

## RESOLUTION NO. 1116

### A RESOLUTION ANNEXING CERTAIN PROPERTIES INTO THE CITY OF PRINEVILLE

Prineville City Council makes the following findings:

#### **BACKGROUND:**

The City of Prineville has received a petition to annex the two parcels of property described on Exhibit A to this Resolution, which property is also shown on Exhibit B to this Resolution.

#### **LEGAL CRITERIA AND FINDINGS:**

##### **I. OREGON REVISED STATUTES**

###### **A. ORS 222.111, Authority and Procedure for Annexation.**

(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

**FINDING:** The subject property is contiguous to the Prineville City limits, is located within the City's Urban Growth Boundary, which has been acknowledged to be suitable for urban development and is developed with sufficient transportation infrastructure to serve urban uses. City services can be easily extended to serve the subject property. The subject property is designated for future industrial and park uses and is being annexed for those purposes.

In addition to the statutory criteria of ORS Chapter 222, the City finds that the proposed annexation meets the judicially imposed "reasonableness" test set forth in *Portland General Elec. Co. v. City of Estacada*, 194 Or. 145, 291 P.2d 1129 (1952) and the cases following it (citations omitted). Although the question of reasonableness is based on a case by case analysis, the reasonableness factors identified by the Oregon courts include:

- whether the contiguous territory represents the actual growth of the city beyond its city limits;
- whether it is valuable by reason of its adaptability for prospective town uses;
- whether it is needed for the extension of streets or to supply residences or businesses for city residents; and
- whether the territory and city will mutually benefit from the annexation.

*DLCD v. City of St. Helens*, 138 Or App. 222, 227-28, 907 P.2d 259 (1995).

The present annexation satisfies the reasonableness factors because the subject property is contiguous to the City, was brought into the City's UGB as necessary for future urban, industrial development, is needed to provide a large industrial parcel to locate a large scale industrial use and annexation will benefit the City in the form of economic growth and increased tax base. Contemporaneously with this annexation request, the property owner of the industrial land has submitted a zoning request and site plan application to locate a large scale data processing and storage facility.

The City is not annexing any portion of Tom McCall Road at this time because it primarily serves County land, including providing the main access to the County landfill. Because the County maintains this road for access to the landfill and it is not needed to serve City property, the City is not annexing it at this time. The City is also not annexing the property on which the ODOT facility is located because it is not needed at this time for any City purpose and the property owner has not requested annexation.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

**FINDING:** The present proposal was initiated by the property owners of the territory to be annexed.

(3) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

**FINDING:** The present annexation is being conducted pursuant to and meets the requirements for annexation under ORS 222.125 because all landowners within the territory proposed for annexation have consented to the annexation in writing and there are no electors residing in the territory to be annexed.

B. ORS 222.125, Annexation by consent of all owners of land and majority of electors; proclamation of annexation.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

**FINDING:** All property owners within the territory to be annexed have consented to the annexation and there are no electors residing within the territory. The above statute does not require a hearing on the annexation; however, the City has chosen to conduct a hearing to take public testimony and input on the annexation request.

C. ORS 222.177, Filing of annexation records with Secretary of State.

When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

**FINDING:** The City will submit the necessary documents to the Secretary of State following Council approval of the resolution or ordinance.

D. ORS 222.180, Effective date of annexation.

- (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.
- (2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

**FINDING:** The present annexation request was initiated by the property owners and will be complete as of the date of filing with the Secretary of State.

## **II. OREGON ADMINISTRATIVE RULES**

### **A. OAR 660-014-0060, Annexation of Lands Subject to an Acknowledged Comprehensive Plan.**

A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [Stat. Auth.: ORS Ch 196 & 197

**FINDING:** The City of Prineville's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 and 197.625. Therefore, the present annexation request is considered to be made in accordance with the statewide planning goals and the goals need not be directly applied to this decision.

## **III. CITY OF PRINEVILLE CODE**

### **A. Chapter 153, Land Development; Section 153.034, Zoning of Annexed Areas.**

An area annexed to the City shall, upon annexation, assume the zoning classification determined by the City to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.


**FINDING:** The Planning Commission considered the present annexation request at its November 17, 2009 meeting and recommended approval to the City Council. The Comprehensive Plan designations for the subject property are Industrial (M-1, Limited Industrial and M-2, General Industrial) and Open Space/Park Reserve, as shown on the annexation map in the record. The zoning classifications for the subject property shall be in M-1, M-2 and Park Reserve as shown on the annexation maps and in accordance with the Comprehensive Plan designations.

BASED UPON the above findings it is hereby resolved as follows:


1. The two parcels of property are hereby annexed into the City of Prineville.
2. The property is hereby rezoned as set forth on the map attached hereto as Exhibit C, which zoning is in compliance with the City's comprehensive plan and City policy concerning the rezoning of annexed properties for compatibility with the existing uses and/or previous Crook County zoning designations.
3. The City Manager or his designee shall submit the necessary documents showing the property described on Exhibit A has been annexed into the City of Prineville to the Oregon Secretary of State.
4. This Resolution becomes effective on the earlier to occur of December 5, 2009, or the recording of a partition plat partitioning Parcel 1 of the property described on Exhibit A.

Approved by the City Council on the 24<sup>th</sup> day of November, 2009.

Signed by the Mayor this 24<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Mike Wendel, Mayor

ATTEST:

  
\_\_\_\_\_  
Steve Forrester, City Manager/Recorder

## EXHIBIT A

### PARCEL 1

Parcel One (1) of Partition Plat No. 2002-06, recorded March 8, 2002, in Partitions MF No. 169150, Records of Crook County, Oregon, located in portions of Sections 1 and 2, Township 15 South, Range 15 East of the Willamette Meridian, Crook County, Oregon

### PARCEL 2

Beginning at the East quarter corner of Section 2 in Township 15 South, Range 15 East of the Willamette Meridian; thence South 208.7 feet; thence West 208.7 feet; thence North 208.7 feet; thence East 208.7 feet to the point of beginning.

EXCEPT right-of-way for Houston Lake Road along the North boundary thereof

Parcel 1

Parcel 2

BOUNDARY SURVEY OF PARCEL 1 OF PARTITION PLAT NO. 2002-06 LOCATED IN THE SW1/4 OF SECTION 1 AND IN THE SE1/4 OF SECTION 2, T.15S., R.15E., W.M., CROOK COUNTY, OREGON W.O. 08-3772

SURVEY FOR ASPEN VILLE, LLC 423 NW 10TH AVE., STE 307 PORTLAND, OR 97205 (541) 280-0792

SURVEY BY ARMSTRONG SURVEYING & ENGINEERING, INC. 157 SE SECOND ST., STE. 100 PRINEVILLE, OR 97754 (541) 447-7781

LEGEND

- SET 5/8" x 30" LONG IRON ROD WITH YELLOW PLASTIC CAP MARKED "ARMSTRONG S&E" SET STEEL FENCE POST ALONGSIDE.
FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "ARMSTRONG LS1026" AS PER C.S. 1434 BY DAVID B. ARMSTRONG, LS1026, RECORDED APRIL 3, 1995.
FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "ARMSTRONG S&E" AS PER C.S. 2628, BY GREGORY R. KELSO, LS2796, RECORDED SEPTEMBER 15, 2006.
FOUND 5/8" SMOOTH IRON ROD AS PER O.S.D. DRG. NO. 88-17-3 DATED MARCH, 1960.
FOUND 2-1/2" IRON PIPE WITH 2-1/2" BRASS CAP STAMPED AS SHOWN AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY DAVID B. ARMSTRONG, LS1026, CROOK COUNTY SURVEYOR, RECORDED JUNE 11, 1988.
FOUND 5/8" IRON ROD WITH 2" ALUMINUM CAP IN MONUMENT BOX AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY DAVID B. ARMSTRONG, LS1026, CROOK COUNTY SURVEYOR, RECORDED JUNE 9, 1988.
FOUND FENCE POST AS PER OREGON CORNER RESTORATION FORM BY JOHN E. HOLLINGSWORTH, LS691, RECORDED MARCH 6, 1985.
FOUND 1-1/2" IRON PIPE WITH 2" BRASS CAP STAMPED AS SHOWN AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY TERRY GOODMAN, LS1989, RECORDED APRIL 18, 1996.
FOUND 2-1/2" IRON PIPE WITH 2-1/2" BRASS CAP STAMPED AS SHOWN AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY DAVID B. ARMSTRONG, LS1026, CROOK COUNTY SURVEYOR, RECORDED JUNE 9, 1988.
FOUND 2-1/2" IRON PIPE WITH 2-1/2" ALUMINUM CAP STAMPED AS SHOWN AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY DAVID B. ARMSTRONG, LS1026, CROOK COUNTY SURVEYOR, RECORDED JUNE 9, 1988.
RECORD AS PER C.S. 208 BY EMILE P. BACHANO, PE3700, RECORDED OCTOBER, 1966.
RECORD AS PER C.S. 351 BY EMILE P. BACHANO, LS1122, RECORDED SEPTEMBER 4, 1979.
RECORD AS PER C.S. 947 BY DAVID B. ARMSTRONG, LS1026, RECORDED JULY 22, 1987.
RECORD AS PER C.S. 1247 BY DAVID B. ARMSTRONG, LS1026, RECORDED NOVEMBER 6, 1992.
RECORD AS PER C.S. 1420, RECORDED FEBRUARY 21, 1995, AND C.S. 1434, RECORDED APRIL 3, 1995, BY DAVID B. ARMSTRONG, LS1026.
RECORD AS PER BALDWIN ROAD INDUSTRIAL PARC. C.S. 1547, BY DAVID B. ARMSTRONG, LS1026, RECORDED APRIL 25, 1996.
RECORD AS PER PARTITION PLAT NO. 1996-18, C.S. 1548, BY TERRY GOODMAN, LS1989, RECORDED APRIL 26, 1996.
RECORD AS PER HOUSTON LAKE ROAD INDUSTRIAL PARK SUBDIVISION, C.S. 1594, BY DAVID B. ARMSTRONG, LS1026, RECORDED SEPTEMBER 6, 1996.
RECORD AS PER C.S. 2628 BY GREGORY R. KELSO, LS2796, RECORDED SEPTEMBER 15, 2006.
RECORD AS PER OREGON STATE HIGHWAY DEPARTMENT MAP "AIRPORT - OCHOCO PARK SECTION OCHOCO HIGHWAY" DRG. NO. 88-17-3 DATED MARCH, 1960.
RECORD AS PER OREGON STATE HIGHWAY DEPARTMENT MAP "OCHOCO HIGHWAY CONSTRUCTED LINE REDMOUND TO PRINEVILLE" DRG. NO. 1814-1, DATED OCTOBER, 1924.
RECORD AS PER DEEDS BOOK 50 AT PAGE 359, RECORDS OF CROOK COUNTY, OREGON.
RECORD AS PER DEEDS M72377, RECORDED MAY 14, 1984, RECORDS OF CROOK COUNTY, OREGON.

- SEARCHED FOR NOT FOUND
LINE DATA - SEE LINE DATA TABLE
EXISTING UNDERGROUND TELEPHONE LINE
CURVE DATA - SEE CURVE DATA TABLE
EXISTING WIRE FENCE
SPIRAL CURVE DATA - SEE SPIRAL CURVE DATA TABLE
COMPUTED POINT NOT SET
EXISTING POWER POLE

RECORDATION - SURVEYOR

STATE OF OREGON, COUNTY OF CROOK, I, DAVID B. ARMSTRONG, COUNTY SURVEYOR, CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED FOR RECORD ON THE 26th DAY OF JULY, A.D. 2008, AND RECORDED IN SURVEYS # 2813.



CURVE DATA TABLE with columns: NO., DELTA, RADIUS, LENGTH, CHORD, BEARING. Contains 9 rows of curve data.

SPIRAL CURVE DATA TABLE with columns: NO., LENGTH, P, BFCORD, BEARING. Contains 10 rows of spiral curve data.

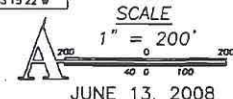
SURVEYOR'S CERTIFICATE

I, TODD R. CATTERSON, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, CERTIFY TO ASPEN VILLE, LLC, AN OREGON LIMITED LIABILITY COMPANY, THAT AS A RESULT OF A SURVEY MADE ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN OREGON, I HAVE FOUND OR SET THE MONUMENTS AS SHOWN HEREON AND HAVE PREPARED THIS MAP AND NARRATIVE TO REPRESENT SAID SURVEY.

BASIS OF BEARINGS

BEARINGS ARE BASED ON GPS SURVEY MEASUREMENTS USING THE WGS 1987 ELLIPSOID AND A TRANSVERSE MERCATOR MAPPROJECTION WITH THE FOLLOWING PARAMETERS:
ORIGIN OF LATITUDE = 43°00'00.00"N
ORIGIN OF LONGITUDE = 121°17'00.00000"W
SCALE FACTOR = 1.0001600000
THIS SYSTEM IS ON THE CENTRAL OREGON COORDINATE SYSTEM.

LINE DATA TABLE with columns: NO., LENGTH, BEARING. Contains 4 rows of line data.

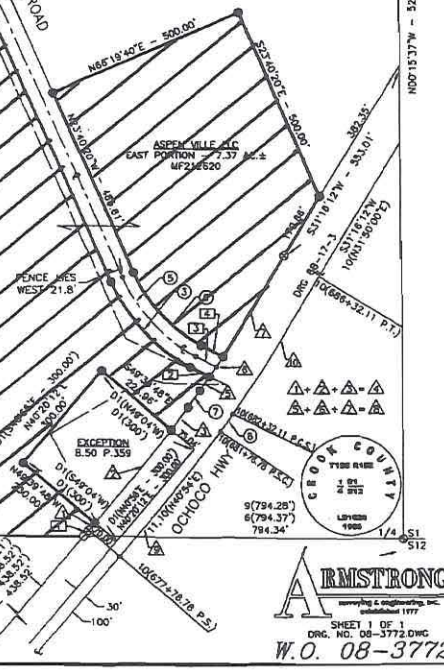
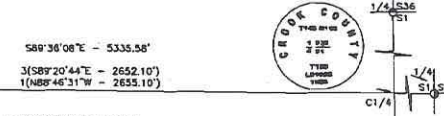


JUNE 13, 2008

REGISTERED PROFESSIONAL LAND SURVEYOR
TODD R. CATTERSON
REPE M72377/2008

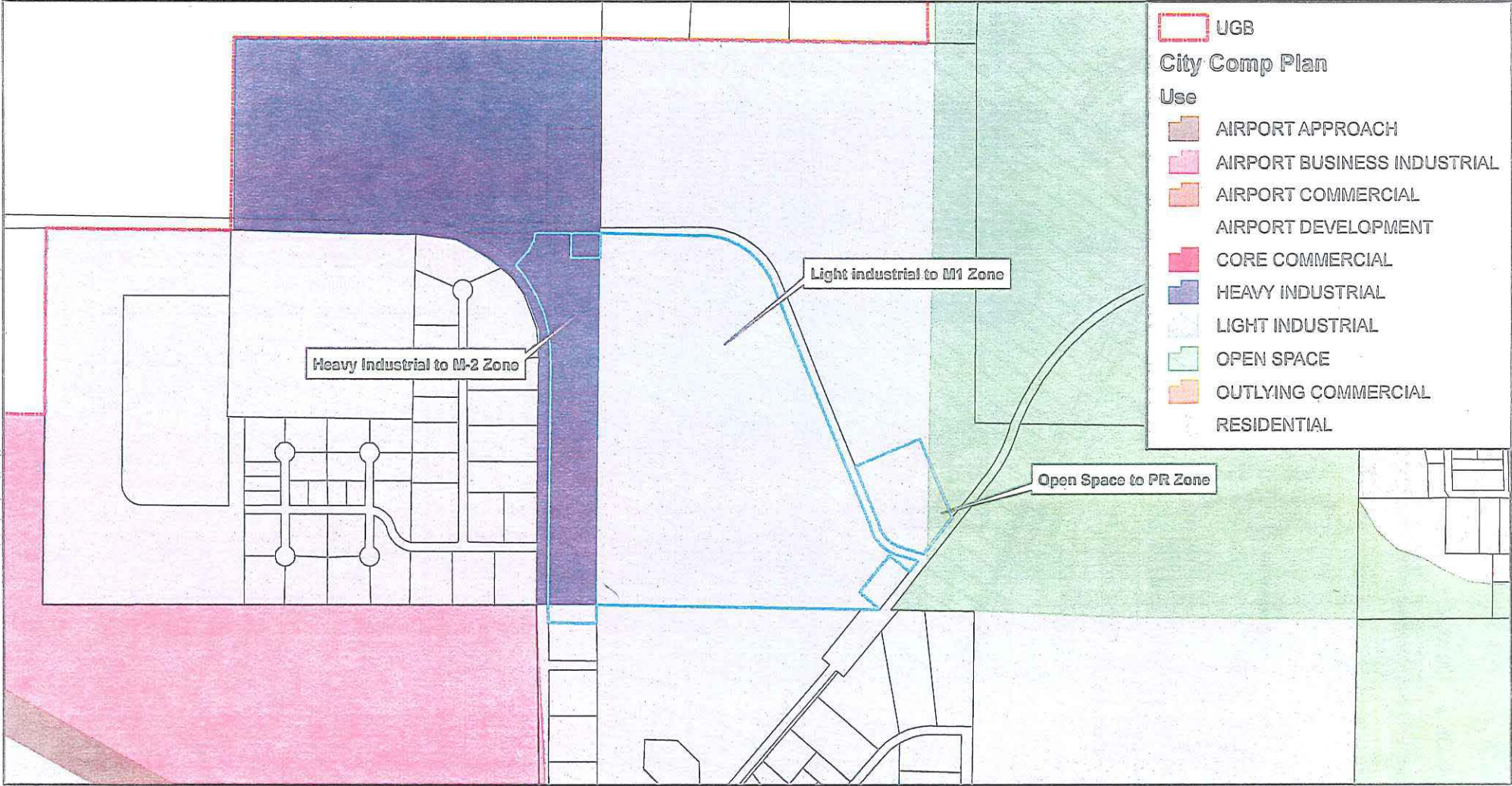
SURVEY NARRATIVE

WE WERE EMPLOYED BY ASPEN VILLE, LLC TO COMPLETE A BOUNDARY SURVEY OF THEIR PROPERTY DESCRIBED AS PARCEL 1 OF PARTITION PLAT NO. 2002-06 WHICH WAS AN UNSURVEYED PARCEL. THE WEST LINE OF THE PARCEL LIES ALONG THE EAST RIGHT-OF-WAY LINE OF TOM MCCALL ROAD. IT TIED INTO THE MONUMENTS SET ALONG THE RIGHT-OF-WAY IN C.S. 1434 BY DAVID B. ARMSTRONG, LS1026, FOR THE BOUNDARY OF THE SURVEY. A PORTION OF THE SOUTH LINE OF THE PARCEL LIES ALONG THE SOUTH LINES OF SECTION 1 AND SECTION 2. IT TIED INTO AND HELD THE SECTION AND ONE-QUARTER CORNERS ALONG THE SOUTH LINES OF THESE SECTIONS FOR THE BOUNDARY OF THE PARCEL. THE SOUTHWESTERN PORTION OF THE PARCEL FALLS ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE OCHOCO HIGHWAY AND ALONG A PARCEL CONVEYED TO THE STATE OF OREGON IN DEEDS BOOK 50 AT PAGE 359. I TIED INTO SHOWN HIGHWAY RIGHT-OF-WAY MONUMENTS TO RECREATE THE RIGHT-OF-WAY IN THIS AREA AND THEN SURVEYED THE EXCEPTION PARCEL ALONG THE STRAIGHT AND CENTERLINE OF THE HIGHWAY AS PER THE STRIP MAP DATED 1924. THE NORTHERLY AND EASTERLY BOUNDARY OF THE WEST PORTION OF THIS PARCEL LIES ALONG THE SOUTH AND WEST RIGHT-OF-WAY LINE OF THE OLD HOUSTON LAKE ROAD. THE PORTION OF THIS ROAD ALONG THE NORTH BOUNDARY IS CENTERED ON THE CENTER SECTION LINE AS WAS SHOWN ON THE SURVEY RECORDS OF THE F.T. BEARDON COUNTY ROAD WHICH IS ALSO KNOWN AS THE OLD HOUSTON LAKE ROAD. THE LOCATION OF THIS ROAD WHERE IT HEADS SOUTH LEAVES THE ORIGINAL SURVEYED LOCATION OF THE "F.T. BEARDON COUNTY ROAD" AND THERE IS NO DESCRIPTION SO I AS BUILT THE CENTERLINE OF THE EXISTING ROAD TO DEFINE THE RIGHT-OF-WAY AND GAVE IT A 60 FEET RIGHT-OF-WAY CONCEPT WITH THE ORIGINAL F.T. BEARDON ROAD. THERE IS ALSO AN EXCEPTION PARCEL ALONG THIS ROAD DESCRIBED IN M72377. I SURVEYED THIS PARCEL BY HOLDING RECORD DEED DIMENSIONS PARALLEL WITH AND ALONG THE NORTH AND EAST LINE OF SECTION 2. TO SURVEY THE PORTION OF THE PARCEL EAST OF THE OLD HOUSTON LAKE ROAD I HELD THE ONE-QUARTER CORNERS OF SAID PARTITION PLAT NO. 2002-06. THE EAST LINE OF THIS PARCEL IS 500 FEET NORTHERLY OF THE HIGHWAY RIGHT-OF-WAY PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF OLD HOUSTON LAKE ROAD. I WAS UNABLE TO FIND ANY HIGHWAY RIGHT-OF-WAY MONUMENTS EAST OF THE MONUMENT FOUND AT STATION 656+22.11 P.M. PROBABLY BECAUSE NO MONUMENTS WERE SET BECAUSE THAT PORTION OF THE HIGHWAY JOINS THROUGH STATE LANDS. I DETERMINED THE HIGHEST PORTION RUNNING EAST FROM SAID STATION 656+22.11 P.M. BY HOLDING THE RELATIONSHIP OF THE TANGENTS, SPIRALS AND CURVES BETWEEN THE SAID HIGHWAY RIGHT-WAY MONUMENTS. THE NORTHERN LINE OF THE PARCEL IS PERPENDICULAR TO THE EAST RIGHT-OF-WAY OF THE OLD HOUSTON LAKE ROAD AND 500 FEET IN LENGTH. THIS SURVEY WAS PERFORMED USING A TRIMBLE 5800 GPS SYSTEM IN RTK MODE.



2813

# Comprehensive Plan Zoning 11/24/2009



Disclaimer: CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMISSIONS, MISUSE, OR MISINTERPRETATION. COUNTY DIGITAL INFORMATION IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED, AND IS NOT INTENDED FOR, SURVEY OR ENGINEERING PURPOSES OR THE AUTHORITATIVE AND/OR PRECISE LOCATION OF BOUNDARIES, FIXED HUMAN WORKS, AND/OR THE SHAPE AND CONTOUR OF THE EARTH. NO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OF ACCESS IDENTIFIED IN DIGITAL OR HARDCOPY MAPPING OF GEOSPATIAL INFORMATION OR DATA. DATA FROM THE CROOK COUNTY ASSESSOR'S OFFICE MAY NOT BE CURRENT. DATA IS UPDATED AS SCHEDULES AND RESOURCES PERMIT. PLEASE NOTIFY CROOK COUNTY GIS OF ANY ERRORS (541) 416-3930.

