
 - 2. Annexation Agreement (81-49163 LCDR)
 - 3. Transportation Planning Rule Analysis

EXHIBIT A:
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COTTAGE GROVE
COMPREHENSIVE PLAN LAND USE DIAGRAM
MAP & TITLE 14 LAND USE DISTRICT MAP
FOR GRACE WEST PROPERTIES, LLC
MCPA 2-23
Map 20-03-32-00 TL 3101

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

WHEREAS, the City of Cottage Grove has developed and adopted the City Comprehensive Plan including the land use diagram map in accordance with Statewide Planning Goals and acknowledged by the Oregon State Land Conservation and Development Commission; and

WHEREAS, the City of Cottage Grove adopted Title 14 Cottage Grove Development Code including the land use district map which implements the City Comprehensive Land Use Plan and has been acknowledged by the Oregon State Department of Land Conservation and Development; and

WHEREAS, Grace West Properties, LLC owns TL 3101, a 25.96 acre parcel (Map/TL: 20-03-32-00-03101) that is undeveloped, shown in the map in Exhibit "A" attached hereto and forming a part of this ordinance; and

WHEREAS, the owner has applied to amend the Comprehensive Plan Land Use Plan Land Use Diagram Map and Title 14 Cottage Grove Development Code Land Use District Map for the subject property to establish a needed large tract of buildable industrial lands within the city limits of Cottage Grove; and

WHEREAS, on September 20th 2023, the Cottage Grove Planning Commission conducted a properly noticed public hearing, provided the public an opportunity to comment on the proposed plan change and rezone, and adopted findings and recommended Council approval of the proposal; and

WHEREAS, on October 9, 2023, the Cottage Grove City Council conducted a properly noticed public hearing concerning the proposed plan change and rezone and provided the public with an opportunity to be heard; and

WHEREAS, the Council has reviewed the record and Planning Commission recommendation of approval, and has determined to approve the Plan change and rezone.

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to amend the adopted Comprehensive Plan land use diagram map and the Title 14, Cottage Grove Development Code land use district map for the subject properties shown in Exhibit "A" attached hereto and forming a part of this ordinance.

Section 2. Findings. The City Council has determined that: (1) the Comprehensive Plan land use diagram map and Cottage Grove Development Code land use district map amendments properly implement the Statewide Goals; (2) the amended plan and code maps adequately address the land needs of the community; and (3) the amendments are in the public's interest and will serve the health, safety, and welfare of the citizens of the City of Cottage Grove. Further, the City Council hereby adopts findings in support of this re-designation and rezone, as set forth in the above recitals and as detailed in Exhibit "B" attached hereto and incorporated as a part of this ordinance.

Section 3. Amendments.

a. The Cottage Grove Comprehensive Plan land use diagram map is hereby amended to re-designate the subject property described in Exhibit A as TL 3101 from M – Medium Density Residential to I - Industrial; and

b. Amend Title 14, Cottage Grove Development Code land use district map to rezone the subject properties described in Exhibit A as TL 3101 from R2 – Medium Density Multiple Family Residential to M – Industrial.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 9th DAY OF OCTOBER, 2023.

Candace Solesbee, Mayor

Dated: _____

Richard Meyers, City Manager

Dated: _____

EXHIBIT A
ORDINANCE NO. _____

Site Location
Unaddressed
Map/TL: 20-03-32-00-03101

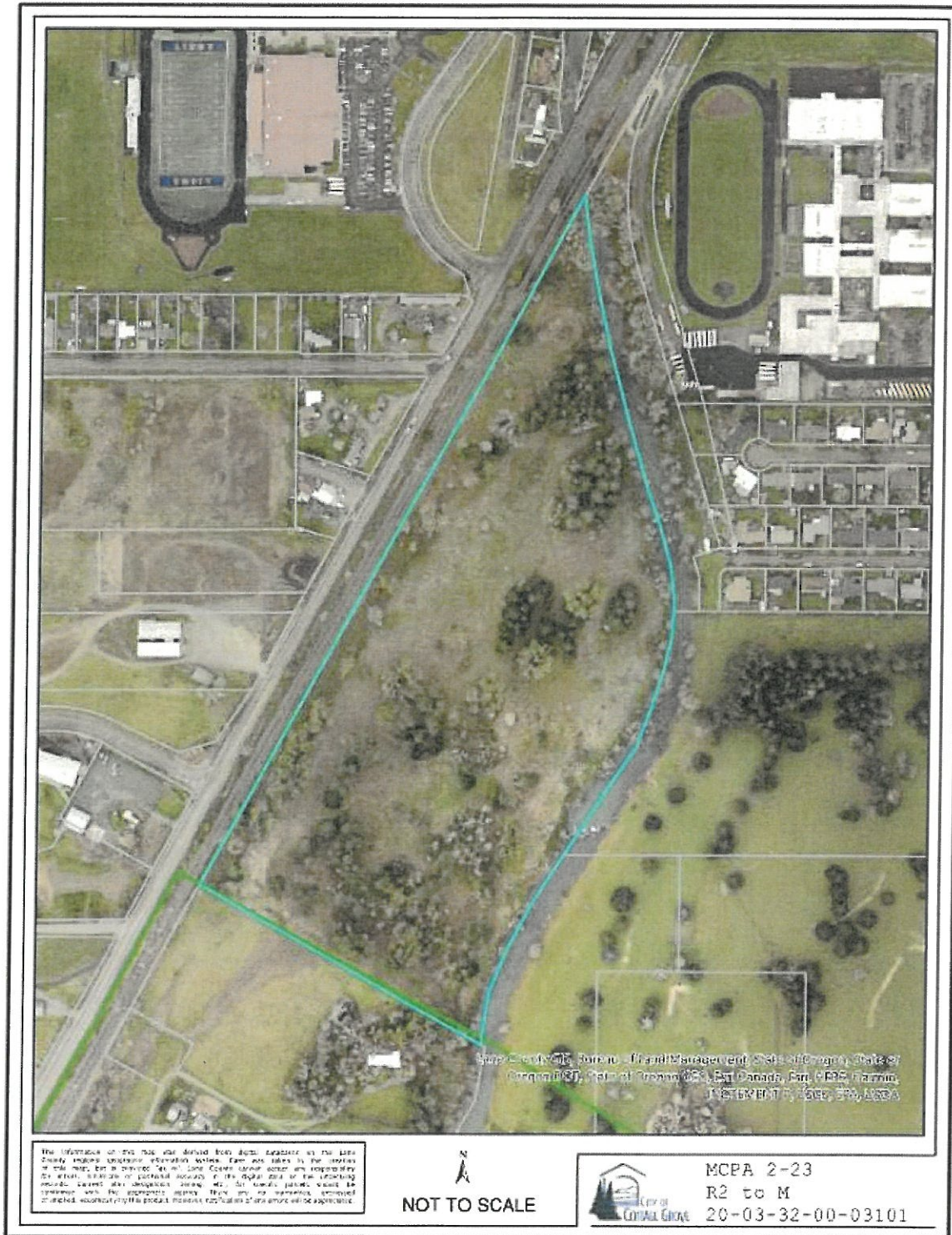


EXHIBIT B
ORDINANCE NO. _____

1. Grace West Properties, LLC owns 25.96 acres identified as Map 20-03-32-00 TL 3101, which is undeveloped. The parcels are designated as M – Medium Density Residential, and zoned as R2 – Multi-family Residential.
2. Grace West Properties, LLC has made this application to change the designation and zoning on the subject property (Map/TL: 20-03-32-00-03101) to I – Industrial and zoned as M - Industrial, in order to create a large tract of buildable industrial land.
3. The City of Cottage Grove Comprehensive Plan, under “The Plan in General,” states that it contains broad generalized patterns of land use for those areas in which a given land use is best suited, where a land use is compatible to surrounding land uses and where the need for a given land use exists.
4. The City Comprehensive Plan also states that the plan is not complete. It is subject to revision to meet the many possible economic, political and technological events that might occur in the future. The plan must also remain flexible and responsive to the citizens in reflecting their desire and needs to remain current and reflect the changing form of the community.
5. The applicant proposes these comprehensive plan and zoning map changes to the City’s maps to establish a large tract of buildable industrial land (25.96 acres). The proposed designation and zoning align with the adjacent designation and zoning to the west.
6. Adequate public facilities, including water, sewer, storm water, and streets will be constructed at time of development of the subject property. This will ensure that the proper capacity for development is achieved and provide for future development in the area provided to the site.. There are not foreseeable impacts to traffic conditions or transportation facilities with the proposed re-designation and zone change.

The following Statewide Planning Goals are not applicable to the proposed re-designation/rezoning: Goal 3 – Agricultural Lands; Goal 4 – Forest Lands; Goal 16- Estuarine Resources Goal 17 – Coastal Shorelands; Goal 18 – Beaches & Dunes; and Goal 19 – Ocean Resources.

7. The following Statewide Planning Goals are applicable and the amendment complies with them as noted below:

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The acknowledged Cottage Grove Comprehensive Plan (Plan) and Title 14 Cottage Grove Development Code complies with Goal 1. The Type IV Permit Application process required by Title 14 has been used for the Plan amendment/zone change proposal and is in compliance with Goal 1. Proper public notice of the proposed change has been provided through the Type IV public notice process as specified in Section 14.41.500A of the Development Code. The Department of Land Conservation and Development was notified of the intended amendments on

August 16, 2023. Public hearings will be held at the Planning Commission and City Council levels to consider this re-designation/rezoning. Our process involves various forms of notification of the public in the immediate area, notification in local media, and notification of impacted governmental agencies and a recognized neighborhood group.

Goal 2: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The land use planning process used by Cottage Grove to review this application is consistent with Goal 2. The City has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The proposed changes followed the process established in Title 14 of the City of Cottage Grove Municipal Code and have been found compatible with the City's Comprehensive Plan.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

This goal does not apply to the application as land within acknowledged urban growth boundaries is not considered agricultural. The subject properties are within the acknowledged urban growth boundary of Cottage Grove, and are within the city limits.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

This goal does not apply to the application. Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. The subject properties have never been acknowledged as forest lands.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

No known wetlands or historic areas are located on the subject properties. The subject property is bounded to the east by the Coast Fork Willamette River and is encumbered by the Special Flood Hazard Area and the Willamette River Greenway (see inset photo).

Conversion of the subject property from M – Medium Density Residential/R2 Multi-family Residential to I – Industrial/M - Industrial aligns well with the location of the subject property as it is located adjacent to an



active rail line. Additionally, just across the railroad tracks is the Cottage Grove Industrial Park.

As mentioned the Willamette River Greenway, riparian area, and Special Flood Hazard area along the eastern boundary of the subject property will require that any development of the subject property meet Federal, State, and local standards. In meeting these standards any development will create and protect the view shed from as seen from along the banks of the Coast Fork Willamette and therefor maintaining open space along the river.

This proposed plan amendment/zone change is in alignment with existing development and adjacent zoning and is in compliance with Goal 5.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

There are no anticipated capacity problems with the existing (none) and planned facilities in the area to accommodate existing or potential industrial uses. Any new development will be required to comply with Development Code requirements for stormwater management (Chapter 14.35 of the CGMC) and Comprehensive Plan requirements related to air and water resource quality. Hence Goal 6 does not apply at this time.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

The subject property lies along the left bank of the Coast Fork Willamette River. Per FEMA FIRM's (June 1, 1999) the property is encumbered by the Special Flood Hazard Area (100-year and 500-year). The floodplain extends into the subject property approximately 290' in a semi uniform pattern along the eastern side from north to south. Any proposed development in this area will be required to adhere to Section 14.37.200 Flood Damage Prevention. There are no other known potential natural hazards that are not city-wide in nature (such as earthquakes). Compliance with building code and development code regulations when developing industrial uses will be a requirement for all future work to ensure that damage from natural hazards is mitigated to the greatest extent possible. The proposed change is in compliance with Goal 7.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

The subject property lies along the left bank of the Coast Fork Willamette River and is in the Willamette River Greenway. As a condition of any Greenway Permit that is applied for and approved the areas within 50-100' of top of bank will remain accessible to the public for access to this portion of the river. The proposed designation/zone change enhances the city's ability to protect this important recreational resource and is in compliance with Goal 8.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The proposed Plan amendment from M – Medium Density Residential to I – Industrial is an effort by the City to increase our competitive edge in regard to having shovel ready industrial sites

within the incorporated city limits of Cottage Grove. The 2009 Economic Opportunities Analysis identified that there was a significant lack of developable or re-developable industrial lands within city limits or the UGB. Specifically, there were no industrial lands larger than 10 acres available for development. In the same EOA, it was identified that the City needed an additional 100 acres of industrial lands to meet the growth projections identified in the report. In 2010, the City of Cottage Grove completed a Plan Amendment with Boundary Adjustment. In that application it was identified via memorandum from Winterbrook Planning that the City needed an additional 24 acres of gross useable industrial lands. To accommodate this, staff engaged with Weyerhaeuser, an existing development located just south of the UGB at the time. At that time Weyerhaeuser expressed some interest in incorporating into city limits but to date that has not occurred due to the significant increase in overhead that Weyerhaeuser would endure. As of today, it is understood that Weyerhaeuser does not plan on incorporating into city limits. This leaves the City still needing at least one large 20+ acre tract of industrial lands.

Per an Annexation Agreement between the City of Cottage Grove and the property owners executed and recorded in 1981 (81-49163 LCDR, Exhibit 2), the City and property owners established that the subject property be designated industrial lands upon annexation. Unfortunately, likely through the passing of time, this agreement was not adhered to. This proposed Plan amendment will correct a missed opportunity to have a large tract of industrial land that is flat and has access to rail, HWY 99, and following the construction of a new bridge across the Coast Fork Willamette River, will have access to NB Interstate-5. Having this large tract in our inventory will position the City to be competitive in our recruitment efforts to bring a larger scale employer to the City of Cottage Grove. The proposed change is in compliance with Goal 9.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

Goal 10 is applicable. The proposed comprehensive Plan change/zone change will convert 25.96 acres of the existing housing lands inventory to industrial. Per the 2018 Housing Needs Analysis the following findings were determined:

Exhibit 55 shows the following needed densities, in net and gross acres. Exhibit 55 converts between net acres and gross acres to account for land needed for rights-of-way based on empirical analysis of existing rights-of-way by Plan designation in Cottage Grove. For example, in residential development in the Medium Density designation, 20% of developed land is in rights-of-way.

- **Low Density Residential:** 22% of land is in rights-of-way. The densities by zone in this Plan Designation area are between 4.0 dwelling units per net acre and 6.0 dwelling units per net acre.
- **Medium Density Residential:** 20% of land is in rights-of-way. The densities by zone in this Plan Designation area are between 6.0 dwelling units per net acre and 12.0 dwelling units per net acre. Development in the Medium Density Designation is generally occurring towards the lower end of the density range, in recent years.
- **High Density Residential:** 18% of land is in rights-of-way. The densities by zone in this Plan Designation area are a minimum of 10.0 dwelling units per net acre, with no specified maximum density. The maximum density is regulated by the maximum height limit (40 feet). For example, single-family detached housing is not allowed in this Designation, unless it is built as new cottage housing at a density of at least 10 dwelling units per acre.

Exhibit 55. Needed density for housing built in the Cottage Grove UGB, 2018 to 2038

Source: ECONorthwest. Note: DU is dwelling unit.

Plan Designation	Average Net Density (du/acre)	Percentage for Rights-of-Way	Average Gross Density (du/acre)
Low Density Residential	5	22%	3.9
Medium Density Residential	8	20%	6.4
High Density Residential	21	18%	17.2
Commercial Plan Designations	30	25%	22.5

As the study shows in the Medium Density development the trend at the time was development at densities closer to the minimum requirement. To address this staff convened a committee to conduct a residential code audit. In that process the following amendments were proposed and adopted:

- Removal of maximum densities from all residential zones
- Reduction of minimum lot sizes (width, depth, square footage)
- Increased allowed lot coverage

These amendments coupled with the adoption of a Multi-Unit Property Tax Exemption Program have spurred new development of multi-family housing. The table below shows the number of new developments by zone type and units per acre.

Plan Designation	Min units/acre	Total new units January 1, 2019 to August 1, 2023	Total Acreage	Avg Density
Low-Density Residential	4	51	8.77	5.8
Medium-Density Residential	8	99	4.77	20.8
High-Density Residential	14	20	1.37	14.6
C2P	n/a	5	0.63	7.9
RC	8	40	2.01	19.9
	Total new	215	17.55	
		Average Density of Development Across All Zones		12.25

The removal of maximum densities has allowed for developers to maximize the use of lands available achieving densities of 20+ units per acre and overall an increase in the density of development citywide with an average across all zones of 12.25 units/acre.

With the current inventory of buildable residential lands and the ability for developers to achieve 17-22 units/acre the City believes that the conversion of the 25.96 acres to industrial lands will not inhibit the City's ability to have an adequate supply of lands for all housing types.

Lastly, the location of the subject property with the railroad and Cottage Grove Industrial Park to the west the lands are better suited to be re-designated to M – Industrial and fill a much needed gap in the City's buildable industrial lands inventory.

The proposed change is in compliance with Goal 10.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The subject property and adjoining properties part of the purchase agreement can be adequately served with public facilities. Street and sidewalk infrastructure will be installed as a condition of approval at such time the property owner submits a development permit (land use review or site

design review). The properties are adequately served by police/fire service, public transit, and a thorough transportation network. The proposed change is in compliance with Goal 11.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

At present the subject property can only be accessed via an easement over private property to the south. However, per that same easement(s) the City is named to benefit as the owner has the right to convert the easement area into right-of-way for the purpose of constructing a road and all necessary utilities (2007-71729 & 2007-72047 LCDR). The City's 2015 Transportation System Plan calls for the construction of a bridge over the Coast Fork Willamette River as an extension of Cleveland Avenue. Prior to the development of the subject property the City will construct said bridge for the benefit of the subject parcel and the adjacent residential lands on the east side of the river. The cross-section Cleveland Avenue extension, bridge and connection to HWY 99 S will meet the standards of a Minor Arterial per Chapter 14.34 Public Facilities and provide ADA accessibility and bicycle lanes. The improvements to the transportation system as shown in the adopted TSP will create the necessary capacity to the transportation system to safely serve the proposed change from multi-family residential to industrial. Additionally, the construction of a fifth river crossing within the City provides for shorter travel distances and resiliency in the event of a natural disaster. Hence, the proposed change is in compliance with Goal 12.

Goal 13: Energy Conservation

To conserve energy.

The Plan amendment/zone change will promote more energy efficient development through the implementation of the Development Code and the Oregon Specialty Code. This includes the conservation of mature trees, creation of new pedestrian routes, and the construction of a new crossing of the Coast Fork Willamette River. The new river crossing will reduce the vehicle trip distance for those on the south end of town wishing to get to the other side of town, thus reducing vehicle miles. The proposed change is in compliance with Goal 13.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject property has been annexed to the City of Cottage Grove and is inside the City's acknowledged Urban Growth Boundary. Per a Deed Restriction recorded against the property in 1981 between the property owners and the City of Cottage Grove, the proposed industrial designation should have been applied to the subject property upon time of annexation given its proximity to the State Highway and railroad. This application for Plan amendment and zone change will allow for the highest best use of the subject property and meet the terms of the annexation agreement from 1981 (81-49163-Lane County Deeds and Records). This application is in compliance with Goal 14.

Goal 15: Willamette River Greenway

To protect, enhance and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities along the Willamette River.

The subject parcel is encumbered by the Willamette River Greenway along its eastern boundary. The implementation and enforcement of the Chapter 14.37 Sensitive Lands will ensure that this section of the Greenway will be preserved for its natural benefits to the riparian area of the Coast

Fork Willamette River. The proposed designation of Industrial to the subject parcel does not affect the development regulations in the Greenway and Riparian Setbacks. The proposed amendment is in compliance with Goal 15.

EXHIBIT 1

After Recording Return to:
Patricia L. Chapman
Hershner Hunter, LLP
180 East 11th Avenue
Eugene, OR 97401

Division of Chief Deputy Clerk
Lane County Deeds and Records

2007-071729



\$91.00

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\$70.00 \$10.00 \$11.00

EASEMENT AGREEMENT

PARTIES: K.C.W. PROPERTIES LLC, an Oregon limited liability company, formerly known as K.C.W. PROPERTIES LIMITED PARTNERSHIP, an Oregon limited partnership ("KCW")

JAMES F. THRASHER, Trustee, or his successor in interest, of the Verla J. Thrasher Testamentary Trust, and JAMES F. THRASHER, Trustee, or his successor in trust, under the James F. Thrasher Living Trust dated October 11, 2005, each as to an undivided one-half interest as tenants in common ("Thrasher")

DATED EFFECTIVE: OCTOBER 18, 2007

RECITALS:

A. KCW is the owner of certain real property located in Cottage Grove, Lane County, Oregon, commonly known as Lane County Assessor's Map and Tax Lot Number 20-03-32-3100, more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("KCW Property").

B. Thrasher is the owner of certain real property located in Cottage Grove, Lane County, Oregon, lying southerly of and adjacent to the KCW Property and commonly known as Lane County Assessor's Map and Tax Lot Numbers 21-03-05-10-00100 and 02500, more particularly described on Exhibit B attached hereto and incorporated herein by this reference ("Thrasher Property").

C. On or about July 8, 1988, Thrasher's and KCW's respective predecessors-in-interest entered into an easement agreement providing access to the KCW Property across the Thrasher Property and the Cottage/Hemenway Property (described below), a copy of which easement agreement is attached hereto as Exhibit C ("1988 Easement").

D. Thrasher is also the contract seller, and Julia M. Hemenway, Ruth O. Hemenway, and David J. Hemenway, dba Cottage Real Estate Investments, an Oregon partnership, sometimes also referred to or known as Cottage Grove Real Estate Investments (collectively,

PAGE 1 - EASEMENT AGREEMENT

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"Cottage/Hemenway") is the contract purchaser, of certain real property located in Cottage Grove, Lane County, Oregon, lying southerly of and adjacent to the Thrasher Property and commonly known as Lane County Assessor's Map and Tax Lot Numbers 21-03-05-10-00101, more particularly described on Exhibit D attached hereto and incorporated herein by this reference ("Cottage/Hemenway Property"), which Cottage/Hemenway Property is also described in and subject to the 1988 Easement.

E. Thrasher desires to grant to KCW certain easements, as more particularly set forth in this Easement Agreement ("Agreement").

AGREEMENT:

The parties agree as follows:

1. **Access/Utilities Easement.** Thrasher hereby grants to KCW, subject to and on the terms, covenants, conditions and other provisions set forth in this Agreement, a perpetual, nonexclusive easement appurtenant to the KCW Property, for the purposes described in this Agreement (the "Access/Utilities Easement") in, upon, over, across and through the portion of the Thrasher Property shown on page 1 of the Site Map attached hereto as Exhibit E and incorporated herein by this reference and designated on the Site Map as "Easement" (the "Access/Utilities Easement Area").

1.1 **Purpose.** The purpose of the Access/Utilities Easement is to provide ingress and egress to and from the KCW Property, and to permit the installation, construction, repair, maintenance and replacement of utilities (and such pipes, lines, conduit, cables, poles, braces, and fixtures or other appurtenances thereto and installations necessary therefor) within the Access/Utilities Easement area.

1.2 **Public Dedication.** KCW is authorized, at KCW's discretion, to dedicate or otherwise grant to the City of Cottage Grove or another governmental agency street, right-of-way or utilities rights in some or all of the Access/Utilities Easement Area.

1.3 **Improvements.** Any improvement of the Access/Utilities Easement Area may be made as long as KCW has continued use of the Access/Utilities Easement Area for the purposes described above and as long as the party making the improvement bears the cost or expense in connection with the improvement (unless otherwise agreed by the parties). Thrasher hereby grants to KCW a temporary license to use so much of the Thrasher Property, during the period of construction or installation of improvements in the Access/Utilities Easement Area by KCW, as may be reasonably necessary in connection with the construction or installation of improvements, subject to KCW's obligation to hold harmless Thrasher in connection with the use of the temporary license and to restore the Thrasher Property used by KCW to the condition it was in prior to the use of the temporary construction license

PAGE 2 - EASEMENT AGREEMENT

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1.4 Noninterference. In their respective usage of the Access/Utilities Easement Area, each party will make reasonable efforts not to unreasonably interfere with another party's rights to use the Access/Utilities Easement Area. Without limiting the generality of the foregoing sentence, no permanent structures or other improvements may be placed in the Access/Utilities Easement Area other than those permitted by this Agreement in connection with the purposes for which the Access/Utilities Easement is herein granted.

1.5 1988 Easement. The within Access/Utilities Easement is intended to supersede the 1988 Easement insofar as the 1988 Easement is located on the Thrasher Property, but only to the extent that KCW has or is able to obtain satisfactory connecting access to the within Access/Utilities Easement from and across the Cottage/Hemenway Property. If KCW has or obtains such connecting access across the Cottage/Hemenway Property, KCW will record an instrument terminating the 1988 Easement. If KCW does not have satisfactory access from and across the Cottage/Hemenway Property, and is only able to obtain access across the Cottage/Hemenway Property through legal proceedings to establish a way of necessity, then Thrasher will cooperate with KCW in relocating the within Access/Utilities Easement as may be reasonably necessary to connect with access across the Cottage/Hemenway Property granted to KCW in the way-of-necessity proceeding.

2. Water Line and Utility Easement. Thrasher hereby grants to KCW, subject to and on the terms, covenants, conditions and other provisions set forth in this Agreement, a perpetual, nonexclusive easement appurtenant to the KCW Property, for the purposes described in this Agreement (the "Water Line Easement") in, upon, over, across and through the Thrasher Property, in the approximate location shown on the Site Map and designated on the Site Map as "Water Line Easement No Width Specified" ("Water Line Easement Area"); although the Water Line Easement Area does not have a specified width at any given point, the parties acknowledge that the width of the Water Line Easement Area will not exceed ~~thirty~~ ^{TEN} feet (30') at any given point. *DM (10) / J S*

2.1 Purpose; Improvements. The purpose of the Water Line Easement is to permit KCW to install, construct, repair, maintain and replace water line(s) and other utilities in or near the Water Line Easement Area (and such pipes, lines, conduit, cables, poles, braces, and fixtures or other appurtenances thereto and installations necessary therefor). KCW shall have the right to go upon the Thrasher Property to carry out the foregoing purposes and activities but if KCW's entry upon the Thrasher Property causes any changes or damage to the Thrasher Property, then KCW shall restore the property to the condition it was in prior to KCW's entry upon the Thrasher Property, to the extent that it is reasonably possible to do so. Utilities installed by KCW will be underground, subject to input from and/or requirements of the City of Cottage Grove, and/or other governmental agencies or utility companies that may have jurisdiction.

2.2 Public Dedication. KCW is authorized, at KCW's discretion, to dedicate

PAGE 3 - EASEMENT AGREEMENT

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or otherwise grant to the City of Cottage Grove or another governmental agency rights in some or all of the Water Line Easement Area.

2.3 Noninterference. In their respective usage of the Water Line Easement Area, each party will make reasonable efforts not to unreasonably interfere with another party's rights to use the Water Line Easement Area. Without limiting the generality of the foregoing sentence, permanent structures or other improvements may be placed in the Water Line Easement Area only if they do not interfere with the purpose and activities described above in Section 2.1 and if they are a sufficient distance from water lines and other utilities (and related installations) to allow for the maintenance, repair and replacement of the water lines and other utilities (and related installations), including without limitation access thereto for construction vehicles and other equipment.

3. **Risk of Loss; Indemnity**. Each party assumes the risk of injuries to persons and property in connection with the party's use of the Access/Utility Easement Area and of the Water Line Easement Area. Each party shall indemnify and hold harmless the other party from and against any and all loss, cost, expense, claim or other damage in any way resulting from the party's use (including but not limited to use by the party's agents, tenants, guests or invitees) of the Access/Utility Easement Area and of the Water Line Easement Area.

4. **Covenants Running with the Land**. The Access/Utilities Easement and the Water Line Easement are appurtenant to the KCW Property and are intended by the parties to be, and shall create, covenants that run with the land with respect to the KCW Property and the Thrasher Property, and shall inure to the benefit of and be binding on the parties and their respective heirs, successors and assigns (including, without limitation, any owners of portions of the KCW Property or Thrasher Property if the KCW Property or Thrasher Property is partitioned or subdivided).

5. **Further Assurances**. Each party agrees to execute such documents and take such other actions as may be reasonable requested by another party to carry out the intent of this Agreement. Without limiting the generality of the foregoing, the parties acknowledge the possibility of future development of the KCW Property or other development of the area (such as a possible public road extension and connection to Cleveland Road that impacts an easement herein granted), and agree to cooperate in the relocation of some or all of the Access/Utilities Easement and/or the Water Line Easement, or the grant of additional easement area for the same purposes, on the same terms, covenants, conditions and provisions contained herein, if reasonably necessary to facilitate that development and as long as the relocation or grant of additional easement area does not interfere with the use being made of the Thrasher Property.

6. **Resolution of Disputes**.

6.1 Mediation/Arbitration/Limitation Period. The parties will endeavor to resolve any controversy, claim or dispute arising out of, interpreting or otherwise related to this

PAGE 4 - EASEMENT AGREEMENT

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Agreement (a "Claim") by mutual agreement, utilizing a mediator if the parties believe that mediation might be productive. Any Claim arising out of, interpreting or otherwise related to this Agreement that is not resolved in accordance with the foregoing sentence will be resolved by binding arbitration upon written demand therefor made by a party upon all other parties to the Claim (provided, however, that a party may not demand arbitration under this Section 6.1 after the party has filed or appeared in any legal proceeding instituted to resolve the Claim), and judgment on the award rendered in such arbitration may be entered in any court having jurisdiction thereof. If the parties do not otherwise agree, the arbitration shall be in accordance with the Oregon Business Rules of the American Arbitration Association (although it need not be conducted by or under the auspices of the American Arbitration Association) or, if they no longer exist, the matter shall be arbitrated in accordance with ORS 36.600 *et seq.*, or any successor statutes thereto. Any longer statutes of limitations that would otherwise apply to the contrary notwithstanding, any Claim must be brought by filing an action in a court of competent jurisdiction or initiating arbitration as provided above within one (1) year of the date on which it arose or on which the cause of action accrued, or it will be time barred and may not be brought in any forum, including, without limitation, mediation, arbitration or State or Federal Court.

6.2 Attorneys' Fees. If any suit, action, arbitration, or other proceeding is filed, instituted or undertaken by any party to enforce or interpret this Agreement or otherwise with respect to the subject matter of this Agreement (including, without limitation, any proceeding to enforce creditor's rights or otherwise to pursue, defend, or litigate issues related to or peculiar to federal bankruptcy law, including but not limited to efforts to obtain relief from an automatic stay) or if any other controversy arises from this Agreement, the prevailing party shall be entitled to recover from the non prevailing party its reasonable attorneys' fees and related costs and expenses (including but not limited to expert witness fees, transcript costs, and other similar expenses) actually incurred in such suit, action, arbitration or other proceeding, and in any appeal thereof or therefrom. Such sum shall include an amount estimated by the court, arbitrator, or adjudicator as the reasonable costs and fees to be incurred in collecting any monetary judgment or award or otherwise enforcing each award, order, judgment or decree entered in such suit, action, or other proceeding.

7. Severability. If any provision of this Agreement shall be held unenforceable or invalid, such unenforceability or invalidity shall not affect the enforceability or validity of any other provision of this Agreement, unless it would result in the frustration of a material purpose of this Agreement.

8. Captions. The captions or headings used in sections and paragraphs of this Agreement are for convenience of reference only, and are not to be used in the construction or interpretation of this Agreement.

9. Counterparts. This Agreement may be executed and acknowledged in one or more counterparts which together will constitute one agreement.

10. **Entire Agreement.** This Agreement, including the terms of the Recitals preceding the caption "Agreement" and the exhibits hereto, constitutes the entire agreement between the parties regarding the subject matter of this Agreement and all prior agreements, representations or understandings, written or oral, regarding the subject matter of this Agreement are hereby superseded.

[SIGNATURES ON NEXT PAGE]

PAGE 6 - EASEMENT AGREEMENT

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IN WITNESS WHEREOF, the parties have executed this Easement Agreement effective as of the date first above written.

KCW:

K.C.W. PROPERTIES LLC, an Oregon limited liability company, formerly known as K.C.W. Properties Limited Partnership

By: Andrew C. Woodard
Andrew C. Woodard, Manager

THRASHER:

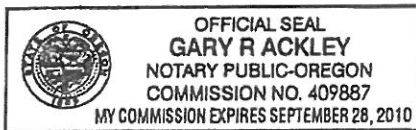
James Thrasher
James Thrasher, as Trustee of the Verla Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005

EXHIBITS:

- Exhibit A: Legal Description of KCW Property
- Exhibit B: Legal Description of Thrasher Property
- Exhibit C: Copy of 1988 Easement
- Exhibit D: Legal Description of Hemenway Property
- Exhibit E: Site Map

State of Oregon)
) ss.
County of Lane)

This instrument was acknowledged before me on October 18, 2007, by Andrew C. Woodard, as Manager of K.C.W. Properties LLC, an Oregon limited liability company formerly known as K.C.W. Properties Limited Partnership, an Oregon limited partnership.

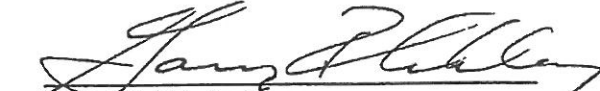


Gary R Ackley
Notary Public for Oregon
My Commission Expires: 9-28-10

State of OREGON)
) ss.
County of LANE)

This instrument was acknowledged before me on OCTOBER 18, 2007, by James Thrasher, as Trustee of the Verla J. Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005.




Notary Public for Oregon
My Commission Expires: 9-28-10

PAGE 8 - EASEMENT AGREEMENT

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EXHIBIT A
LEGAL DESCRIPTION OF KCW PROPERTY

Beginning at the Brass Cap monument marking the Northeast corner of the James Chapin Donation Land Claim No. 40, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence South 61° 00' 00" East 136.03 feet to the center of the Coast Fork, of the Willamette River; thence downstream along the center of said river to a point on the Easterly right of way line of the Union Pacific Railroad (formerly the Southern Pacific Railroad, Siskiyou Branch); thence along the said railroad right of way line, South 29° 00' 00" West 1931.4 feet, more or less, to a point which bears North 61° 00' 00" West of the point of beginning; thence leaving the said railroad right of way line, South 61° 00' 00" East 667.74 feet to the POINT OF BEGINNING, in Lane County, Oregon.

[Containing 26.7 acres, more or less, to the center of the Coast Fork Willamette River leaving 24.34 acres outside of the River as said left bank was located on February 20, 2003.]

EXHIBIT B
LEGAL DESCRIPTION OF THRASHER PROPERTY

Parcel 1:

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 479.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 170.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 452.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 421.41 feet to a 5/8 inch iron rod being the True Point of Beginning; thence continue South 61° 00' 00" East 300.30 feet to a point within the Coast Fork of the Willamette River, said point being referenced by a 5/8 inch iron rod bearing North 61° 00' 00" West 58.94 feet; thence downstream of the River, North 6° 00' 00" East 238.86 feet to a point, said point being referenced by a 5/8 inch iron rod bearing North 62° 20' 00" West 69.60 feet; thence leaving said River, North 62° 20' 00" West 262.03 feet to a 5/8 inch iron rod; thence South 27° 40' 00" West 70.58 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 50.01 feet to a 5/8 inch iron rod; thence south 27° 40' 00" West 143.26 feet to the True Point of Beginning, in Lane County, Oregon.

Parcel 2:

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 349.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 180.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 80.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 349.71 feet to a 5/8 inch iron rod; thence South 27° 40' 00" West 288.30 feet to a 5/8 inch iron rod; thence South 62° 20' 00" East 262.03 feet to a point within the Coast Fork of the Willamette River, said point being referenced by a 5/8 inch iron rod bearing North 62° 20' 00" West; 69.60 feet; thence downstream of the River, North 6° 00' 00" East 96.14 feet; thence North 29° 00' 00" East 56.00 feet, North 47° 00' 00" East 296.59 feet; thence North 28° 50' 00" East 147.00 feet; thence North 9° 45' 00" East 145.71 feet; thence leaving said River, North 61° 00' 00" West 136.03 feet to the True Point of Beginning, in Lane County, Oregon.

The area contained in the above description also includes the area included in that Deed Recorded July 12, 1988, Reel 1523R, Reception No. 88-27590, Lane County Oregon Deed Records, as a property line adjustment, all in Lane County, Oregon.

EASEMENT

FOR VALUABLE CONSIDERATION, JAMES THRASHER and VERLA THRASHER, husband and wife, do hereby grant and convey to K.C. PROPERTIES, a partnership, a perpetual non-exclusive easement for roadway purposes for ingress and egress across Grantor's property to Grantee's property which easement is described as follows, to-wit:

An easement 30 feet in width parallel to the westerly boundary of the Grantor's property, the legal description of which is attached hereto, marked Exhibit "A", and by this reference incorporated herein as if set out in full.

GRANTEE, its agents and invitees shall use the easement strip for roadway purposes only for access to Grantee's property, the legal description of which is attached hereto, marked Exhibit "B", and by this reference incorporated herein as if set out in full, and in conjunction with said use may construct, reconstruct, maintain and repair a road thereon.

This easement shall be appurtenant to the real property owned by Grantee and described in Exhibit "B" and shall be perpetual.

Grantee agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the easement strip.

Grantor reserves the right to use, construct, reconstruct and maintain the road located upon the easement strip for ingress and egress to Grantor's property. The parties shall cooperate during periods of joint use so that each party's use shall cause a minimum of interference to the others.

This easement is granted subject to all prior easements or encumbrances of record.

Executed in duplicate this 8 day of July, 1988.

James Thrasher
James Thrasher
Verla Thrasher
Verla Thrasher

STATE OF OREGON)
(ss.
County of Lane)

July 8, 1988

Personally appeared the above-named JAMES THRASHER and VERLA THRASHER and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

B. Herrold
Notary Public for Oregon
My Commission Expires: Oct. 9, 1989

K.C. PROPERTIES

By: *Kristen Woodard*
Kristen Woodard

By: *Kim Woodard*
Kim Woodard

STATE OF OREGON)
(ss.
County of Lane)

_____, 1988.

Personally appeared the above named KRISTEN WOODARD and KIM WOODARD, who indicated they are Managing Partners of K.C. PROPERTIES, a partnership, and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Blowath
Notary Public for Oregon

My Commission Expires: 11-9-89

EXHIBIT D
LEGAL DESCRIPTION OF HEMENWAY PROPERTY

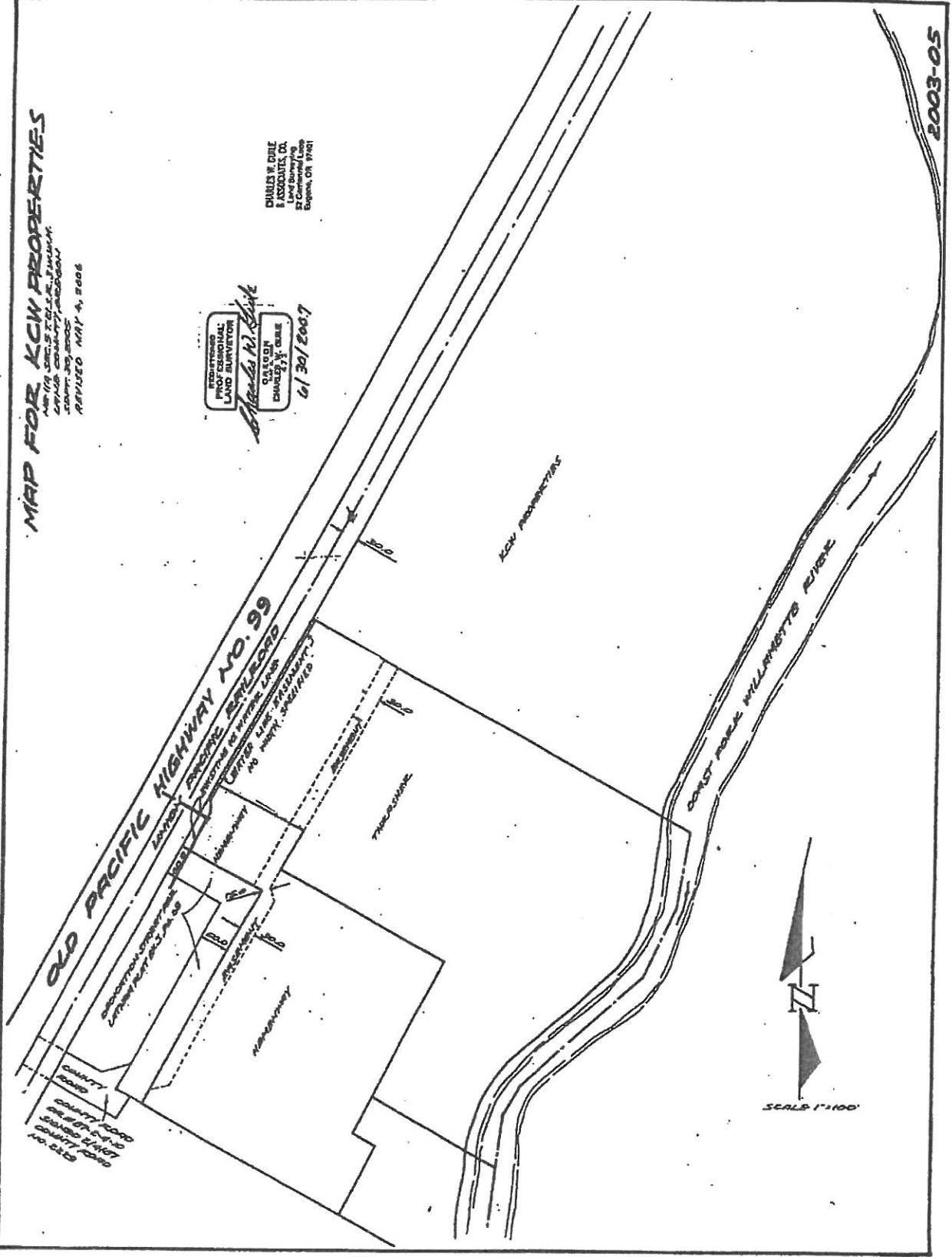
A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 349.00 feet to a 5/8 inch iron rod being the True Point of Beginning; thence continue South 29° 00' 00" West 130.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 170.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 452.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 421.41 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 143.26 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 50.01 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 358.87 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 349.71 feet to a 5/8 inch iron rod; thence North 29° 00' 00" East 80.00 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 180.00 feet to the True Point of Beginning, Lane County, Oregon. Containing 4.90 acres.

MAP FOR KCW PROPERTIES

NO. 104 SEC. 5 T. 20 S. R. 12 E. PARKWAY
LINDSEY COUNTY, MONTANA
COUNTY 205 2000
REVISED MAY 4, 2006

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Charles W. Cible
CABLE
CHURCH & CIBLE
1002/06/19

CHURCH & CIBLE
& ASSOCIATES, P.A.
Land Surveyors
27 Cambridge Loop
Espers, OH 44821



2003-05

EV-2007-10
After Recording Return to:

**SOUTH LANE INVESTMENT
COMPANY, INC.**
P.O. Box 10666
Eugene, OR 97440

Division of Chief Deputy Clerk
Lane County Deeds and Records

2007-072047



\$66.00

RPR-ESMT Cnt=1 Stn=6 CASHIER 07
\$45.00 \$10.00 \$11.00

10/22/2007 11:38:55 AM

EASEMENT AGREEMENT

PARTIES: K.C.W. PROPERTIES, LLC, an Oregon limited liability company (fka K.C.W. PROPERTIES LIMITED PARTNERSHIP, an Oregon limited partnership) ("KCW")

JULIA M. HEMENWAY, RUTH O. HEMENWAY, and DAVID J. HEMENWAY, dba Cottage Real Estate Investments, an Oregon partnership, sometimes also referred to or known as Cottage Grove Real Estate Investments (collectively, "Cottage/Hemenway")

DATED EFFECTIVE: October 18, 2007

RECITALS:

A. KCW is the owner of certain real property located in Cottage Grove, Lane County, Oregon, commonly known as Lane County Assessor's Map and Tax Lot Number 20-03-32-3100, more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("KCW Property").

B. Cottage/Hemenway is the contract purchaser (from James F. Thrasher, Trustee, or his successor, of the Verla J. Thrasher Testamentary Trust and under the James F. Thrasher Living Trust dated October 11, 2005, each as to an undivided one-half interest as tenants in common and collectively referred to herein as "Thrasher") of certain real property located in Cottage Grove, Lane County, Oregon, lying southerly of and adjacent to the Thrasher Property and commonly known as Lane County Assessor's Map and Tax Lot Numbers 21-03-05-10-00101, more particularly described on Exhibit B attached hereto and incorporated herein by this reference ("Cottage/Hemenway Property").

C. Cottage/Hemenway desires to grant to KCW an easement, as more particularly set forth in this Easement Agreement ("Agreement").

AGREEMENT:

The parties agree as follows:

EASEMENT AGREEMENT - 1

C:\Documents and Settings\David\Local Settings\Temporary Internet Files\OLK156\Hemenway utility easement 7-20-07.doc

RETURN TO EVERGREEN LAND TITLE CO.

1. **Water Line and Utility Easement.** Cottage/Hemenway hereby grants to KCW, subject to and on the terms, covenants, conditions and other provisions set forth in this Agreement, a perpetual, nonexclusive easement appurtenant to the KCW Property, for the purposes described in this Agreement (the "Water Line Easement") in, upon, over, across and through the portion of the Cottage/Hemenway Property shown on page 1 of the Site Map attached hereto as Exhibit C and incorporated herein by this reference, and designated on the Site Map as "Water Line Easement No Width Specified" ("Water Line Easement Area").

1.1 **Purpose; Improvements.** The purpose of the Water Line Easement is to permit KCW to install, construct, repair, maintain and replace water line(s) and other utilities in or near the Water Line Easement Area (and such pipes, lines, conduit, cables, poles, braces, and fixtures or other appurtenances thereto and installations necessary therefor). KCW shall have the right to go upon the Cottage/Hemenway Property to carry out the foregoing purposes and activities, but if KCW's entry upon the Cottage/Hemenway Property causes any damage to the Cottage/Hemenway Property then KCW shall restore the damaged property to the condition it was in prior to KCW's entry thereupon, to the extent that it is reasonably possible to do so.

1.2 **Public Dedication.** KCW is authorized, at KCW's discretion, to dedicate or otherwise grant to the City of Cottage Grove or another governmental agency rights in some or all of the Water Line Easement Area.

1.3 **Noninterference.** In their respective usage of the Water Line Easement Area, each party will make reasonable efforts not to unreasonably interfere with another party's rights to use the Water Line Easement Area. Without limiting the generality of the foregoing sentence, permanent structures or other improvements may be placed in the Water Line Easement Area only if they do not interfere with the purpose and activities described above in Section 1.1 and if they are a sufficient distance from water lines and other utilities (and related installations) to allow for the maintenance, repair and replacement of the water lines and other utilities (and related installations), including without limitation access thereto for construction vehicles and other equipment.

2. **Risk of Loss; Indemnity.** Each party assumes the risk of injuries to persons and property in connection with the party's use of the Water Line Easement Area. Each party shall indemnify and hold harmless the other party from and against any and all loss, cost, expense, claim or other damage in any way resulting from the party's use (including but not limited to use by the party's agents, tenants, guests or invitees) of the Water Line Easement Area.

3. **Covenants Running with the Land.** The Water Line Easement is appurtenant to the KCW Property and is intended by the parties to be, and shall create, covenants that run with the land with respect to the KCW Property and the Cottage/Hemenway Property, and shall inure to the benefit of and be binding on the parties and their respective heirs, successors and assigns (including, without limitation, any owners of portions of the KCW Property or the Cottage/Hemenway Property if the property is partitioned or subdivided).

4. **Further Assurances.** Each party agrees to execute such documents and take such other actions as may be reasonable requested by another party to carry out the intent of this Agreement. Without limiting the generality of the foregoing, the parties acknowledge the possibility of future development of the KCW Property or other development of the area (such as a possible public road extension and connection to Cleveland Road that impacts an easement herein granted), and agree to cooperate in the relocation of some or all of the Water Line Easement, or the grant of additional easement area for the same purposes, on the same terms, covenants, conditions and provisions contained herein, if reasonably necessary to facilitate that development and as long as the relocation or grant of additional easement area does not interfere with the use being made of the Cottage/Hemenway Property, as the case may be.

5. **Resolution of Disputes.**

5.1 Mediation/Arbitration/Limitation Period. The parties will endeavor to resolve any controversy, claim or dispute arising out of, interpreting or otherwise related to this Agreement (a "Claim") by mutual agreement, utilizing a mediator if the parties believe that mediation might be productive. Any Claim arising out of, interpreting or otherwise related to this Agreement that is not resolved in accordance with the foregoing sentence will be resolved by binding arbitration upon written demand therefor made by a party upon all other parties to the Claim (provided, however, that a party may not demand arbitration under this Section 5.1 after the party has filed or appeared in any legal proceeding instituted to resolve the Claim), and judgment on the award rendered in such arbitration may be entered in any court having jurisdiction thereof. If the parties do not otherwise agree, the arbitration shall be in accordance with the Oregon Business Rules of the American Arbitration Association (although it need not be conducted by or under the auspices of the American Arbitration Association) or, if they no longer exist, the matter shall be arbitrated in accordance with ORS 36.600 *et seq.*, or any successor statutes thereto. Any longer statutes of limitations that would otherwise apply to the contrary notwithstanding, any Claim must be brought by filing an action in a court of competent jurisdiction or initiating arbitration as provided above within one (1) year of the date on which it arose or on which the cause of action accrued, or it will be time barred and may not be brought in any forum, including, without limitation, mediation, arbitration or State or Federal Court.

5.2 Attorneys' Fees. If any suit, action, arbitration, or other proceeding is filed, instituted or undertaken by any party to enforce or interpret this Agreement or otherwise with respect to the subject matter of this Agreement (including, without limitation, any proceeding to enforce creditor's rights or otherwise to pursue, defend, or litigate issues related to or peculiar to federal bankruptcy law, including but not limited to efforts to obtain relief from an automatic stay) or if any other controversy arises from this Agreement, the prevailing party shall be entitled to recover from the non prevailing party its reasonable attorneys' fees and related costs and expenses (including but not limited to expert witness fees, transcript costs, and other similar expenses) actually incurred in such suit, action, arbitration or other proceeding, and in any appeal thereof or therefrom. Such sum shall include an amount estimated by the court, arbitrator, or adjudicator as the reasonable costs and fees to be incurred in collecting any

monetary judgment or award or otherwise enforcing each award, order, judgment or decree entered in such suit, action, or other proceeding.

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IN WITNESS WHEREOF, the parties have executed this Easement Agreement effective as of the date first above written.

KCW:

K.C.W. PROPERTIES, LLC, an Oregon limited liability company (fka K.C.W. PROPERTIES LIMITED PARTNERSHIP, an Oregon limited partnership)

By: Andrew C. Woodard
Andrew C. Woodard, Manager

COTTAGE/HEMENWAY:

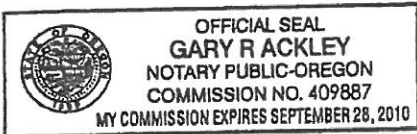
Julia M. Hemenway
Julia M. Hemenway
Ruth O. Hemenway Duran
Ruth O. Hemenway Duran
David J. Hemenway
David J. Hemenway


EXHIBITS:

- Exhibit A: Legal Description of KCW Property
- Exhibit B: Legal Description of Hemenway Property
- Exhibit C: Site Map

State of Oregon)
) ss.
County of Lane)

This instrument was acknowledged before me on OCTOBER 18, 2007, by Andrew C. Woodard, as Manager of K.C.W. Properties, LLC (fka K.C.W. Properties Limited Partnership).

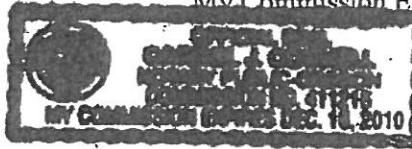



Notary Public for Oregon
My Commission Expires: ~~12-9-28-10~~

State of Oregon)
) ss.
County of Lane)

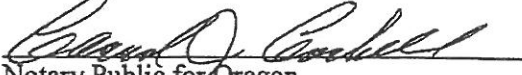
This instrument was acknowledged before me on 9-4, 2007, by Julia M. Hemenway.

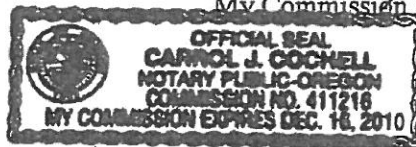

Notary Public for Oregon
My Commission Expires: 12-16-2010



State of Oregon)
) ss.
County of Lane)

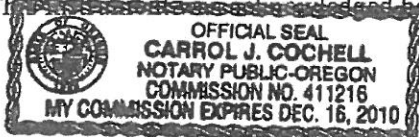
This instrument was acknowledged before me on 9-4, 2007, by Ruth O. Hemenway-Duran

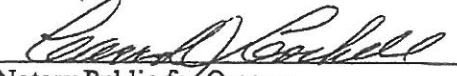

Notary Public for Oregon
My Commission Expires: 12-16-2010



State of Oregon)
) ss.
County of Lane)

This instrument was acknowledged before me on 9-4, 2007, by David J. Hemenway.




Notary Public for Oregon
My Commission Expires: 12-16-2010

THRASHER CONCURRENCE

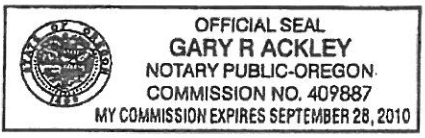
As the contract vendor of that certain contract disclosed by Memorandum recorded ~~June 3, 2005~~ ^(*) 19 ("Contract"), Thrasher joins in the foregoing Easement Agreement for the purpose of consenting to and concurring with the foregoing easement, and agrees that the Contract is and will remain subordinate to this Agreement.

James F. Thrasher
James Thrasher, as Trustee of the Verla Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005

(*) April 24, 1996, Reel 2166 R,
Reception No. 96-26435,
Lane County Official Records,
assigned by instrument
recorded June 3, 2005,
Reception No. 2005-040602,
Lane County Official Records.

State of OREGON)
County of LANE) ss.

This instrument was acknowledged before me on OCTOBER 18, 2007, by James Thrasher, as Trustee of the Verla J. Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005.



Gary R Ackley
Notary Public for Oregon
My Commission Expires: 9-28-10

EXHIBIT A
LEGAL DESCRIPTION OF KCW PROPERTY

Beginning at the Brass Cap monument marking the Northeast corner of the James Chapin Donation Land Claim No. 40, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence South 61° 00' 00" East 136.03 feet to the center of the Coast Fork, of the Willamette River; thence downstream along the center of said river to a point on the Easterly right of way line of the Union Pacific Railroad (formerly the Southern Pacific Railroad, Siskiyou Branch); thence along the said railroad right of way line, South 29° 00' 00" West 1931.4 feet, more or less, to a point which bears North 61° 00' 00" West of the point of beginning; thence leaving the said railroad right of way line, South 61° 00' 00" East 667.74 feet to the POINT OF BEGINNING, in Lane County, Oregon.

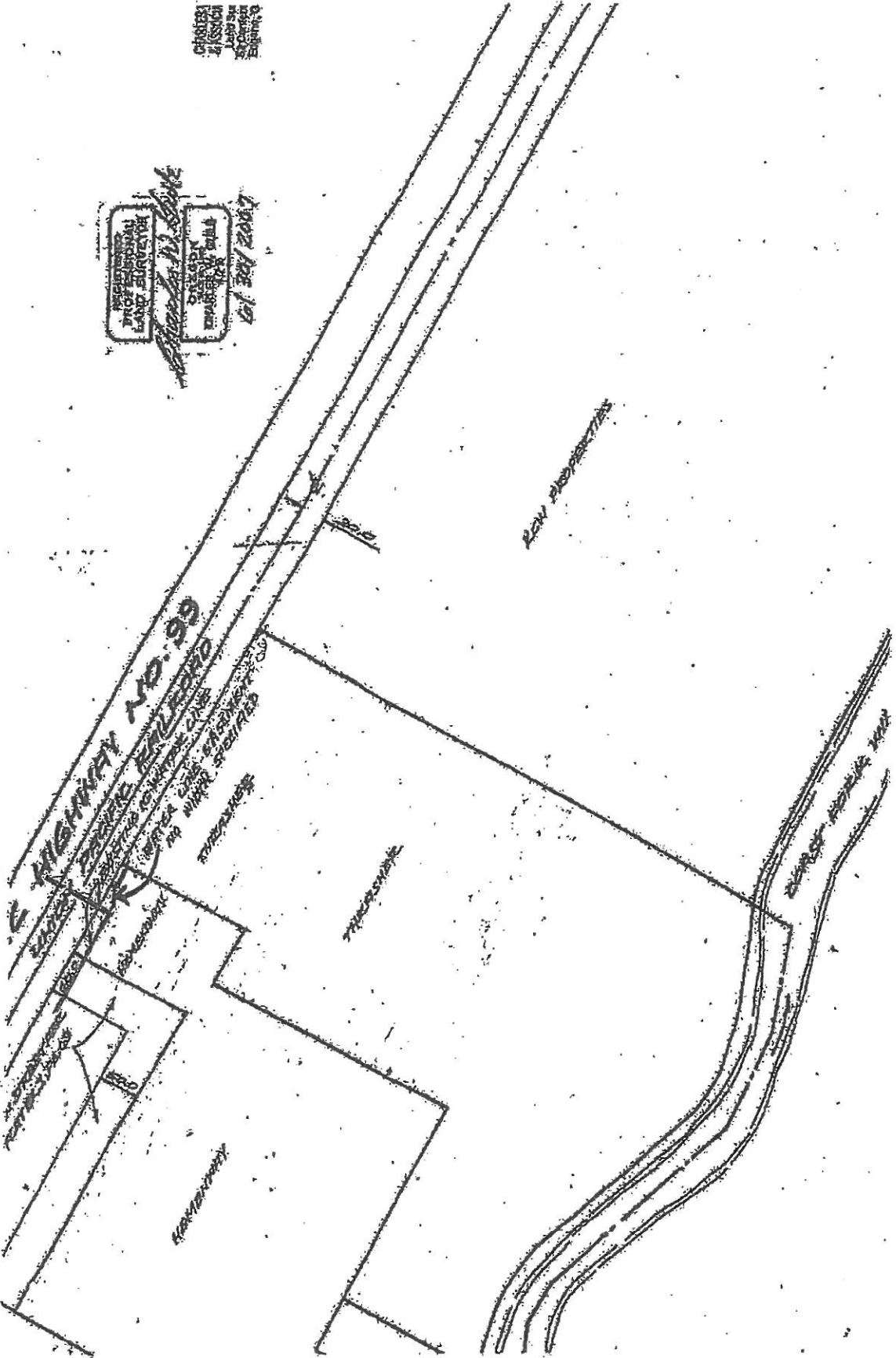
[Containing 26.7 acres, more or less, to the center of the Coast Fork Willamette River leaving 24.34 acres outside of the River as said left bank was located on February 20, 2003.]

EXHIBIT B
LEGAL DESCRIPTION OF HEMENWAY PROPERTY

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 349.00 feet to a 5/8 inch iron rod being the True Point of Beginning; thence continue South 29° 00' 00" West 130.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 170.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 452.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 421.41 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 143.26 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 50.01 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 358.87 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 349.71 feet to a 5/8 inch iron rod; thence North 29° 00' 00" East 80.00 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 180.00 feet to the True Point of Beginning, Lane County, Oregon. Containing 4.90 acres.

CHARTERED
4/15/2004
2000 by
C. J. ...
Engineer 9

APPROVED FOR
CONSTRUCTION
BY THE
STATE ENGINEER
OF MISSISSIPPI
DATE: 11/11/04
BY: [Signature]



HIGHWAY NO. 99
RIGHT OF WAY
ROADWAY
DRAINAGE
UTILITY

RIGHT OF WAY

RIGHT OF WAY

Division of Chief Deputy Clerk
Lane County Deeds and Records

2008-038569



\$86.00

01009247200800385690130136

07/01/2008 11:06:53 AM

RPR-ESMT Cnt=1 Stn=6 CASHIER 07

\$65.00 \$10.00 \$11.00

After Recording Return to:
Patricia L. Chapman
Gleaves Swearingen Potter & Scott
975 Oak Street
Eugene, OR 97401

EASEMENT AGREEMENT

PARTIES: K.C.W. PROPERTIES LLC, an Oregon limited liability company, formerly known as K.C.W. PROPERTIES LIMITED PARTNERSHIP, an Oregon limited partnership ("KCW")

JULIA M. HEMENWAY, RUTH O. HEMENWAY, and DAVID J. HEMENWAY, dba COTTAGE REAL ESTATE INVESTMENTS, an Oregon partnership, sometimes also referred to or known as COTTAGE GROVE REAL ESTATE INVESTMENTS (collectively, "Cottage/Hemenway")

DATED EFFECTIVE: June 30, 2008

RECITALS:

A. KCW is the owner of certain real property located in Cottage Grove, Lane County, Oregon, commonly known as Lane County Assessor's Map and Tax Lot Number 20-03-32-3100, more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("KCW Property").

B. James F. Thrasher, Trustee of the Verla J. Thrasher Testamentary Trust, and James F. Thrasher, Trustee under the James F. Thrasher Living Trust dated October 11, 2005, each as to an undivided one-half interest as tenants in common ("Thrasher") is the owner of certain real property located in Cottage Grove, Lane County, Oregon, lying southerly of and adjacent to the KCW Property and commonly known as Lane County Assessor's Map and Tax Lot Numbers 21-03-05-10-00100 and 02500, more particularly described on Exhibit B attached hereto and incorporated herein by this reference ("Thrasher Property").

C. Cottage/Hemenway is the contract purchaser from Thrasher of certain real property located in Cottage Grove, Lane County, Oregon, lying southerly of and adjacent to the Thrasher Property and commonly known as Lane County Assessor's Map and Tax Lot Numbers 21-03-05-10-00101, more particularly described on Exhibit C attached hereto and incorporated herein by this reference ("Cottage/Hemenway Property").

D. On or about July 8, 1988, Thrasher's and KCW's respective predecessors-in-interest entered into an easement agreement providing access to the KCW Property across the

Thrasher Property and the Cottage/Hemenway Property, a copy of which easement agreement is attached hereto as Exhibit D ("1988 Easement").

E. Cottage/Hemenway desires to grant to KCW certain easements, as more particularly set forth in this Easement Agreement ("Agreement").

AGREEMENT:

The parties agree as follows:

1. **Access/Utilities Easement.** Cottage/Hemenway hereby grants to KCW, subject to and on the terms, covenants, conditions and other provisions set forth in this Agreement, a perpetual, nonexclusive easement appurtenant to the KCW Property, for the purposes described in this Agreement (the "Access/Utilities Easement") in, upon, over, across and through the portion of the Cottage/Hemenway Property shown on page 1 of the Site Map attached hereto as Exhibit E and incorporated herein by this reference and designated on the Site Map as "Easement" (the "Access/Utilities Easement Area").

1.1 **Purpose.** The purpose of the Access/Utilities Easement is to provide ingress and egress to and from the KCW Property, and to permit the installation, construction, repair, maintenance and replacement of utilities (and such pipes, lines, conduit, cables, poles, braces, and fixtures or other appurtenances thereto and installations necessary therefor) within the Access/Utilities Easement area.

1.2 **Public Dedication.** KCW is authorized, at KCW's discretion, to dedicate or otherwise grant to the City of Cottage Grove or another governmental agency street, right-of-way or utilities rights in some or all of the Access/Utilities Easement Area.

1.3 **Improvements.** Any improvement of the Access/Utilities Easement Area may be made as long as KCW has continued use of the Access/Utilities Easement Area for the purposes described above and as long as the party making the improvement bears the cost or expense in connection with the improvement (unless otherwise agreed by the parties). Cottage/Hemenway hereby grants to KCW a temporary license to use so much of the Cottage/Hemenway Property, during the period of construction or installation of improvements in the Access/Utilities Easement Area by KCW, as may be reasonably necessary in connection with the construction or installation of improvements, subject to KCW's obligation to hold harmless Cottage/Hemenway in connection with the use of the temporary license and to restore the Cottage/Hemenway Property used by KCW to the condition it was in prior to the use of the temporary construction license

1.4 **Noninterference.** In their respective usage of the Access/Utilities Easement Area, each party will make reasonable efforts not to unreasonably interfere with another party's rights to use the Access/Utilities Easement Area. Without limiting the generality of the foregoing sentence, no permanent structures or other improvements may be placed in the

Access/Utilities Easement Area other than those permitted by this Agreement in connection with the purposes for which the Access/Utilities Easement is herein granted.

1.5 1988 Easement. The within Access/Utilities Easement is intended to supersede the 1988 Easement insofar as the 1988 Easement is located on the Cottage/Hemenway Property, but only to the extent that KCW has or is able to obtain satisfactory connecting access to the within Access/Utilities Easement from and across the Thrasher Property. If KCW has or obtains such connecting access across the Thrasher Property, KCW will record an instrument terminating the 1988 Easement. If KCW does not have satisfactory access from and across the Thrasher Property, and is only able to obtain access across the Thrasher Property through legal proceedings to establish a way of necessity, then Cottage/Hemenway will cooperate with KCW in relocating the within Access/Utilities Easement as may be reasonably necessary to connect with access across the Thrasher Property granted to KCW in the way-of-necessity proceeding.

2. **Risk of Loss; Indemnity.** Each party assumes the risk of injuries to persons and property in connection with the party's use of the Access/Utility Easement. Each party shall indemnify and hold harmless the other party from and against any and all loss, cost, expense, claim or other damage in any way resulting from the party's use (including but not limited to use by the party's agents, tenants, guests or invitees) of the Access/Utility Easement.

3. **Covenants Running with the Land.** The Access/Utilities Easement is appurtenant to the KCW Property and is intended by the parties to be, and shall create, covenants that run with the land with respect to the KCW Property and the Cottage/Hemenway Property, and shall inure to the benefit of and be binding on the parties and their respective heirs, successors and assigns (including, without limitation, any owners of portions of the KCW Property or Cottage/Hemenway Property if the KCW Property or Cottage/Hemenway Property is partitioned or subdivided).

4. **Further Assurances.** Each party agrees to execute such documents and take such other actions as may be reasonably requested by another party to carry out the intent of this Agreement. Without limiting the generality of the foregoing, the parties acknowledge the possibility of future development of the KCW Property or other development of the area (such as a possible public road extension and connection to Cleveland Road that impacts an easement herein granted), and agree to cooperate in the relocation of some or all of the Access/Utilities Easement, or the grant of additional easement area for the same purposes, on the same terms, covenants, conditions and provisions contained herein, if reasonably necessary to facilitate that development and as long as the relocation or grant of additional easement area does not interfere with the use being made of the Cottage/Hemenway Property.

5. **Resolution of Disputes.**

5.1 Mediation/Arbitration/Limitation Period. The parties will endeavor to resolve any controversy, claim or dispute arising out of, interpreting or otherwise related to this Agreement (a "Claim") by mutual agreement, utilizing a mediator if the parties believe that

mediation might be productive. Any Claim arising out of, interpreting or otherwise related to this Agreement that is not resolved in accordance with the foregoing sentence will be resolved by binding arbitration upon written demand therefor made by a party upon all other parties to the Claim (provided, however, that a party may not demand arbitration under this Section 5.1 after the party has filed or appeared in any legal proceeding instituted to resolve the Claim), and judgment on the award rendered in such arbitration may be entered in any court having jurisdiction thereof. If the parties do not otherwise agree, the arbitration shall be in accordance with the Oregon Business Rules of the American Arbitration Association (although it need not be conducted by or under the auspices of the American Arbitration Association) or, if they no longer exist, the matter shall be arbitrated in accordance with ORS 36.600 *et seq.*, or any successor statutes thereto. Any longer statutes of limitations that would otherwise apply to the contrary notwithstanding, any Claim must be brought by filing an action in a court of competent jurisdiction or initiating arbitration as provided above within one (1) year of the date on which it arose or on which the cause of action accrued, or it will be time barred and may not be brought in any forum, including, without limitation, mediation, arbitration or State or Federal Court.

5.2 Attorneys' Fees. If any suit, action, arbitration, or other proceeding is filed, instituted or undertaken by any party to enforce or interpret this Agreement or otherwise with respect to the subject matter of this Agreement (including, without limitation, any proceeding to enforce creditor's rights or otherwise to pursue, defend, or litigate issues related to or peculiar to federal bankruptcy law, including but not limited to efforts to obtain relief from an automatic stay) or if any other controversy arises from this Agreement, the prevailing party shall be entitled to recover from the non prevailing party its reasonable attorneys' fees and related costs and expenses (including but not limited to expert witness fees, transcript costs, and other similar expenses) actually incurred in such suit, action, arbitration or other proceeding, and in any appeal thereof or therefrom. Such sum shall include an amount estimated by the court, arbitrator, or adjudicator as the reasonable costs and fees to be incurred in collecting any monetary judgment or award or otherwise enforcing each award, order, judgment or decree entered in such suit, action, or other proceeding.

6. Severability. If any provision of this Agreement shall be held unenforceable or invalid, such unenforceability or invalidity shall not affect the enforceability or validity of any other provision of this Agreement, unless it would result in the frustration of a material purpose of this Agreement.

7. Captions. The captions or headings used in sections and paragraphs of this Agreement are for convenience of reference only, and are not to be used in the construction or interpretation of this Agreement.

8. Counterparts. This Agreement may be executed and acknowledged in one or more counterparts which together will constitute one agreement.

9. Entire Agreement. This Agreement, including the terms of the Recitals preceding the caption "Agreement" and the exhibits hereto, constitutes the entire agreement

between the parties regarding the subject matter of this Agreement and all prior agreements, representations or understandings, written or oral, regarding the subject matter of this Agreement are hereby superseded.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement effective as of the date first above written.

KCW:

K.C.W. PROPERTIES LLC, an Oregon limited liability company, formerly known as K.C.W. Properties Limited Partnership

By: Andrew C. Woodard
Andrew C. Woodard, Manager

COTTAGE/HIEMENWAY:

Julia M. Hemenway
Julia M. Hemenway

Ruth O. Hemenway
Ruth O. Hemenway

David J. Hemenway
David J. Hemenway

EXHIBITS:

- Exhibit A: Legal Description of KCW Property
- Exhibit B: Legal Description of Thrasher Property
- Exhibit C: Legal Description of Hemenway Property
- Exhibit D: Copy of 1988 Easement
- Exhibit E: Site Map

State of Oregon)
) ss.
County of Lane)

This instrument was acknowledged before me on June 30, 2008 by Andrew C. Woodard, as Manager of K.C.W. Properties LLC, an Oregon limited liability company formerly known as K.C.W. Properties Limited Partnership, an Oregon limited partnership.



Jennifer C. Kraust
Notary Public for Oregon
My Commission Expires: 10-30-11

State of Oregon)
) ss.
County of Lane)

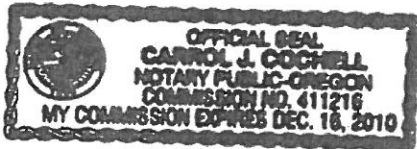
This instrument was acknowledged before me on 5-15, 2008, by Julia M. Hemenway.



Carol J. Cochell
Notary Public for Oregon
My Commission Expires: 12-16-2010

State of Oregon)
) ss.
County of Lane)

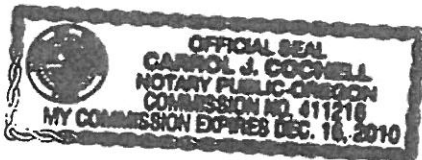
This instrument was acknowledged before me on 5-15, 2008, by Ruth O. Hemenway.



Carol J. Cochell
Notary Public for Oregon
My Commission Expires: 12-16-2010

State of Oregon)
) ss.
County of Lane)

This instrument was acknowledged before me on 5-8, 2008, by David J. Hemenway.



Carol J. Cochell
Notary Public for Oregon
My Commission Expires: 12-16-2010

THRASHER CONCURRENCE

As the contract vendor of that certain contract a Memorandum of which was recorded April 24, 1996, Reel 2166R, Reception No. 96-26435, Lane County Official Records, assigned by instrument recorded June 3, 2005, Reception No. 2005-040602, Lane County Official Records ("Contract"), Thrasher joins in the foregoing Easement Agreement between K.C.W. Properties LLC, an Oregon limited liability company (formerly known as K.C.W. Properties Limited Partnership, an Oregon limited partnership) and Julia M. Hemenway, Ruth O. Hemenway, and David J. Hemenway, dba Cottage Real Estate Investments, an Oregon partnership (sometimes also referred to or known as Cottage Grove Real Estate Investments), for the purpose of consenting to and concurring with the foregoing easement, and agrees that the Contract is and will remain subordinate to the foregoing Easement Agreement.

Dated 6-24, 2008
Effective June 30, 2008

James Thrasher
James Thrasher, as Trustee of the Verla Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005

State of Oregon)
County of Lane) ss.

This instrument was acknowledged before me on June 24, 2008, by James Thrasher, as Trustee of the Verla J. Thrasher Testamentary Trust and as Trustee of the James F. Thrasher Living Trust dated October 11, 2005.

Joyce Miller
Notary Public for Oregon
My Commission Expires: 3-9-09



EXHIBIT A
LEGAL DESCRIPTION OF KCW PROPERTY

Beginning at the Brass Cap monument marking the Northeast corner of the James Chapin Donation Land Claim No. 40, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence South 61° 00' 00" East 136.03 feet to the center of the Coast Fork, of the Willamette River; thence downstream along the center of said river to a point on the Easterly right of way line of the Union Pacific Railroad (formerly the Southern Pacific Railroad, Siskiyou Branch); thence along the said railroad right of way line, South 29° 00' 00" West 1931.4 feet, more or less, to a point which bears North 61° 00' 00" West of the point of beginning; thence leaving the said railroad right of way line, South 61° 00' 00" East 667.74 feet to the POINT OF BEGINNING, in Lane County, Oregon.

[Containing 26.7 acres, more or less, to the center of the Coast Fork Willamette River leaving 24.34 acres outside of the River as said left bank was located on February 20, 2003.]

EXHIBIT B
LEGAL DESCRIPTION OF THRASHER PROPERTY

Parcel 1:

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 479.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 170.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 452.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 421.41 feet to a 5/8 inch iron rod being the True Point of Beginning; thence continue South 61° 00' 00" East 300.30 feet to a point within the Coast Fork of the Willamette River, said point being referenced by a 5/8 inch iron rod bearing North 61° 00' 00" West 58.94 feet; thence downstream of the River, North 6° 00' 00" East 238.86 feet to a point, said point being referenced by a 5/8 inch iron rod bearing North 62° 20' 00" West 69.60 feet; thence leaving said River, North 62° 20' 00" West 262.03 feet to a 5/8 inch iron rod; thence South 27° 40' 00" West 70.58 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 50.01 feet to a 5/8 inch iron rod; thence south 27° 40' 00" West 143.26 feet to the True Point of Beginning, in Lane County, Oregon.

Parcel 2:

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 349.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 180.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 80.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 349.71 feet to a 5/8 inch iron rod; thence South 27° 40' 00" West 288.30 feet to a 5/8 inch iron rod; thence South 62° 20' 00" East 262.03 feet to a point within the Coast Fork of the Willamette River, said point being referenced by a 5/8 inch iron rod bearing North 62° 20' 00" West; 69.60 feet; thence downstream of the River, North 6° 00' 00" East 96.14 feet; thence North 29° 00' 00" East 56.00 feet, North 47° 00' 00" East 296.59 feet; thence North 28° 50' 00" East 147.00 feet; thence North 9° 45' 00" East 145.71 feet; thence leaving said River, North 61° 00' 00" West 136.03 feet to the True Point of Beginning, in Lane County, Oregon.

The area contained in the above description also includes the area included in that Deed Recorded July 12, 1988, Reel 1523R, Reception No. 88-27590, Lane County Oregon Deed Records, as a property line adjustment, all in Lane County, Oregon.

EXHIBIT C
LEGAL DESCRIPTION OF HEMENWAY PROPERTY

A parcel of land lying in the Northeast one-quarter of Section 5, Township 21 South, Range 3 West of the Willamette Meridian, and is based on that survey and map for James F. Thrasher by Charles W. Guile & Associates, Co., said parcel being described as follows: Beginning at the 1 inch iron pipe monumenting the Northeast corner of the James Chapin Donation Land Claim No. 40, Notification No. 860, in Section 5, Township 21 South, Range 3 West of the Willamette Meridian; thence North 61° 00' 00" West 667.97 feet to a point on the Easterly right-of-way line of the Southern Pacific Railroad, Siskiyou Branch, said point being referenced by a ½ inch iron pipe bearing South 84° 16' 30" East 0.15 feet; thence along said right-of-way line South 29° 00' 00" West 349.00 feet to a 5/8 inch iron rod being the True Point of Beginning; thence continue South 29° 00' 00" West 130.00 feet to a 5/8 inch iron rod; thence leaving said right-of-way line South 61° 00' 00" East 170.00 feet to a 5/8 inch iron rod; thence South 29° 00' 00" West 452.00 feet to a 5/8 inch iron rod; thence South 61° 00' 00" East 421.41 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 143.26 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 50.01 feet to a 5/8 inch iron rod; thence North 27° 40' 00" East 358.87 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 349.71 feet to a 5/8 inch iron rod; thence North 29° 00' 00" East 80.00 feet to a 5/8 inch iron rod; thence North 61° 00' 00" West 180.00 feet to the True Point of Beginning, Lane County, Oregon. Containing 4.90 acres.

EASEMENT

FOR VALUABLE CONSIDERATION, JAMES THRASHER and VERLA THRASHER, husband and wife, do hereby grant and convey to K.C. PROPERTIES, a partnership, a perpetual non-exclusive easement for roadway purposes for ingress and egress across Grantor's property to Grantee's property which easement is described as follows; to-wit:

An easement 30 feet in width parallel to the westerly boundary of the Grantor's property, the legal description of which is attached hereto, marked Exhibit "A", and by this reference incorporated herein as if set out in full.

GRANTEE, its agents and invitees shall use the easement strip for roadway purposes only for access to Grantee's property, the legal description of which is attached hereto, marked Exhibit "B", and by this reference incorporated herein as if set out in full, and in conjunction with said use may construct, reconstruct, maintain and repair a road thereon.

This easement shall be appurtenant to the real property owned by Grantee and described in Exhibit "B" and shall be perpetual.

Grantee agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the easement strip.

Grantor reserves the right to use, construct, reconstruct and maintain the road located upon the easement strip for ingress and egress to Grantor's property. The parties shall cooperate during periods of joint use so that each party's use shall cause a minimum of interference to the others.

This easement is granted subject to all prior easements or encumbrances of record.

Executed in duplicate this 8 day of July, 1988.

James Thrasher
James Thrasher
Verla Thrasher
Verla Thrasher

STATE OF OREGON)
(ss.
County of Lane)

July 8, 1988

Personally appeared the above-named JAMES THRASHER and VERLA THRASHER and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

B. Harvath
Notary Public for Oregon
My Commission Expires: Oct. 9, 1989

K.C. PROPERTIES

By: *Kristen Woodard*
Kristen Woodard

By: *Kim Woodard*
Kim Woodard

STATE OF OREGON)
(ss. _____, 1988.
County of Lane)

Personally appeared the above named KRISTEN WOODARD and KIM WOODARD, who indicated they are Managing Partners of K.C. PROPERTIES, a partnership, and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Blowath
Notary Public for Oregon
My Commission Expires: 11-9-89

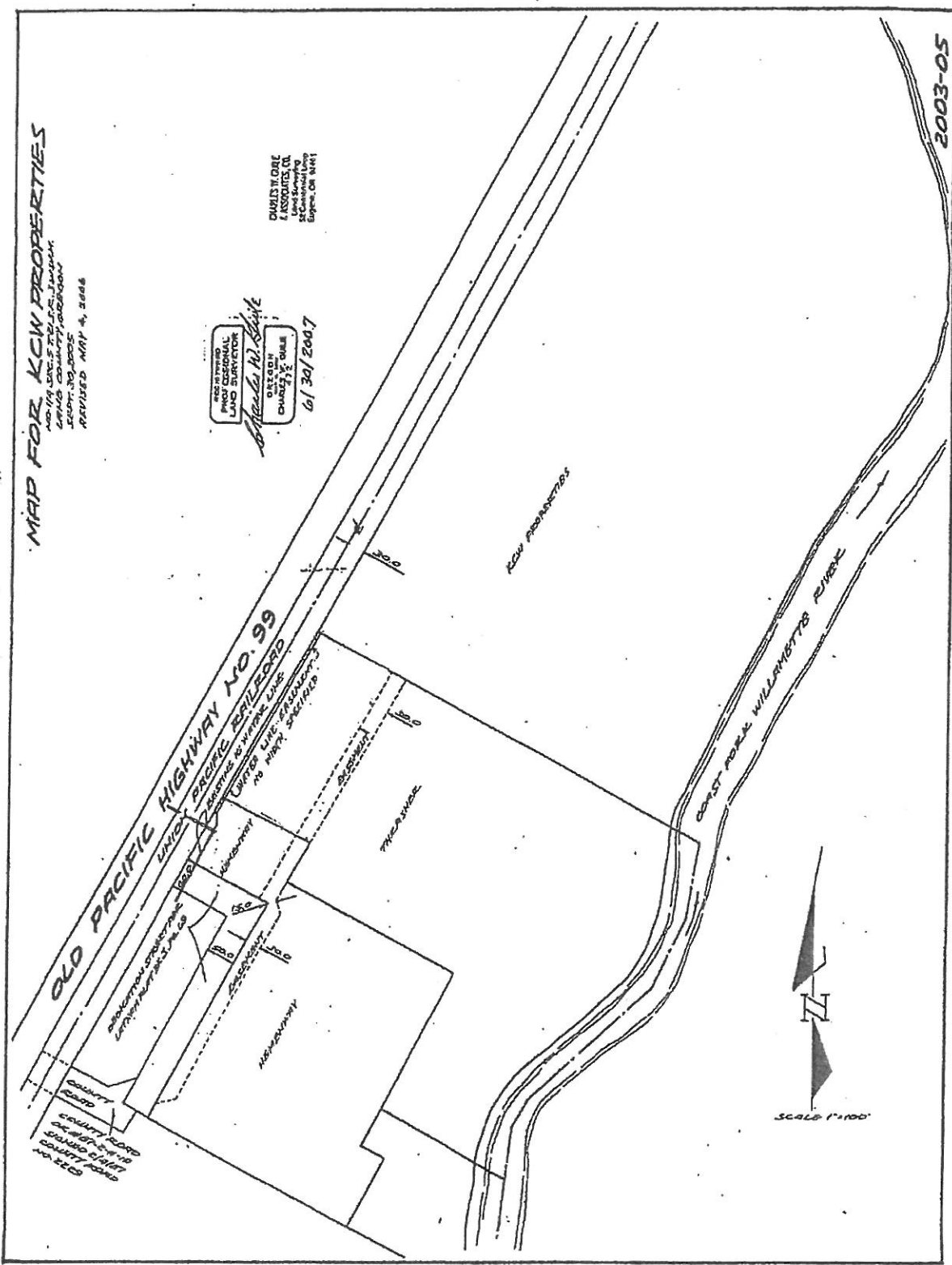
agement

MAP FOR KCW PROPERTIES

NO. 114 SEC. 5 T.14N. R.15W. J. WASH.
 LEWIS COUNTY, MONTANA
 SCHEP. 30, 2005
 REVISED MAY 4, 2006

USED IN CONNECTION WITH
 LAND SURVEY
 CHARLES H. ROBERTS
 OREGON
 CHARGE \$ 2.00 PER
 6/30/2007

CHARLES H. ROBERTS
 ASSOCIATES, INC.
 LAND SURVEYING
 1000 N. 10TH ST.
 SPOKANE, WA 99201



2003-05

EXHIBIT E

EXHIBIT 2

8149163

ANNEXATION AND DEVELOPMENT AGREEMENT

Bib

This Agreement is made this 16th day of NOVEMBER, 1981, between the CITY OF COTTAGE GROVE, a Municipal Corporation of the State of Oregon, hereinafter called CITY, and K. C. PROPERTIES, hereinafter called OWNER.

RECITALS:

D 9 * 14813266 00636.00

A. OWNER possesses certain real property, hereinafter referred to as the "Property", which is described in Exhibit A attached hereto and by this reference made a part hereof.

B. OWNER's Property is located adjacent to the CITY, included in the CITY's urban growth boundary, and designated for controlled industrial use in the CITY's comprehensive plan. A map of the CITY's urban growth boundary is included as Exhibit B attached hereto and by this reference made a part thereof.

C. OWNER desires annexation of this Property and rezoning of it to an industrial designation.

D. OWNER and CITY are unable to successfully pursue annexation procedures at this time due to limitations on the CITY's sanitary sewer and water systems.

E. OWNER intends to file a zone change request with Lane County for the purpose of achieving an industrial designation for the Property.

F. OWNER is willing to develop the Property in accordance with the uses permitted and standards established in the CITY's M-1 Limited Industrial District, which is described in Exhibit C attached hereto and by this reference made a part thereof.

8149163

G. The CITY may desire to annex the Property at some future date when necessary services can be provided, for the following reasons:

1. The Property is located within the urban growth boundary adopted by the CITY; and
2. Annexation will further the adopted policies and plans of the CITY.

H. The CITY desires to have the Property developed in accordance with the standards of its zoning ordinance to facilitate eventual annexation.

AGREEMENTS:

In recognition of the circumstances described above, CITY and OWNER hereby agree as follows:

1. OWNER agrees to initiate annexation proceedings within forty-five (45) days of receipt of a formal, written request from the CITY to proceed with annexation of the Property.
2. OWNER agrees to support annexation procedures should the CITY, at its sole discretion, initiate annexation proceedings.
3. OWNER agrees not to challenge any annexation of the Property.
4. OWNER agrees to limit the uses developed on the Property to those listed in Article 15 of the CITY's zoning ordinance (M-1 Limited Industrial District) as presently worded or amended in the future, notwithstanding the provisions of any industrial zoning district applied by Lane County.
5. OWNER agrees to develop the Property in accordance with the standards specified in Article 15 of the CITY's zoning ordinance (M-1 Limited Industrial District as presently worded or amended in the future, notwithstanding the provisions of any industrial zoning district applied by Lane County.

81-19-163

6. OWNER agrees to have this Agreement recorded in the real property records of Lane County, Oregon.

7. OWNER agrees that this Agreement will be binding upon the parties hereto, their successors in interest, heirs, personal representatives or assigns.

8. CITY agrees to cooperate with OWNER in seeking rezoning of OWNER'S Property under the terms of this agreement and to file such written documents as are required by Lane County to show CITY'S concurrence with the zone change under the conditions of this agreement.

9. In the event suit or action is instituted to enforce the terms of this agreement, the prevailing party shall be entitled to recover, in addition to costs, a reasonable attorney fee to be determined by the court, including an appellate court.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT the day and year first above written.

CITY OF COTTAGE GROVE, a Municipal Corporation of the State of Oregon K. C. Properties

By: [Signature]

By: [Signature]

State of Oregon
County of Lane

ATTEST: [Signature]
CITY OF COTTAGE GROVE
Mayor
City Recorder

The foregoing instrument was acknowledged before me this 16th day of November, 1981, by Carlton Woodard, on behalf of K. C. Properties, a partnership.

3 of 3
Notary Public for Oregon
Commission expires Oct. 9, 1981

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EXHIBIT "A"

LEGAL DESCRIPTION: K.C. PROPERTIES

All of the following described tract lying West of the West Bank of the Coast Fork of the Willamette River:

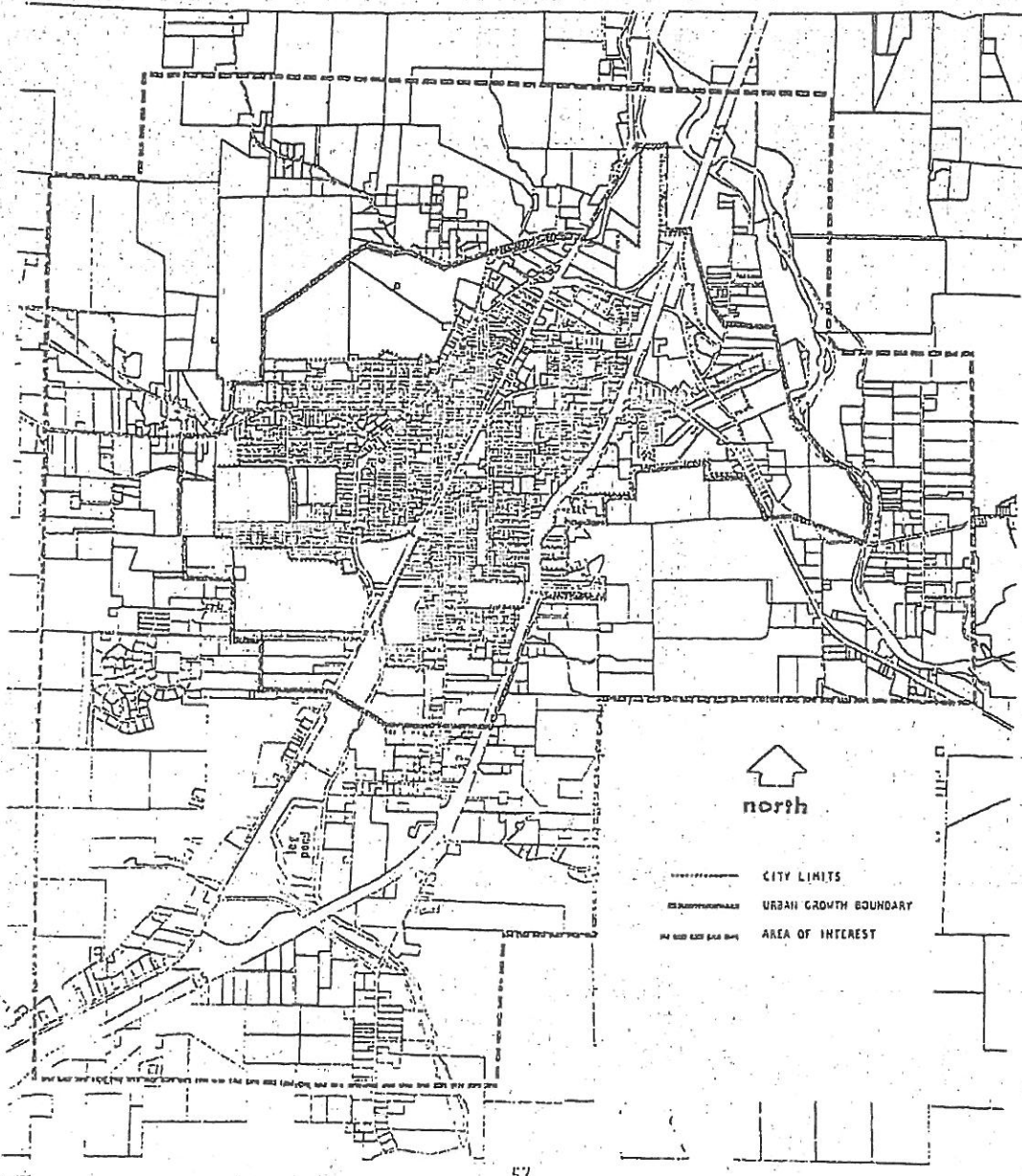
Beginning at the Southwest corner of William Shields Donation Land Claim No. 56; thence North 486.0 feet; thence West 632.16 feet to the Easterly boundary line of the Southern Pacific Company right-of-way; thence South 29° 00' West along said right of-way line for a distance of 604.79 feet to a point described as being North 61° 00' West a distance of 33.0 feet from Station 11+82.73, a point described in that certain deed from Walter A. Woodard to Oregon Pacific and Eastern Railway Co. dated November 5, 1958 and recorded under Clerk's filing No. 59541 on Reel 128 of '59 Deed Records of Lane County, Oregon; thence continuing South 29° 00' West for a distance of 100.0 feet to the Southwest corner of Parcel No. 2 in above referred to deed, which is THE TRUE POINT OF BEGINNING: THENCE South 61° 00' East for a distance of 8.72 feet to the Westerly boundary line of Parcel No. 1 in above referred to deed; thence Southeasterly following the Westerly boundary line of that strip of land conveyed in the above referred to deed No. 59541 to the Southwesterly corner thereof on the North line of Hayes Avenue of Woodard Plat in Section 33, Township 20 South, Range 3 West, W.M. and filed in County Surveyor's Records in Book 31 on Page 24; thence following exterior boundary of said Woodard Plat South 72° 12' West, South 17° 48' East and South 0° 48' East to the Southwest corner of Woodard Plat; thence West on the South line extended of Woodard Plat for a distance of 45.0 feet, more or less, to the center of the channel of the Coast Fork River; thence Southerly following the center line of the present channel for an approximate distance of 1550.0 feet to the intersection with the East boundary of James Chapin DLC No. 40; thence North following said East boundary line for a distance of 395.0 feet, more or less, to the Northeast corner of said DLC No. 40; thence North 61° 00' West for a distance of 667.8 feet to the Easterly boundary line of said Southern Pacific Company right-of-way; thence North 29° 00' East along said Easterly boundary line for a distance of approximately 2160.0 feet to THE TRUE POINT OF BEGINNING, and embracing 30 acres, more or less, all in Sections 32 and 33, Township 20, South Range 3 West and Section 5 in Township 21 South, Range 3 West in Lane County, Oregon.

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CITY OF COTTAGE GROVE - K.C. PROPERTIES AGREEMENT

EXHIBIT "B"

Urban Growth Boundary Map



81-19-163

ARTICLE 14

M-1 LIMITED INDUSTRIAL DISTRICT

Section 14.01 Purpose

The M-1 Limited Industrial District is intended to provide areas for manufacturing, assembly, packaging, wholesaling and related activities with limited detrimental impact on adjacent districts.

Section 14.02 Permitted Buildings and Uses

(a) Commercial and Service

- (1) Agriculture supply and equipment
- (2) Automobile sales agencies
- (3) Building maintenance
- (4) Car washes
- (5) Draying, freighting and trucking yard or terminal
- (6) Eating establishments, excluding drive-in facilities
- (7) Machinery and equipment rental and sales

(b) Manufacturing and Assembling

- (1) Boat building and repairs
- (2) Cosmetics
- (3) Drugs
- (4) Electrical and Electronic Equipment
- (5) Food products, except fish, meal products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
- (6) Ice
- (7) Perfumes
- (8) Plumbing supplies
- (9) Pottery
- (10) Soft drinks
- (11) Toiletries
- (12) Trailers and campers
- (13) Upholstery

(c) Processing

- (1) Blueprinting
- (2) Greenhouses
- (3) Laboratories
- (4) Laundry cleaning and dyeing plants, including rugs and carpets
- (5) Photo copying
- (6) Photoengraving
- (7) Photographic film
- (8) Photostating
- (9) Printing and Publication
- (10) Wool

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(d) Utilities

- (1) Distribution plant
- (2) Service yard
- (3) Substation

(e) Wholesaling, Warehousing and Storage

- (1) Building material storage yards
- (2) Cold storage
- (3) Contractors storage yard
- (4) Distribution agencies
- (5) Gasoline and fuel oil, provided that storage of fuels shall be underground.
- (6) Retail lumber yard, including sash and door and cabinet shop.
- (7) Household and consumer goods
- (8) Vehicles
- (9) Warehousing of manufactured products
- (10) Wholesale businesses and sales rooms.

(f) Other

- (1) Accessory buildings and uses normal and incidental to the uses permitted in this district.
- (2) Animal hospitals, except no animals may be boarded overnight.
- (3) Public parking areas and structures.

14.03 Buildings and Uses Permitted Conditionally

The Planning Commission, subject to the procedures set forth in Article 19, may grant a conditional use permit.

The following uses are permitted as conditional uses under this section:

- (a) Service stations
- (b) Concrete transit mix plants without manufacture of concrete products.
- (c) Any fabrication, manufacturing, processing or assembly of products from ferrous or non-ferrous metals.
- (d) Manufacture and assembly of plastics and rubber products.
- (e) Marble works and stone yards.
- (f) Public and semi-public buildings -- such as fire stations, substations, and reservoirs -- essential to the physical, social and economic welfare of an area.
- (g) Vehicle maintenance and repair facilities.

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Section 14.04 Building and Structural Height Limitations

The maximum or structural height for any building shall be four stories or 48 feet, whichever is the lesser.

Section 14.05 Lot Area and Dimensions

- (a) Lot Area. The minimum lot area shall be 9,000 sq. ft.
- (b) Lot Dimensions. The minimum lot width shall be 60 feet, except for corner lots which shall be not less than 65 feet wide.

Section 14.06 Lot Coverages

One hundred percent coverage is allowable when minimum loading space, setbacks, and parking are provided.

Section 14.07 Yard Regulations

- (a) Front Yards. Front yards shall not be less than 20 feet deep. Front yards, except for the front eight feet, may be used for parking provided that no parking space shall have direct access from a street. No loading dock shall be located in a manner which will cause vehicles being served to project into the required front yard.
- (b) Side Yard. Side yards shall not be required, except for corner lots, which shall have a side yard of not less than 10 feet adjacent to the side street right-of-way. If side yards are created, they shall be a minimum of three feet wide and three feet deep. No structural improvement, except road surfacing, shall be allowed within ten feet of the center line of an alley.
- (c) Rear Yard. No rear yard is required provided no structural improvements except road surfacing shall be allowed within ten feet of the center line of an alley.

Section 14.08 Fences, Hedges, Walls and Other Structures

Where an M-1 Limited Industrial District abutts a residential district, the Planning Commission may require that a fence, evergreen hedge, or wall be erected along and immediately adjacent to the abutting property line that is the zone boundary. The Planning Commission may also require that a fence, evergreen hedge, or wall be erected to screen the view of storage yards and operations not enclosed in a building. Such a fence, hedge, or wall shall:

81-19-163

- (a) Screen not less than 70-percent of the view.
- (b) Not be less than five feet nor more than eight feet in height.
- (c) Not be more than three feet in height in the required front yard.

The Planning Commission's review and approval shall consider and require the use of materials which are aesthetic and relatively free from excessive maintenance.

Section 14.09 Signs

Only the following signs shall be permitted in the M-1 district:

- (a) One identity sign for each development site under separate ownership, not to exceed 200 square feet in area.
- (b) One sign not exceeding two square feet in area and bearing only property numbers, postbox number, and/or name of occupant of premises.
- (c) See General Provisions, Article 14, for other sign requirements.

Section 14.10 Parking and Loading Space

No parking space shall have direct access from the street.

- (a) A minimum of five parking spaces for visitors shall be provided on each building site.
- (b) One parking space for each employee operating on or from the site shall be provided on or within 400 feet of the building site.
- (c) One parking space for each vehicle operated from the site shall be provided on or within 400 feet of the building site.
- (d) Parking and loading space must be approved by the Building Inspector.

Section 14.11 Vision Clearance

- (a) Vision clearance on corner lots shall be 20 feet.
- (b) Vision clearance on alley-street intersections shall be ten feet.

81-19-163

State of Oregon
County of Lane—15.

I, D.M. Penfold, Director of Records and Elections Division, in and for the said County, do hereby certify that the within instrument was received for record at:

DEC 81 15: 12

Recd 1169R
Lane County OFFICIAL RECORDS

D.M. Penfold, Director of Records and Elections Division.

By: *[Signature]*
Deputy

TECHNICAL MEMORANDUM



DATE: September 1, 2023

PROJECT: Grace Property
Zone Change and Map Amendment

TO: Eric Mongan
City Planner, Cottage Grove

FROM: Dan Haga, P.E.
Branch Engineering

RE: Transportation Planning Rule Analysis:
Zone and Comp. Plan Map Designation Changes
Tax Lot 03101 of Assessor's Map 20-03-32



EXPIRES: JUNE 30, 2025

To analyze the Transportation Planning Rule (TPR) analysis criteria and to document the potential for a “significant affect” identified in the Oregon Administrative Rules for zoning and comprehensive plan map amendments contained within OAR 660-012-0060(1), I am supplying this memorandum which summarizes the trip generation potential and the potential for an identifiable significant affect on the transportation system associated with approval of the subject land use applications, that would not have been revealed with the existing land use assumptions that were included in the most recent update to the transportation system plan (2015).

The subject land use applications include zoning map and comprehensive plan map use designation changes for one parcel of land identified as tax lot 3101 of Lane County Assessor's Map 20-03-32, which totals approximately 25.96 acres. The zoning and comprehensive plan map designation changes to the property will allow future development of the land consistent with the City of Cottage Grove's M (Industrial) zoning map category of use and the I (Industrial) comprehensive plan map's use designation. The land is currently zoned R-2 (multi-family residential) and identified on the comprehensive plan map with the City's M - medium density residential use designation, which indicates that when the most recent transportation system plan update occurred, the land was assumed to be built-out in the plan's horizon year with medium density residential use types and densities permitted in the Cottage Grove Development Code.

In analyzing the traffic conditions to determine if approval of the land use applications could result in a significant affect as required for transportation planning rule analysis, a comparison of the potential trip generation from build-out of the reasonable worst case land use and development scenarios allowed outright by the Cottage Grove development code for the existing zone and plan designations is made to the potential build-out trip generation associated with the reasonable worst

case development scenario of the conditions with the proposed change to the Industrial zone and planned use designation.

Background Conditions

The subject land use applications for the proposed zone change and comprehensive plan map amendment are required to address the statewide transportation planning rule criteria described in OAR 660-012-0060(1), because future development of the land has been planned by the City of Cottage Grove through their comprehensive land use planning processes to be developed consistent with the City of Cottage Grove's R-2 multi-family zoning and codified land use permissions associated with the medium density residential land use designation. The current transportation system plan (2015 TSP) assumes the land would be built-out to the R-2 residential zoning development standards identified in section 14.22.120 of the Cottage Grove Development Code in the TSP horizon year 2035. The 2015 TSP proposes a new street extension from the existing west terminus of Cleveland Avenue, on the east side of the Coast Fork of the Willamette River, across the river along the south subject property boundary that will connect to OR99W east of the existing intersection at Carnegie Way. The Cleveland Avenue extension will require a bridge, and if it is implemented as shown on Figure 7 of the TSP, would also require a new at-grade public rail crossing. The current criteria for getting a new public rail crossing is to close three existing public rail crossings with similar characteristics to any new crossing proposed, which is not feasible, as it is in the City's interest to maintain east and west connectivity throughout the City between OR99W corridor and other north-south corridors where the existing railroad line provides a physical barrier that is also generally on a north and south alignment through the city.

The existing R-2 multi-family zoning would allow development of the site with a minimum development density of 8.0 units per acre of land. Cottage Grove Development Code requires parcels for detached single family dwellings in the R-2 zone to have minimum lot areas of 4,000 square feet, or 2,000 square feet (sf) for attached dwellings (townhouses and/or duplexes). The R-2 zone allows 3 or more multi-family dwellings to be located on the same lot with special use standards, which would not necessarily be considered as permitted outright in the R-2 zone. With the minimum lot areas, the existing 25.96 acres of land could be developed with up to 565 townhouses and/or duplexes, in total, or up to 282 single family detached dwelling units. For the purpose of providing a reasonable worst-case development scenario, half of the land is assumed to be developable with single family detached dwellings at the minimum lot size of 4,000 sf/dwelling unit, and half is assumed to be developable with duplexes or townhouses at the minimum lot size of 2,000 sf/dwelling unit. The reasonable worst-case scenario with half of the land developed for detached dwellings and half developed with townhouses or duplexes would include 141 single family detached dwellings and 282 attached dwellings.

Proposed Conditions

As described previously, the proposed changes to the zoning map and comprehensive plan map designations will allow the site to be developed with use type(s) and development standards from the City of Cottage Grove's (M) Industrial zone and (I) Industrial comprehensive plan land use designations. The City of Cottage Grove's list of permitted uses in the (M) industrial zone is included in the development code as uses with a (P) in Table 14.24.110. Per Table 14.24.110 of the development code, the proposed (M) industrial zoning could support development of the following uses that are permitted outright: light industrial service; light manufacturing and production; self-storage (mini-storage); wholesale sales, basic utilities, and family daycare. The most likely reasonable worst-case category of use, consistent with an available category of use from the Institute of Transportation

Engineers' *Trip Generation, 11th Edition*, would be an industrial park, or a manufacturing facility. The codified wholesale sales uses category are explicitly intended to be limited to the general public as a result of the way in which the firm operates. Per the Use Categories included as section 14.14.360 of the Cottage Grove Development Code: "Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses."

In a reasonable worst case development scenario, after the proposed zone change and land use designation change to the City's M industrial zone and designation, the land could be developed with up to 400,000 gross square feet (400 TGSF or 400KSF) of building area that could either facilitate an industrial park type of use, where there are a number of industrial tenants in separate or attached buildings, or with a manufacturing type of use. The remaining land would likely be used for motor vehicle parking, stormwater treatment, and outdoor facilities associated with the use. For facilities that have larger than 40,000 square feet of building area, the code requires the land to have pedestrian-oriented design, that includes commercial block layout and architectural design standards that reduce the buildable area of occupancy.

Trip Generation

To project the potential trip generation for the existing codified land use entitlements' reasonable worst-case post-development scenario and compare it to the reasonable worst-case post-development conditions associated with the proposed changes to allow industrial development on the site and satisfy the required Transportation Planning Rule significant affect analysis criteria, a reference was made to *Trip Generation, 11th Edition*, published by the Institute of Transportation Engineers (ITE). The uses displayed in the table on the following page are based on potential development of the land with full build-out for the land use permissions of the zoning and comprehensive plan map designation with and without the proposed changes, consistent with the reasonable worst-case trip generators and reasonable land use development patterns as permitted outright and identified in Cottage Grove Development Code.

REASONABLE WORST CASE TRIP GENERATION COMPARISON					
Land Use	Land Use Code	Units	QTY	Rate (trips/unit)	Trips
PM Peak Hour					
Existing R-2 Multi-Family Zone and M Medium Residential Plan Designation					
Single Family Detached Dwelling Units	210	Dwellings	141	*	137
Single Family Attached Dwelling Units (Townhouses/Duplexes)	215	Dwelling Units	282	**	165
Totals:	-	-	423	-	302
Proposed M Industrial Zone and I Industrial Plan Designation					
Manufacturing	140	KSF GFA	400	0.74	296
Difference (Proposed - Existing)	-	-	-	-	-6
Average Daily Traffic (ADT)					
Single Family Detached Dwelling Units	210	Dwellings	141	*	1,384
Single Family Attached Dwelling Units (Townhouses/Duplexes)	221	Dwelling Units	282	**	2,098
Totals:	-	-	423	-	3,482
Proposed M Industrial Zone and I Industrial Plan Designation					
Manufacturing	140	KSF GFA	400	4.75	1,900
Difference (Proposed - Existing)	-	-	-	-	-1,582
*Equation: PM: $\ln(T) = 0.94 \ln(X) + 0.27$ ADT: $\ln(T) = 0.92 \ln(X) + 2.68$					
**Equation: PM: $T = 0.60(X) - 3.93$ ADT: $T = 7.62(X) - 50.48$					

As shown in the table, the site’s land use entitlements associated with the proposed M Industrial zone and I Industrial use designation would result in a net decrease in trips generated by the site during average daily traffic and PM peak hour traffic conditions, assuming reasonable worst-case development that is permitted outright by the code for the zoning and use categories associated with the codified standards.

Transportation System

As discussed previously, the current transportation system plan (2015 TSP) includes a collector street extension at or near the site’s south property boundary, that will provide a through street connection east and west via Cleveland Ave to OR99W. The proposed zone change and comprehensive plan amendment and it’s potential for an industrial development of the site in and of itself is not expected to prohibit that street connection from being made in the future. The feasibility of getting a new public rail crossing, that requires three similar crossings to be condemned, may prohibit the Cleveland Avenue extension to connect directly to OR99W with or without the proposed zone change and comprehensive plan amendment. As an alternative to extending Cleveland Avenue to a new public rail crossing that would align with Carnegie Way across OR99w from the site’s existing OR99W frontage, a new public street connection could be made to Rachel Road to the south, with or without the proposed zone change and comprehensive plan amendment, which already has an existing public rail

crossing order. It is believed that Rachel Road is currently under the jurisdiction of Lane County, and is currently located outside of the City of Cottage Grove City Limits and the existing urban growth boundary. To complete a connection to Rachel Road and satisfy the TSP as an equivalent alternative to the Cleveland Avenue extension that connects directly to OR99W with regard to the feasibility of a new rail crossing, improvements to Rachel Road would need to incorporate the City's collector street standards with or without the proposed zone change and comprehensive plan amendment. The extension would likely require acquisition of right-of-way from the adjacent properties to the south of the site, which are identified as tax lots 00100 and 00101 on assessor's map 21-03-05-10, and if pursued, the City should consider obtaining the jurisdiction of Rachel Road from Lane County. Rachel Road currently has some right-of-way dedicated that parallels OR99W north of the existing public rail crossing for a potential future street connection, and the City of Cottage Grove has an easement across tax lots 100 and 101 that would allow access to Rachel Road, with or without the subject land use applications.

Transportation Planning Rule Significant Effect Criteria

Oregon Administrative Rule (OAR) 660-012-0060 Plan and Land Use Regulation Amendments, states:

660-012-0060 (1): If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) Change standards implementing a functional classification system; or*
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:

 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.**

Finding: As documented in the trip generation section, the build-out trip generation levels associated with the reasonable worst-case development scenario comparison showed that the land could be built-out with the proposed changes to the zoning and comprehensive plan designations without an increase to the trip generation potential during average daily or peak hour traffic conditions. Because the trip generation potential is lower with the proposed zoning and use designation than with the existing zoning and use designation supports at build-out, the TPR is satisfied, since there is no basis for an impact or "significant affect" that would be indicated by an increase in trip generation potential.

The proposed change in zoning and use designation do not change the feasibility of constructing the Cleveland Avenue extension through the southern margin of the site as is shown in Figure 7 of the current transportation system plan. The potential for a new rail crossing is an existing barrier to providing a new public street connection to OR99W with or without the proposed changes to the zoning and use designation. The possibility of providing a public street connection to Rachel Road

should be considered as an alternative to pursuing a new public rail crossing to satisfy the intent of the Cleveland Avenue extension identified in the TSP that provides additional east and west street connectivity, with or without the zone change and comprehensive plan amendment. Rachel Road currently has some right-of-way dedicated that parallels OR99W north of the existing Rachel Road public rail crossing for a potential future street connection, and the City of Cottage Grove has an easement across tax lots 100 and 101 that would allow access to Rachel Road.

The land use applications to change the zoning and comprehensive plan maps to allow the land to be developed with an industrial use would not result in changing the functional classification of any roadway based on average daily traffic and/or the type of traffic generated by the site in the post-development conditions), and approval of the land use applications to change the zoning and comprehensive plan designations will not result in a change to the standards implementing future improvements to any planned roadways. OAR 660-12-0060(1) is found to be satisfied, since the traffic resulting from approval of the land use applications will not affect the functional classification of nearby existing or planned roadways, such as Cleveland Avenue or Rachel Road in the vicinity where traffic generated by the site with or without the proposed land use applications would be reasonably expected to use.

Conclusion

The TPR analysis herein indicates that the criteria of the applicable Oregon Administrative Rule OAR 660-012-0060(1) are satisfied with the proposed zone change and comprehensive plan amendment, since the potential for an increase in average daily and peak hour traffic resulting from the approvals is considered to be a reduction, and will not result in an identifiable significant affect on existing or planned transportation facilities in the current year or at the end of the year 2035 planning horizon year identified in the current adopted City of Cottage Grove Transportation System Plan.

Please do not hesitate to contact me with any questions, or if I can provide any additional assistance.