

**Forest Resource Land – Appeal of Ordinance 1219**  
**Updated February 28, 2023**

As was provided in the record previously, the parcels that are the subject of the YMCA Mineral Lake rezone proposal were owned by Forecastle and previously rezoned by Ordinance 1219. Ordinance 1219 was appealed and the rezone was reversed by Ordinance 1241. Questions were raised during deliberation on February 27, 2023 about why the rezone was approved and why the decision was remanded. This memo provides a summary and excerpts from the relevant decision

**Ordinance 1219**

In 2010, Forecastle proposed a rezone of 830 acres of land from FRL of long term commercial significance to FRL of local importance (Ordinance 1219). The remaining 1,250 acres of contiguous land was not included in the proposal. The most significant difference between the two designations is that the minimum lot size in FRL of long term significance is 80 acres, and the minimum lot size in FRL of local importance is 20 acres.

The rationale by which the by Lewis County BOCC approved the proposal was that the Lewis County Code required that FRL of local significance must not be part of a “minimum block size of 5,000 contiguous acres managed as forest lands.” The BOCC findings went on to say that because the land owned by Forecastle was bound by “State Highway 7 and Mineral Hill county road to the west, the former Tacoma and Easter Railroad line and Mineral Creek to the east, Mineral Lake to the south and Nisqually River to the north” the land did not form a contiguous 5,000 acre block size. The BOCC also found that the land being in close “proximity to Mineral and rural settlements supporting the rezone to FRL of local importance”.

The findings stated that the rezone was consistent with GMA goals, policies and regulations but did not provide detailed findings against applicable rules. The findings stated generally that “the rezoned Forecastle lands will retain their status as GMA forest resource lands and, except for the change in maximum density and minimum lot size from 80 acres to 20 acres, will continue to be subject to the same land use and zoning regulations applicable to [FRL] of long-term commercial significance that assure conservation of forest resource lands”.

**Appeal**

The Growth Management Hearings Board (GMHB) found that “Lewis County has failed to achieve compliance with RCW 36.70A.070 (preamble)<sup>1</sup> and RCW 36.70A.130(1)(d)<sup>2</sup> and is in continuing

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<sup>1</sup> RCW 36.70A.070 (preamble) states “The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.”

<sup>2</sup> RCW 36.70A.130(1)(d) states “Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.”

## Ordinance 1343 – Supporting Materials

noncompliance: There are similarly situated properties included on the Comprehensive Land Use Map as FRL when some of those properties do not meet the Lewis County FRL criterion in violation of RCW 36.70A.070 (preamble) as all elements are not consistent with the future land use map. There are similarly situated properties on the zoning map as either FLLTCS or FLLI when such properties could only be one or the other in violation of RCW 36.70A.130(1)(d) resulting in a failure to be consistent with and to implement the comprehensive plan.”

The GMHB found that Lewis County failed to demonstrate consistency with GMA because the County did not enter specific findings about the action relative to the comprehensive plan.

The GMHB did not rule as to whether the land should or should not be rezoned from FRL of long term commercial significance to FRL of local importance. The error was procedural.

The County filed a Petition for Review of the decision with the Thurston County Superior Court where it was affirmed.

### **Ordinance 1241**

The findings of Ordinance 1241 stated that “In discussions with Forecastle, it was determined that in light of the GMHB and Thurston County Superior Court decisions that the best course of action was for the subject property to revert to its original designation of [FRL] of long term commercial significance.”

There was no discussion in Ordinance 1241 as to why the BOCC chose to revert to the prior zoning rather than make additional findings to support the original decision. However, because there was no stay of Ordinance 1219, during the appeal Forecastle was able to divide the property into 20 acre parcels. Those parcels continue to be legal lots, despite being nonconforming, even with the zoning reverted to FRL of long term commercial significance.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF LEWIS COUNTY, WASHINGTON )  
AMENDING LEWIS COUNTY CODE CHAPTER )  
17.200.020(1) OFFICIAL LEWIS COUNTY ZONING ) ORDINANCE NO. 1241  
MAP, TO REFLECT ZONING CHANGES REQUESTED )  
BY PROPERTY OWNERS, CONSISTENT WITH THE )  
LEWIS COUNTY COMPREHENSIVE PLAN )

WHEREAS, Lewis County is authorized to adopt yearly amendments to the Lewis County Comprehensive Plan and implementing development regulations under authority of Chapter 36.70A RCW; and

WHEREAS, the Board of County Commissioners received recommendations from the Planning Commission concerning amendments to Lewis County Code Chapter 17.200.020(1) Official Zoning Map, in response to rezone requests made by individual property owners and in compliance with orders of the Western Washington Growth Management Hearings Board; and

WHEREAS, the Lewis County Planning Commission and the Board of County Commissioners have held public meetings and hearings as required under state law and consistent with the public participation program of Lewis County, to take public testimony and consider the matter; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Planning Commission and County staff, considered testimony from the public, and finds that the proposed amendments are consistent with the Lewis County Comprehensive Plan and are in the best interest of the public; NOW THEREFORE

BE IT ORDAINED by the Lewis County Board of County Commissioners that:

1. Lewis County adopts and incorporates the zoning designations for various parcels of property as recommended by the Planning Commission in the Letter of Transmittal and associated materials attached as **Attachment A** to this Ordinance 1241 and incorporated herein by this reference; and
2. Lewis County amends Chapter 17.200.020(1) Official Lewis County Zoning Map, to reflect the zoning designation changes as recommended by the Planning Commission in **Attachment B** hereto, and any other map and/or text changes necessary to reflect the same; and

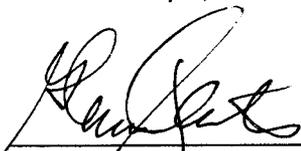
This Ordinance amends only the referenced provisions of Chapter 17.200.020(1) Lewis County Code, the Official Zoning Map and any other map and/or text changes necessary to reflect the same. All other provisions of the Lewis County Code shall remain in full force and effect.

If any portion of the actions taken herein is found to be invalid by a Board or Court of competent jurisdiction, the remainder of the actions shall be deemed valid and shall continue in full force and effect. Further, if such invalidated portion repeals an existing rule or regulation, the replaced rule(s) or regulation(s) shall be reinstated until modified or replaced by the County Commissioners.

The provisions of this Ordinance No. 1241 are in the public interest and this Ordinance shall take effect immediately upon adoption by the Board.

PASSED IN REGULAR SESSION THIS 17<sup>th</sup> day of December, 2012, after a public hearing was held December 17, 2012 pursuant to Notice published in the *East County Journal* on November 28, 2012.

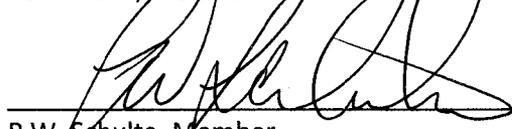
APPROVED AS TO FORM:  
Jonathan Meyer, Prosecuting Atty.

  
By: Civil Deputy Prosecuting Atty.

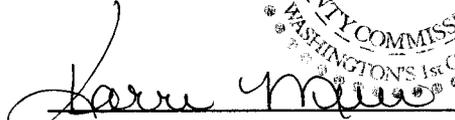
BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON

  
F. Lee Grose, Chairman

  
Ron Averill, Member

  
P.W. Schulte, Member

ATTEST:

  
Karr Muir, Clerk of the Board



# **Ordinance 1241**

## **Attachment A**

Letter of Transmittal – Planning Commission Record  
Comp Plan Amendments

BOCC Public Hearing Adopted December 17, 2012



## LETTER OF TRANSMITTAL

**To:** Lewis County Board of County Commissioners  
**From:** Lewis County Planning Commission  
**Date:** November 13, 2012  
**Subject:** Transmittal to the BOCC: Findings and Conclusions Regarding the 2012 annual Comprehensive Plan Amendments – Area wide Rezones

**Dear Commissioners:**

The Lewis County Planning Commission, during the months of October and November 2012, held a public hearing and two workshops to review requests and formulate recommendations for amending the Lewis County zoning map and comprehensive plan map.

As Chairman of the Planning Commission, I am transmitting herewith the recommendations of the Planning Commission pertaining to the above topics. The subject of the Planning Commission's focus has been:

*LEWIS COUNTY COMPREHENSIVE PLAN AMENDMENTS – MAP REZONES*

*Repeal of Ordinance 1219, Section 5 and Resolution 10-359, Section G (Forecastle)  
(Forest Land of Local Importance to Forest Land of Long-Term Commercial Significance)  
MSC10-0102 (Small Town Industrial to Small Town Mixed Use) (Hampton Lumber)  
MSC10-0103 - REMAND (Agricultural Resource Land to RDD-10) (Gastfield)*

The attached staff reports (**Attachment A**) and the following findings and conclusions are presented to the Board of County Commissioners for consideration:

**General findings of fact:**

- 1) The amendment(s) were reviewed by the Lewis County Planning Commission to determine the validity of the rezones and the overall impact to the surrounding area, taking into account the comprehensive plan, the zoning ordinance, planning policies, the GMA and development regulations, staff reports, and public and applicant testimony.
- 2) **Forecastle** – Ordinance 1219, Section 5 and Resolution 10-359, Section G were adopted December 27, 2010. The rezone was appealed, the County was found to be not in compliance with GMA which was affirmed in Thurston County Superior Court. On September 6, 2012, the Growth Management Hearings Board (GMHB) found that the County's July 31, 2012 *Report on Compliance* failed to achieve compliance.

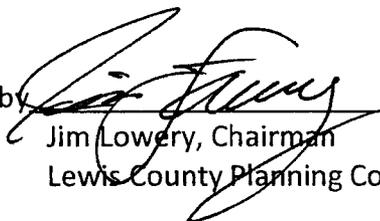
In discussions with Forecastle, it was determined that in light of the GMHB and Thurston County Superior Court decisions that the best course of action was for the subject property to revert to its original designation of Forest Land of Long Term Commercial Significance. On October 1, 2012, the BOCC directed staff to initiate the repeal process.

- 3) **Hampton Lumber** – The original application was a request to change the zoning from Small Town Industrial (STI) to Small Town Mixed Use (STMU), with a concurrent Comprehensive Plan Map change from Small Town Industrial (STI) to Small Town Mixed Use (STMU). Through an oversight, this application and its ultimate approval did not result in the final zone change that the applicant had originally intended. This action corrects that oversight.
  
- 4) **Gastfield REMAND** – Based on the facts of this application, our conclusion is that this property was included in agricultural resource land in error. This property does not meet the conditions of the Comprehensive Plan Policy, NR 1.3 designating agricultural lands of long-term commercial significance. Neither this property nor the properties adjacent are expected to be actively farmed because of soil types, wetlands, slopes, and residential development. Although changing the zoning of this property may appear to be a “spot zone”, the poor conditions for agricultural use and the residential development directly adjacent to the property abates that appearance.
  
- 5) The amendments were presented at a public forum, and public testimony was taken consistent with the state regulations and LCC 17.12.

**Conclusions**

Based on the above findings and conclusions, all three rezone requests appeared to warrant change from their existing zone to the requested zone.

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit these to the Lewis County Board of County Commissioners.

Submitted by  Date 11/13/12  
Jim Lowery, Chairman  
Lewis County Planning Commission

Lewis County Rezone - REMAND

File No.: MSC10-0103

Planning Commission Staff Report – *DRAFT*

PROPOSAL INFORMATION

Contact	Norman Gastfield	
Owner		
Request	<input checked="" type="checkbox"/> Map <input type="checkbox"/> Text <input type="checkbox"/> UGA Change <input type="checkbox"/> Other	
	Existing Zoning Category:	Agricultural Resource Land
	Proposed Zoning Category:	RDD-5
	Existing Comprehensive Plan Designation:	Agricultural Resource Land
	Proposed Comprehensive Plan Designation:	RDD-5
Location/Site Size	Located north of Eadon Road, south of the Cowlitz River, east of Toledo	Approximately 50 acres
Parcel Number(s)	011505002000	
Site Description	Site	Slopes over 30% on the south portion of the lot, currently vacant.
	Topography	The site is heavily treed, with steep slopes on the southern portion of the lot.
	Other Features	NA

SUMMARY EVALUATION

CRITICAL AREAS REVIEW	
Critical Aquifer Recharge Area	A portion of the lot with Severe Susceptibility
Floodplain	N/A
Geologically Hazardous Areas	Slopes over 30% on portions of the site
Wetlands	Present on site
Hydric Soils	Present on site
Stream Buffers	N/A

## **STATE ENVIRONMENTAL POLICY ACT (SEPA)**

An environmental checklist was prepared by Lewis County for the proposal and Determination of Non-Significance (DNS) for a non-project action was issued for the proposal on June 8th, 2011, with a comment and appeal period ending on June 22nd, 2011. The DNS was circulated to agencies of jurisdiction and published in the East County Journal and the Chronicle on June 8th, 2011.

## **PUBLIC NOTICE REQUIREMENTS**

Notice of the public hearing on the proposal was published in the Legal Notice section of the East County Journal and the Chronicle on June 15, 2011.

## **PUBLIC PARTICIPATION**

The applicant and Lewis County Community Development Department have met the following Public Participation Program guidelines for public notice and public hearing(s):

- Circulation of application and SEPA to affected Lewis County agencies and jurisdictions
- County-wide general circulation of legal advertisement placed in the East County Journal and the Chronicle newspaper on June 15, 2011.
- Public meeting & workshop held in Lewis County Public Works Building on April 26, 2011, and May 24<sup>th</sup>, 2011 at 7:00 p.m.
- County-wide general circulation of display advertisement for amendment and hearing date placed in the East County Journal and the Chronicle newspaper on June 15th, 2011.
- Circulation of amendment to state agencies for review as required by RCW 36.70A
- Publication of amendment and map on Lewis County internet site
- Information regarding proposed Rezones and concurrent Comprehensive Plan Map Amendment(s) available at County Libraries
- Public Hearing in front of the Board of County Commissioners on December 11, 2011

## **PUBLIC COMMENT**

None received as of the date this report was produced.

## **STAFF REPORT ON AMENDMENT REQUEST**

**File No:** MSC10-0103

### **Request**

The application was originally a request to change the zoning from Agricultural Resource Land (ARL), to RDD-5, with a concurrent Comprehensive Plan Map change from Agricultural Resource Land to RDD-5. In discussions with staff after the REMAND, Mr. Gastfield has said that since he only planned for five building sites, he would accept a staff recommendation of changing the zoning to RDD-10.

### **Application Summary**

The applicant states that the subject parcel is not suitable for farming due to poor soils and steep slopes on the south portion of the lot. The applicant's letter states that some of the slopes are up to 75% grade. The north portion of the lot is identified as wetlands. The applicant states the property has not been farmed. A soils report has been submitted with the application. The applicant states that RDD-5 is compatible with current conditions and uses. The north half of the lot is listed as Prime Farmland if drained, the south half is listed as not prime land. The applicant has stated that the northern half of the lot has never been drained. The site is in the forest tax program with an active forest practice application.

### **Site Information**

The proposal consists of one parcel that is approximately 50 acres in size, located north of Eadon Road, and east of the City of Toledo. The site is heavily treed. Parcels in the immediate area vary in size from just over 1 acre to over 300 acres in size.

Property to the east and south are developed with open acreage home sites, and some trees, and are zoned Agricultural Resource Land. The lot to the north is primarily used as large lot agricultural, and is zoned Agricultural Resource Land. The lot to the west primarily a treed area, and is zoned Agricultural Resource Land.

## **APPLICABLE ZONING ORDINANCE & COMPREHENSIVE PLAN GOALS AND POLICIES**

The Zoning Ordinance & Comprehensive Plan, and other applicable regulations provide the framework for consideration of Zone Changes and concurrent Comprehensive Plan Map amendments. Following are relevant Zoning & Comprehensive Plan text citations related to the consideration of the proposed amendment.

### **APPLICABLE LEWIS COUNTY ZONING CODE CHAPTERS:**

#### **Chapter 17.30 Resource Lands**

##### **Agricultural**

##### **17.30.080 Agricultural land – Agricultural Resource Land**

Agricultural land or agricultural resource land means land primarily devoted to the commercial production of aquaculture, horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products to berries grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

##### **17.30.600 Relief from errors in ARL designation.**

(1) Property owners who believe a parcel has been included in agricultural resource land in error may request redesignation of that parcel pursuant to the comprehensive plan amendment provisions of LCC 17.165.040.

(3) Property owners who claim a parcel was included in agricultural resource land in error because soils on the parcel are classified by the National Resources Conservation Service as “prime farmland if drained” and the soils are not drained; or “prime farmland if drained and either protected from flooding or not frequently flooded during the growing season” and the soils are not drained and are not protected from flooding or are subject to flooding during the growing season; or “prime farmland if irrigated” and the parcel is not irrigated due to lack of necessary water rights shall provide a written declaration documenting the drainage or irrigation status of the soils on the parcel. The reclassification will be considered a comprehensive plan amendment set by LCC 17.165.020 and the fee shall be waived for property submitting a request under this subsection (3).

#### **Rural Development District (RDD)**

##### **17.100.010 Purpose**

The Rural Development District is the portion of land in Lewis County not otherwise designated. While the Rural Development District has an overall density designation of one unit per five acres, one unit per ten acres, one unit per twenty acres, the combinations of steep slopes, tight soils, flood plains, and unbuildable critical areas will provide a wide variety of rural residential densities, and will preserve the rural character of the county while providing reasonable opportunity for any low density development. The purpose of this chapter is to achieve a

variety of lot sizes, protect rural character, and protect small rural business which have historically served the citizens of Lewis County.

## **APPLICABLE LEWIS COUNTY COMPREHENSIVE PLAN CHAPTERS**

### **Chapter 2 Lewis County 20-Year Vision**

#### **Natural Resource Areas**

Lewis County will have well-managed natural resource areas that continue to provide opportunities for natural resource based industries, like agriculture and timber, into the future. Natural resource areas are also the focus of Lewis-County's recreational and tourist activities. These activities are encouraged, but also well-managed with respect to the overall preservation of our important natural resources.

Environmental and resource protection will be encouraged in order to preserve the quality environment enjoyed in Lewis County for future generations. The open lands, forests, river and stream corridors are essential resources which provide the fish and wildlife habitat, recreational opportunities, scenic beauty, and aesthetic qualities that make Lewis County an attractive place to live.

#### **Natural Resource Lands Sub-Element**

**"Agricultural/Agricultural Resource Lands** are those lands primarily devoted to the commercial production of aquaculture, horticultural, viticulture, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production."

## **NATURAL RESOURCE LANDS GOALS, OBJECTIVES AND POLICIES**

**NR Goal:** Maintain agricultural, commercial timber production, mineral resource extraction lands and their ancillary uses.

### **Objective**

NR1 Identify and conserve resource lands supporting agriculture, forest, and mineral extractive industries.

### **Policies**

NR 1.2 The County should protect the interests of land-owners who wish to continue the practice of management of natural resources.

NR 1.3 Designate agricultural lands of long-term commercial significance as follows:

2. Identify lands that are classified as having prime farmland soils as determined by the National Resource Conservation Service (NRCS) that occupy a significant partition of the parcel. Prime farmland soils include soils

classified by NRCS as “prime farmland”, Prime farmland if drained,” prime farmland if drained and either protected from flooding or not frequently flooded during the growing season, “ and prime farmland if irrigated.” (NRCS maintains a list of soil mapping units that meet the criteria for prime farmland.

3. Lands with soils that are classified by NRCS as “prime farmland if drained” or “prime farmland if irrigated” are presumed to be drained or irrigated in the absence of evidence to the contrary;

NR 1.6           Some parcels may contain both prime soils and soils that are poor or otherwise not suitable for agricultural purposes. Provisions should be made to allow land owners to redesignate that portion of the parcel containing soils that are poor or otherwise not suitable for agricultural purposes.

NR 1.20          It is the responsibility of any new incompatible land use to appropriately buffer itself from any existing forestry, agricultural or mineral resource lands.

#### **Rural Areas Sub-Element**

##### **Rural Development District**

“Lands outside of the rural areas of more intense development defined above shall be Rural Development District Zoning designations in the RDD shall include a range in land use densities of one unit per five acres to one-unit-per-20-acres for overall new residential development. In rural lands existing lots of record, regardless of size, shall be legal lots for uses as set forth in development regulations”.

##### **RDD-10 – Intent**

RDD-10 allows for a density of one residential unit per 10 acres. The focus of RDD-10 is to assure that the permitted activities are consistent with the traditional practices and intensities and are suited to meet the needs of those who choose to live and work in rural areas. The RDD-10 designation is compatible with overall rural character, recognizes limitations on the availability of rural area services, and avoids the need for urban levels of service that cannot and will not be provided outside UGAs, except to meet recognized health emergency situation as authorized by law.

## **RURAL AREAS GOALS, OBJECTIVES AND POLICIES**

### **R GOAL**

#### **Objective**

R 1a           Ensure that growth in the County is focused so that the remainder of the County can remain predominantly rural.

#### **Policies**

R1.1           Rural development, outside of defined urban growth areas, should be encouraged in a pattern and density that supports the surrounding and prevailing land use pattern, and that does not create urban demands for services for the County taxpayers to support.

### **FINDINGS**

The Planning Commission should review specific objectives and policies related to each zone change and concurrent comprehensive plan map amendment in its decision. Staff has listed the objectives and policies related to this request. Additionally, information contained on the rezone application itself must be weighed against criteria in the Zoning Ordinance and Comprehensive Plan.

MSC-10-0103 is a request for Zone Change from Agricultural Resource Land to RDD-5, and concurrent Comprehensive Plan Map amendment from Agricultural Resource Land to RDD-5. Requests to take land out of the Agricultural Resource Lands classification requires that certain criteria be met per 17.30.600, "Relief from the ARL designation". The applicant states that the site was incorrectly classified as Agricultural Resource Land, is too steep, and is primarily wetlands, with the lower half of the lot not prime farmland. Over 50% of the lot is identified as wetlands. The applicant has included a soils report addressing the soils and wetlands on the site. The soils survey states that 84% of the lot is not considered Prime Farmlands, consisting of Puget & Exerorthents soils. Although the northern portion of the lot is listed as "prime farmland if drained", the applicant has stated that the parcel has never been drained and it would be cost prohibitive to do so.

Currently no irrigation takes place on the parcel, and no agricultural uses take place, or have taken place on the property. Therefore the property does not meet the definition of "Agricultural/Agricultural Resource Lands" as stated in the Natural Resource Lands Sub-Element of the Lewis County Comprehensive Plan. The property is classified designated forest land.

The property directly west of this parcel is in active agricultural use with the exception of the southern portion, along Eadon Road, that has similar characteristics to the applicant property.

Of the twelve properties directly south and west to the RDD-20 zone, one is approximately 28 acres and it's land use is shown as "single residential" on county maps. Two more properties

are approximately ten acres, two are approximately five acres and the rest are less than four acres. All but three of the lots have residential development.

Removing this parcel from Agricultural Resource Land would create a parcel with zoning other than Agricultural Resource Land, in the middle of a corridor of Agricultural Resource Land. However, a section of RDD-20 exists to the southwest in fairly close proximity, and RDD-10 exists to the northeast. Re-zoning this parcel may be considered spot zoning due to the parcel location in the middle of an area zoned Agricultural Resource Land, although that is mitigated by the residential development and small lots on the properties south of the subject parcel.

## **CONCLUSION**

Based on the facts of this application, staff believes this property was included in agricultural resource land in error. This property does not meet the conditions of the Comprehensive Plan Policy, NR 1.3 designating agricultural lands of long-term commercial significance. Neither this property nor the properties adjacent are expected to be actively farmed because of soil types, wetlands, slopes, and residential development. Although changing the zoning of this property may appear to be a "spot zone", the poor conditions for agricultural use and the residential development directly adjacent to the property abates that appearance.

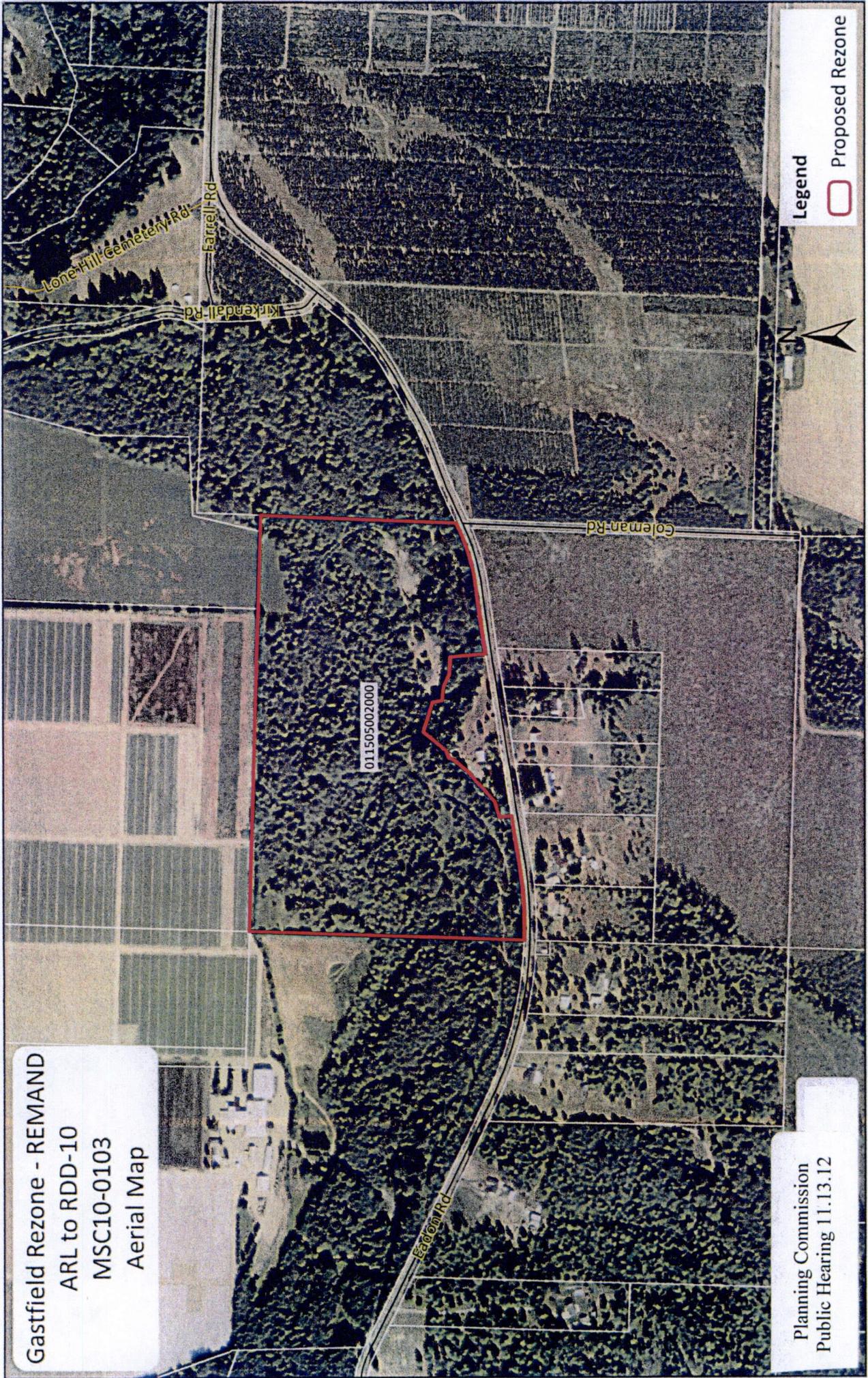
Therefore staff recommends relief from Agricultural Resource Land classification and changing the zoning to RDD-10 with the concurrent Comprehensive Map Amendment changing the Land Use to RDD-10.

## **ATTACHMENTS:**

### Maps

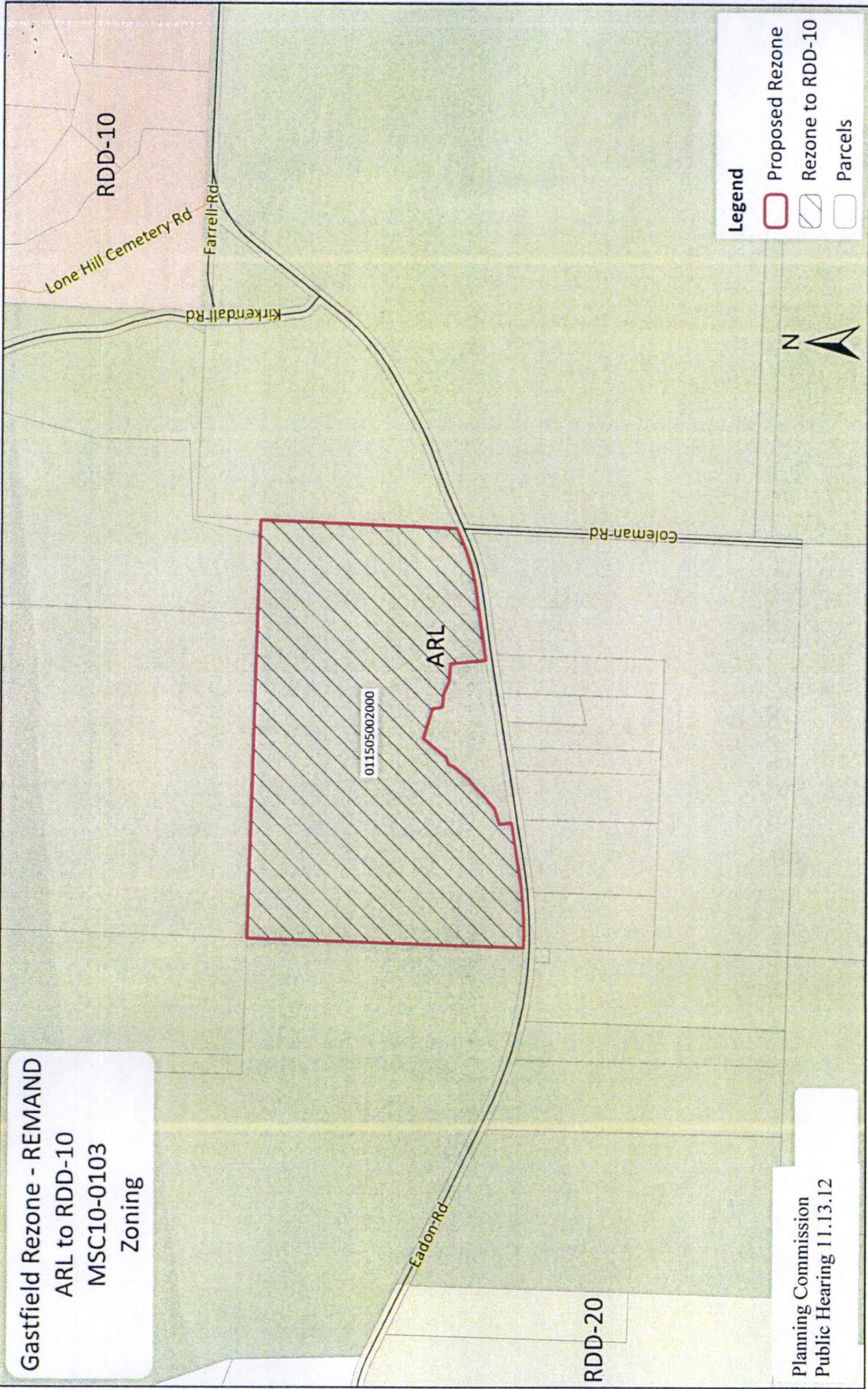
- A) Aerial Map
- B) Zoning Map
- C) Farmland Soils Map
- D) Wetland and Slopes Map

Gastfield Rezone - REMAND  
ARL to RDD-10  
MSC10-0103  
Aerial Map



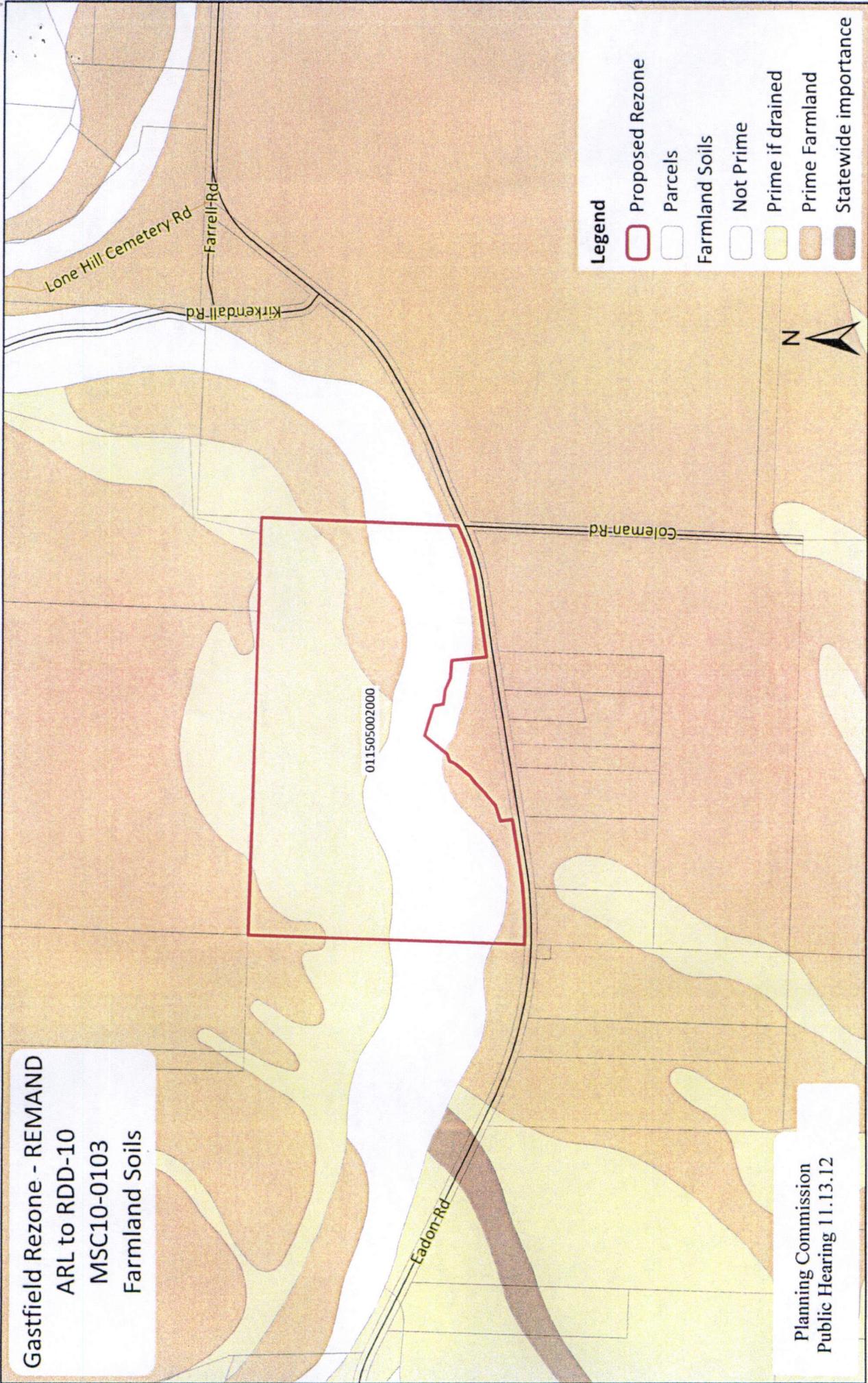
Planning Commission  
Public Hearing 11.13.12

Gastfield Rezone - REMAND  
ARL to RDD-10  
MSC10-0103  
Zoning



Planning Commission  
Public Hearing 11.13.12

Gastfield Rezone - REMAND  
ARL to RDD-10  
MSC10-0103  
Farmland Soils

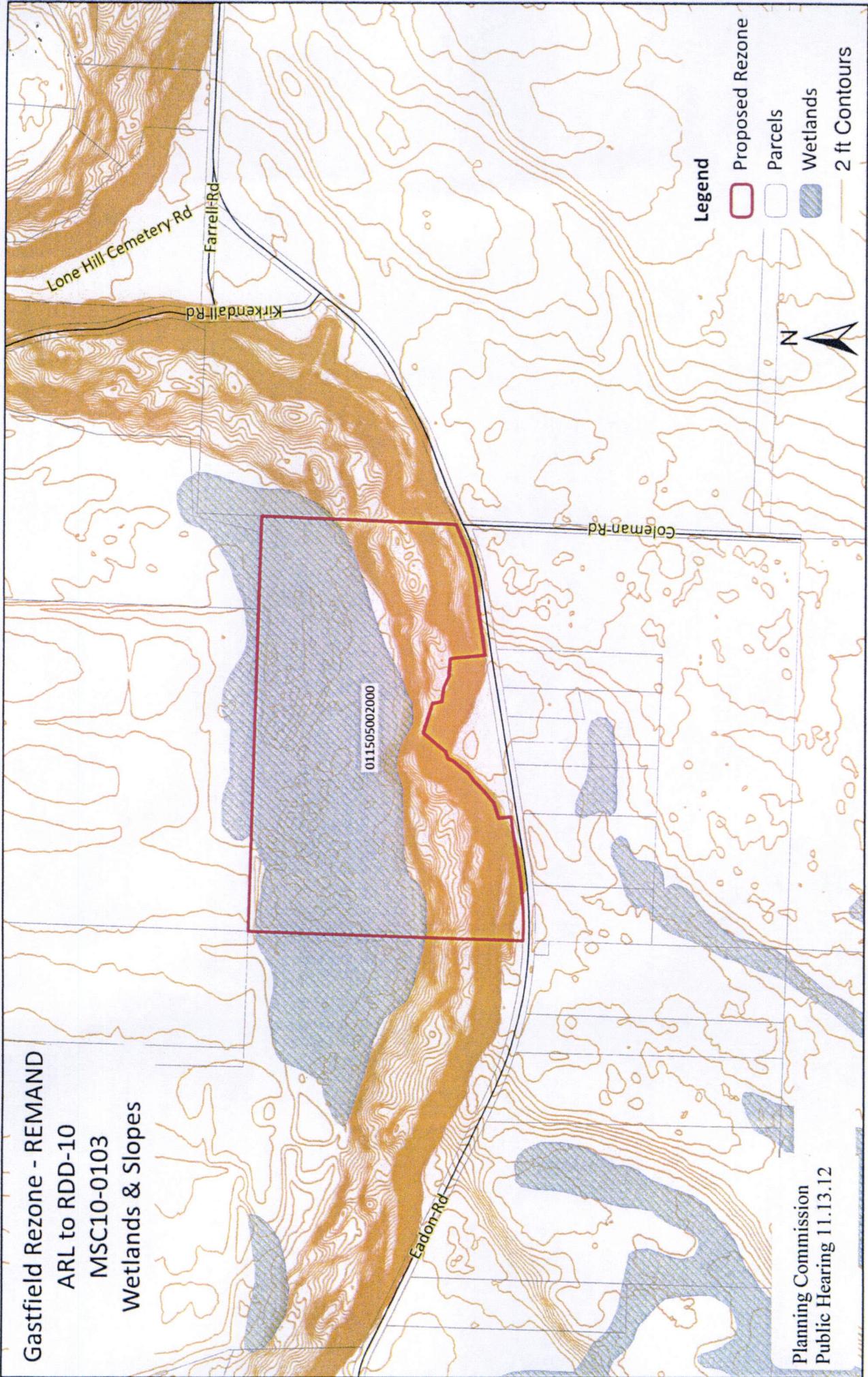


**Legend**

-  Proposed Rezone
-  Parcels
- Farmland Soils**
  -  Not Prime
  -  Prime if drained
  -  Prime Farmland
  -  Statewide importance

Planning Commission  
Public Hearing 11.13.12

**Gastfield Rezone - REMAND**  
ARL to RDD-10  
MSC10-0103  
Wetlands & Slopes



Planning Commission  
Public Hearing 11.13.12

Lewis County Rezone – Zoning Map Correction

File No.: MSC10-0102

Planning Commission Supplemental Staff Report – **DRAFT**

PROPOSAL INFORMATION

Contact	Cameron Craig	
Owner	Packwood Lumber	
Request	<input checked="" type="checkbox"/> Map <input type="checkbox"/> Text <input type="checkbox"/> UGA Change <input type="checkbox"/> Other	
	Existing Comprehensive Plan Designation:	STI
	Proposed Comprehensive Plan Designation:	STMU
	Existing Zoning Category:	STI
	Proposed Zoning Category:	STMU
Location/Site Size	Located on US Hwy 12	Approximately 55 acres
Parcel Number(s)	<del>035245011000, 035235001000</del> 035239004001, 035239004002, 035239004003	
Site Description	Existing Uses	2 Parcels, 1 parcel vacant office & open space, 1 parcel portion of vacant mill & vacant open space
	Topography	Open space, flat with some vegetation with vacant buildings
	Other Features	Slight elevations change to the east

SUMMARY EVALUATION

CRITICAL AREAS REVIEW	
Critical Aquifer Recharge Area	High Susceptibility on west parcel
Floodplain	Both lots 100 year floodplain
Geologically Hazardous Areas	N/A
Wetlands	Small portion located in the north-east section
Hydric Soils	
Stream Buffer	East lot contains stream buffer area

**Original application approved in Ordinance 1230 Adopted December 12, 2011**

## **STATE ENVIRONMENTAL POLICY ACT (SEPA)**

An environmental checklist was prepared by Lewis County for the proposal and Determination of Non-Significance (DNS) for a non-project action was issued for the proposal on June 1<sup>st</sup>, 2011, with a comment and appeal period ending on June 21<sup>st</sup>, 2011. The DNS was circulated to agencies of jurisdiction and published in the East County Journal on June 1<sup>st</sup>, 2011.

## **PUBLIC NOTICE REQUIREMENTS**

Notice of the public hearing on the proposal was published in the Legal Notice section of the East County Journal and the Chronicle on June 15, 2011.

## **PUBLIC PARTICIPATION**

The applicant and Lewis County Community Development Department have met the following Public Participation Program guidelines for public notice and public hearing(s):

- Circulation of application and SEPA to affected Lewis County agencies and jurisdictions
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- Circulation of amendment to state agencies for review as required by RCW 36.70A
- Publication of amendment and map on Lewis County internet site
- Information regarding proposed Rezones and concurrent Comprehensive Plan Map Amendment(s) available at County Libraries
- Public Hearing in front of the Board of County Commissioners December 11, 2011

## **PUBLIC COMMENT**

None received as of the date this report was produced.

**STAFF REPORT ON AMENDMENT REQUEST**

**File No:** MSC10-0102

**Request**

The original application was a request to change the zoning from Small Town Industrial (STI) to Small Town Mixed Use (STMU), with a concurrent Comprehensive Plan Map change from Small Town Industrial (STI) to Small Town Mixed Use (STMU).

**FINDINGS**

This application and its ultimate approval did not result in the final zone change that the applicant had originally intended.

The following excerpts show the original intent of the applicant.

(**BOLD** emphasis added to highlight specifics areas)

From the May 24, 2011 Planning Commission Workshop memo

4) MSC 10-0102 Hampton Lumber Mills Inc.

Site Address: US Highway 12

Parcel Number: 035245011000, 035235001000, **035239004000 \***

Acreage: 55

Proposal: Small Town Industrial to Small Town Mixed Use (Previously STI).

The applicant intends to develop the property into those uses allowed in the mixed use zone. A mixed use residential development conceptual drawing was submitted. The site is mixed with trees and brush. **The parcels under consideration contain two separate lots, and a portion of a larger lot whose lot lines will be reconfigured through a lot line adjustment at a later date.** A legal description will be done at a later date to recognize that portion of the larger lot to be included in this rezone. The applicant states the lots that are part of the larger mill site will not be utilized as a mill site again.

\* This parcel number was omitted from subsequent correspondence, it is the larger lot between the two separate lots

From the May 24, 2011 Planning Commission Workshop meeting notes

*Mr. Basler stated the 55 acres was formerly a mill site. There are actually two parcels but it would be one rezone. There were **discussions last year with staff that this would be the proposal and they would later come back and do a boundary line adjustment adjoining these two parcels.***

From the DRAFT Staff Report included in the May 24, 2011 packet

*The applicant states that they are only **attempting to rezone the lower portions of the site at this time**, to leave open the option of the upper portion to be developed as industrial in the future.*

From the June 28, 2011 Planning Commission Public Hearing meeting notes

*Application #4 is from Packwood Lumber asking for rezoning from Small Town Industrial to Small Town Mixed Use (STMU). Mr. Basler pointed out **on the revised map\* the cross-hatched section between two parcels**. He explained that this would be a two-part process. The two parcels, if approved, would be rezoned as STMU and the easterly line on the western portion would be moved by a Boundary Line Adjustment (BLA). Mr. Basler would ask that the BLA be a caveat to the re-zoning and the applicant agreed.*

\* see exhibit 3

...

*Chairman Russell asked for clarification that the BLA would not affect the northern portion of the property. Mr. Basler stated that was correct and **if this is approved they would start the process of the BLA**.*

From the June 28, 2011 Planning Commission Public Hearing – Mr. Cameron Craig, representing Hampton Affiliates, the owners of the Packwood mill site

*...A lot line adjustment was not done in advance of this request due to advice from county staff. We did not want to decide on developing 50 acres only to have the Planning Commission see something different and the boundary line adjustment could have been in the wrong place. **We would be agreeable to a boundary line adjustment as a condition to the approval of the rezone.***

From July 12, 2011 Planning Commission Workshop meeting notes

*Application #4 – Packwood Lumber (MSC10-0102): requesting Small Town Mixed Use from Small Town Industrial. Mr. Basler stated the two sites to be re-designated **will eventually be combined with a boundary line adjustment (BLA)**.*

*Mr. Basler stated **staff recommended the BLA be done within six months** or so after approval. Chairman Russell would like a caveat that if the rezone is approved that the applicant starts the BLA within a reasonable length of time and if that is not done the applicant will need to reapply. The Commissioners agreed.*

...

*Commissioner Guenther made a motion to have staff prepare a Letter of Transmittal on the six applications for rezone. Commissioner Tausch seconded. The motion carried.*

The original application was approved as part of Ordinance 1230, signed on December 12, 2011.

### **Zoning Map Correction**

The approved zoning change did not fully reflect the original intent of the applicant. The applicant wished to rezone the southern portion of their property including all or part of three lots as shown on Exhibit 1. Exhibit 1 was part of the original application.

Exhibit 2 shows the zoning map presented in the April 26, 2011 Planning Commission workshop.

Exhibit 3 is the revised zoning map shown in the June 28, 2011 Planning Commission Public Hearing

Exhibit 4 is the map distributed at Board of County Commissioners Public Hearing on December 12, 2011. This map reflects the zone change for the two parcels in the original application only.

Exhibit 5 shows the original configuration of the parcels.

As required by the recommendation of the Planning Commission and Lewis County Ordinance 1230, the applicant did a segregation survey of their properties, consolidating five lots into three lots and realigning boundary lines as shown in Exhibit 6. The segregation was recorded on July 27, 2012.

Exhibit 7 shows the area (*parcel 035239004001*) the applicant had intended to rezone to Small Town Mixed Use (SMTU).

Exhibit 8 shows the specific areas that should be corrected in this request.

Exhibit 9 shows zoning as it would appear after it is corrected.

**CONCLUSION**

Staff recommends adjusting the zoning designations on the subject property to reflect the applicants original intention.

**Attachments:**

- Exhibit 1 Application rezone area
- Exhibit 2 Zoning map presented to Planning Commission
- Exhibit 3 Revised zoning map presented to Planning Commission
- Exhibit 4 Comprehensive Land Use map adopted December 12, 2011
- Exhibit 5 Aerial map showing original parcel lines
- Exhibit 6 Aerial map showing parcel lines after segregation survey
- Exhibit 7 Zoning map showing intended rezone area
- Exhibit 8 Zoning map showing specific areas to be corrected
- Exhibit 9 Zoning map showing zoning as intended

Planning Commission  
Public Hearing 11.13.12

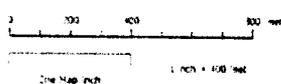


Exhibit 1

Page 3

Hampton Packwood Tract

WHPacific  
with the assistance of the  
Planning Commission  
and the Board of Supervisors  
of the County of Butte



-  Proposed Rezoning - Shaded Area
-  Hampton District p
-  Section Line

This report, statement, or other work herein, is the property of WHPacific. The contents of this report may not be used for any other purpose, including any other project, without the written consent of WHPacific. The user of this report shall be responsible for the accuracy of the data.



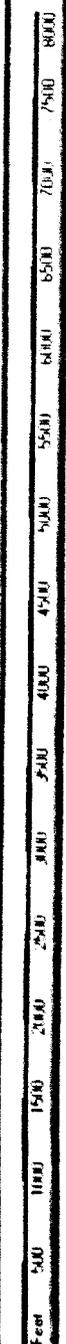
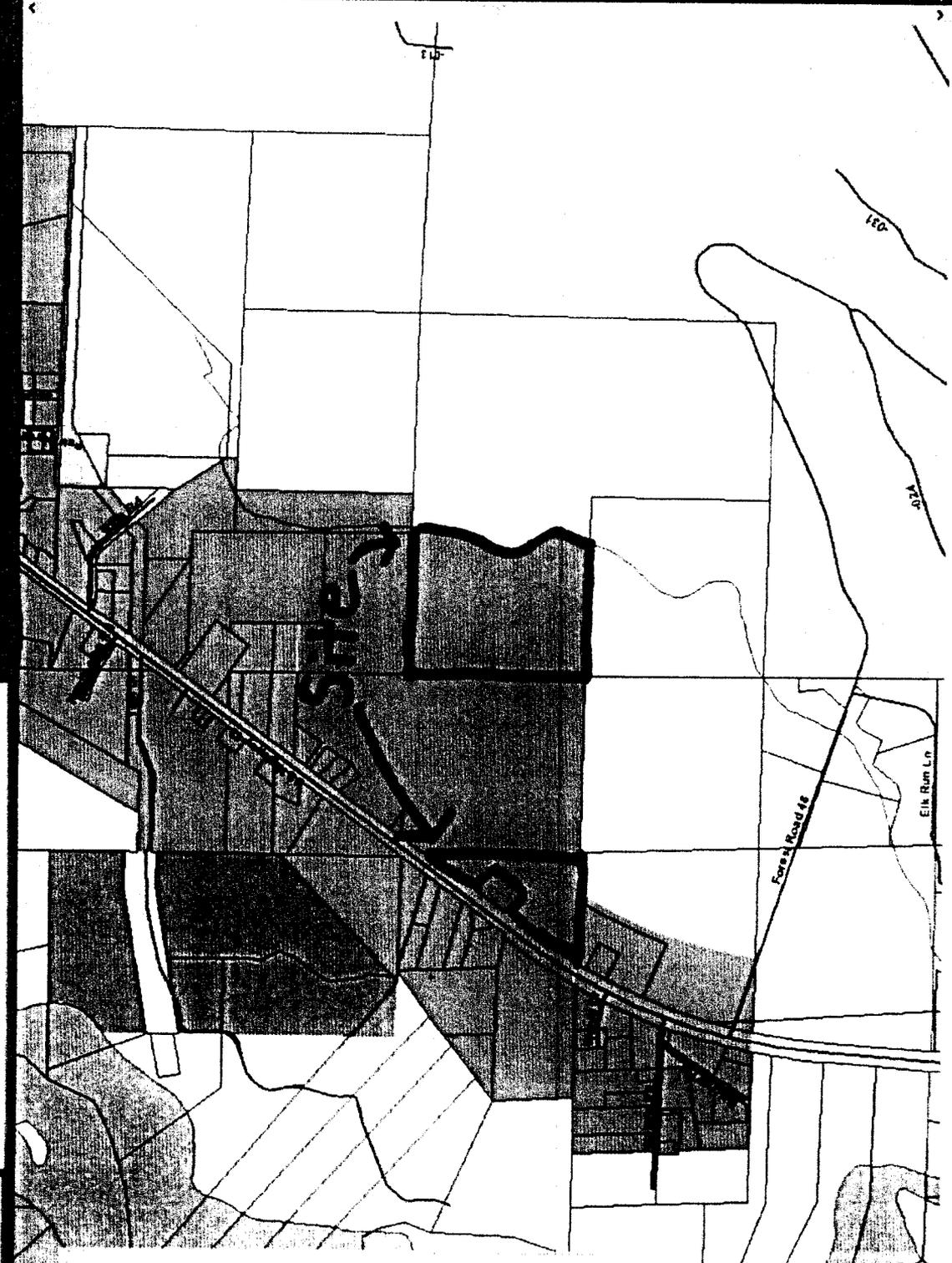
4) MSC10-0102

# Exhibit 2

CRITICAL AREAS REVIEW 2009

Zoom In     Zoom Out     Pan     Full View     Districts     Parc Info     Lat Long     Soil Type     Distance     PDF Map     Document  
 Map Tips     On     Off     Sec Twp Rge     Go     To     Address     Postal     Find  
 Map Tip Item

- Critical Areas**
- Zoning
  - Parcels
  - Sections
  - Aerial Photos
  - Hydrology
  - City Limits
  - Soils
  - Documents
  - GASB34 ROW
  - Wells
  - Water Serv Area
  - Sewer Serv Area
  - Wetlands Rip / Mitigation Plans
  - Flood Elevation
  - Certificates
  - Zones
  - Google Map
  - Terrain
  - Shaded Relief
  - USGS Map
  - Earth Contour
  - Contour Source
- Zoning**
- CC
  - FC
  - Park
  - RAI
  - RRC-R 5
  - RRC-R1
  - RRC-R2
  - RRC-R10000
  - STI
  - STMU
  - STR4
  - PTSA
  - ARL
  - Mineral Sites
  - RDD-5
  - RDD-10
  - RDD-20
  - City
  - UGA - City
  - UGA - County
  - Wilderness
  - FRL
  - FRL-U



Planning Commission  
 Public Hearing 11.13.12

# Hampton Lambert

4) MSC 10-0102

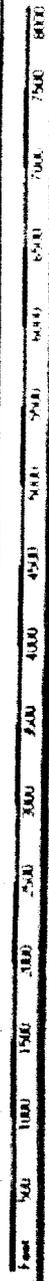
CRITICAL AREAS REVIEW 2009

Exhibit 3

Zoom In  Zoom Out  Pan  Full View  Measure  Parcel Info  Set Layer  Set Type  Measure  Set Map  Document  
 Find Overlap  Find Parcel  Map Top On  Off  Map Top On  Off  Sec Top Rpt  Go  To  Address  Print  Find



- Zoning
  - DC
  - FC
  - Park
  - Hdw
  - RHC R1.5
  - RHC R1
  - RHC R2
  - RHC R1000
  - STI
  - STMJ
  - STH
  - PISA
  - AHL
  - Mineral Res.
  - HDG 5
  - HDG 10
  - HDG 20
  - City
  - UGA - City
  - UGA - County
  - Watershed
  - FRL
  - FRL U
- Zoning
  - Parcels
  - Sectors
  - Aerial Photos
  - Hydrology
  - City Limits
  - Soils
  - Document
  - GASB34 ROW
  - Wetland
  - Water Serv Area
  - Sewer Serv Area
  - Wetlands Rpt / Migration Plans
  - Flood Elevation
  - Certificates
  - Population
  - Zoning
  - Google Map
  - Terrain
  - Shaded Relief
  - USGS Map
  - LORONA Greene



# Exhibit 4

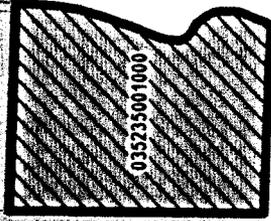
## 2011 Comprehensive Plan Landuse Map Lewis County

Adopted December 12, 2011  
Township 13 North Range 9 East Sections 27 & 28



RDD-10

MSC 10-0102 Hampton Lumber Mills, Inc  
US Highway 12, White Pass, WA  
Small Town Industrial to Small Town Mixed Use,  
Previously STI



STI

Mine

035245011000

STIMU



RDD-20

RDD-5

Forest



Planning Commission  
Public Hearing 11.13.12

-  Rezone Applications
-  Boundary
-  Rezone Application
-  Parcels



Hampton Lumber Rezone  
Mapping Error  
MSC10-0102  
Aerial

Exhibit 6



Legend

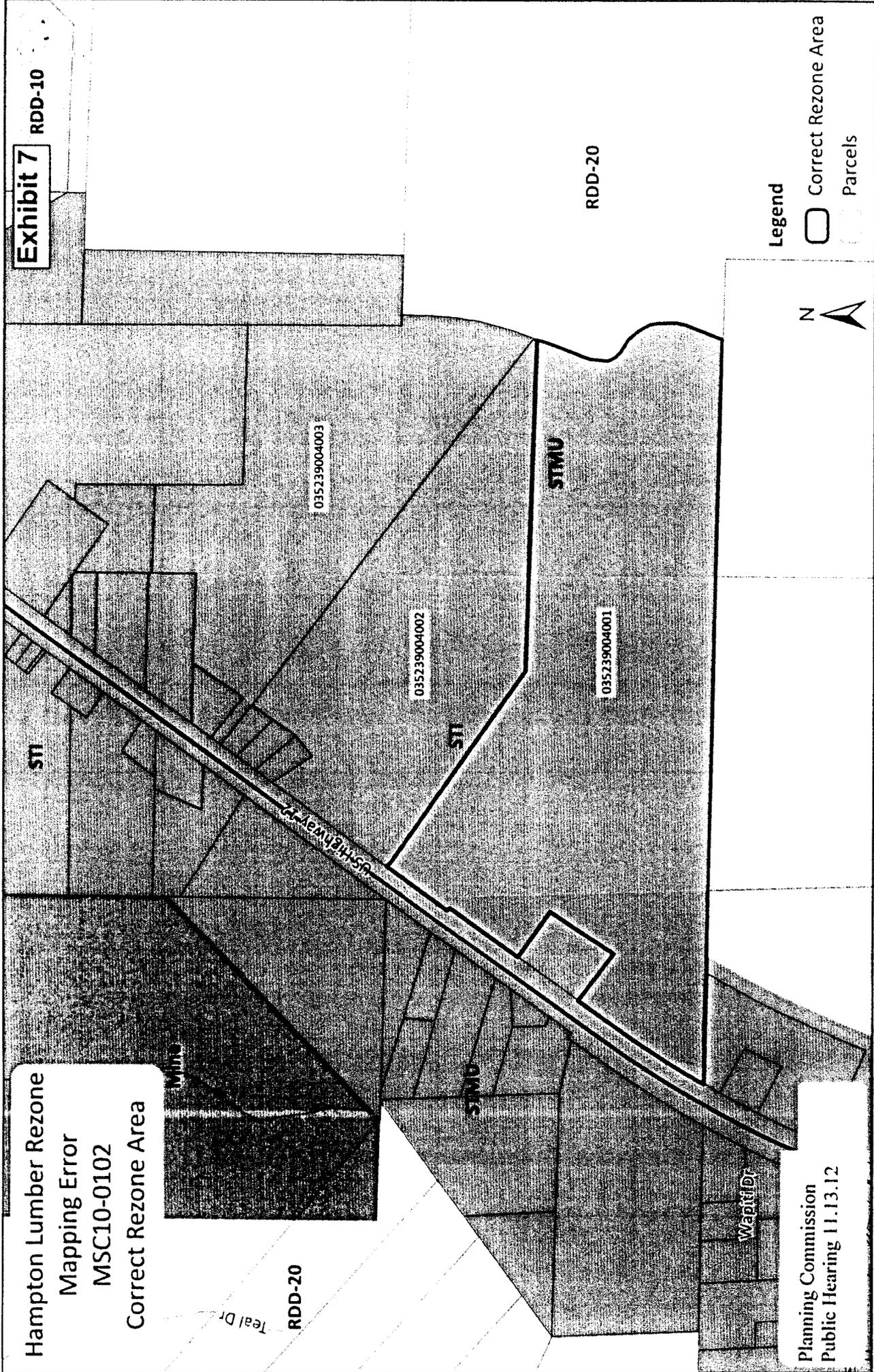
Correct Rezone Area

Parcels

Planning Commission  
Public Hearing 11.13.12

Hampton Lumber Rezone  
Mapping Error  
MSC10-0102  
Correct Rezone Area

Exhibit 7 RDD-10



Legend

- Correct Rezone Area
- Parcels

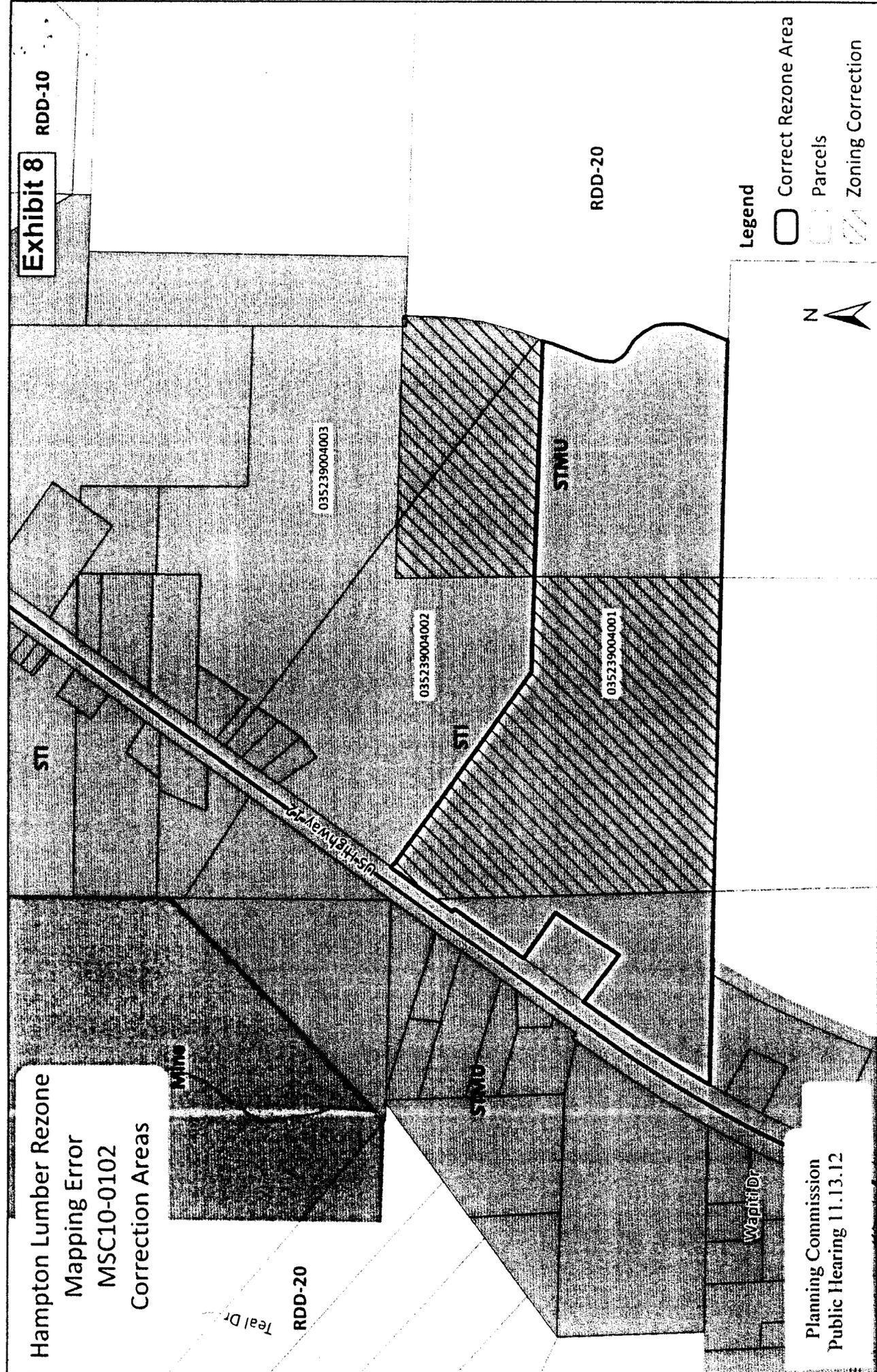


Planning Commission  
Public Hearing 11.13.12

Hampton Lumber Rezone  
Mapping Error  
MSC10-0102  
Correction Areas

Exhibit 8

RDD-10



Planning Commission  
Public Hearing 11.13.12

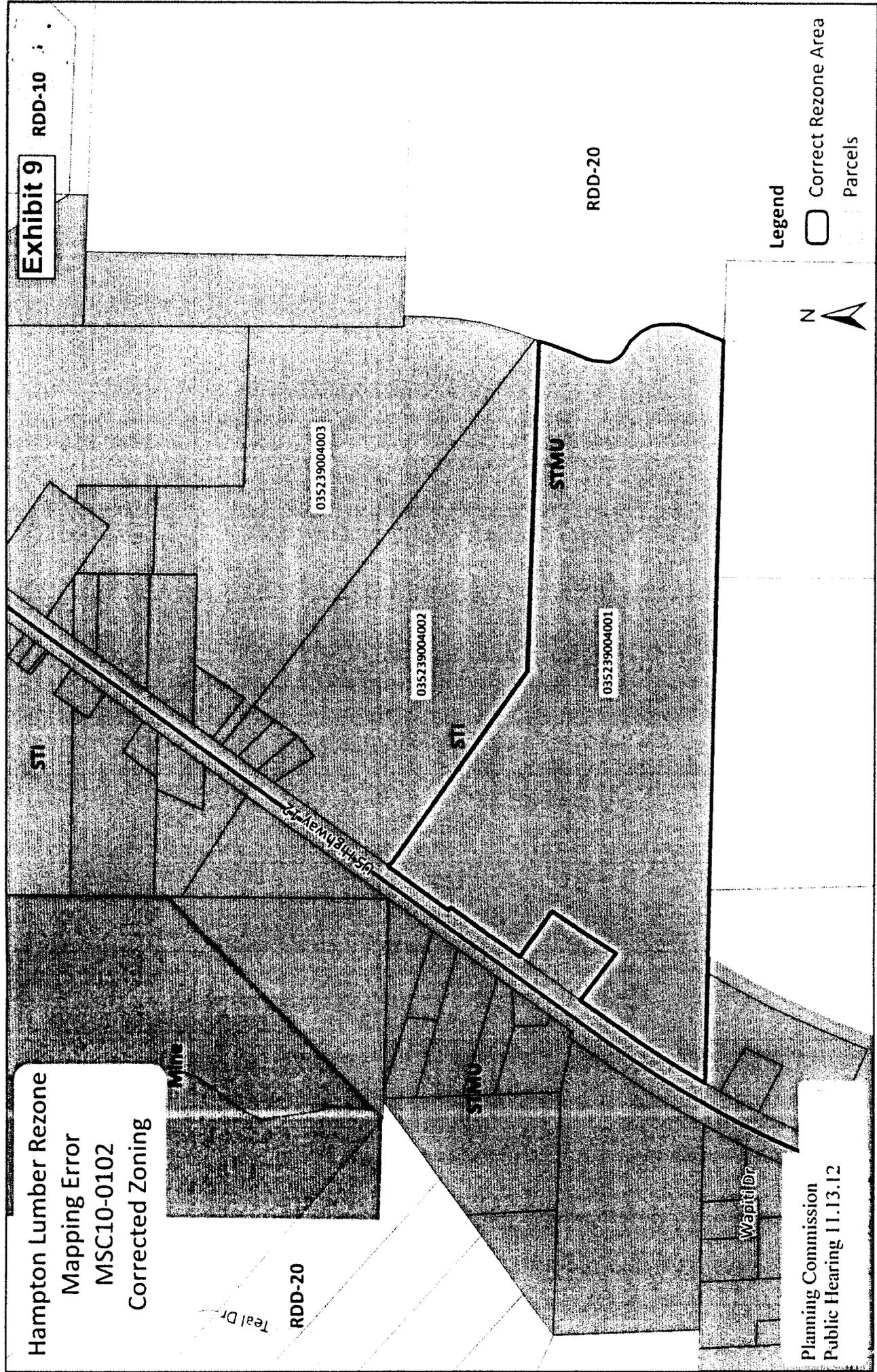
Legend

- Correct Rezone Area
- Parcels
- Zoning Correction

Hampton Lumber Rezone  
Mapping Error  
MSC10-0102  
Corrected Zoning

Exhibit 9

RDD-10



Teal Dr

RDD-20

Mine

STI

035239004003

035239004002

STI

STMU

035239004001

STMU

RDD-20

Wapiti Dr

Planning Commission  
Public Hearing 11.13.12

Legend



Correct Rezone Area



Parcels



N

## Lewis County – Forecastle Rezone – REPEAL

File Number: Ordinance 1219, Section 5 &  
Resolution 10-359, Section G

Planning Commission Staff Report – **DRAFT**

### **ISSUE:**

Repeal of Ordinance 1219, Section 5 and Resolution 10-359, Section G which re-designated approximately 830 acres on the north side of Mineral Lake from Forest Land of Long Term Commercial Significance (FRL) to Forest Land of Local Importance (FLLI).

### **BACKGROUND:**

This application and request was first brought to the County in 2008. At that time and again in 2009 the application was reviewed and a recommendation was made for the land to remain in FRL. Both recommendations were remanded back to the Planning Commission by the BOCC for further review.

The 2010 application reduced the land to be re-designated from approximately 2,082 acres to approximately 830 acres and offered to preserve the remaining 1,250 acres as a forest reserve tract and prohibit any residential uses. The BOCC adopted ordinance 1219 on December 27, 2010 which included the Forecastle property in Section 5, subject to the following conditions: (1) that Forecastle would record a covenant preserving the remaining 1250 acres of Forest Resource Land of Long Term Commercial Significance as a forest reserve tract, prohibiting residential use of the land; (2) that Forecastle would record covenants, conditions and restrictions (“CC&Rs”) against the 830 acres designated as Forest Resource Land of Local Importance identifying a small area for residential building on each 20-acre lot, but otherwise limiting non-forestry or non-resource use of the property; and (3) that Forecastle would prepare a forest management plan for the remaining 1250 acres of FRL of Long-Term Commercial Significance approved by the BOCC and consistent with state law.

The re-designation was appealed to the Growth Management Hearings Board (GMHB) with a Petition for Review filed March 4, 2011.

The GMHB found the County not in compliance with RCW 36.70A.130(1)(d) and issued a Final Decision and Order (FDO) August 21, 2011.

The County filed a Motion for Reconsideration on September 12, 2011 and it was denied by GMHB on October 3, 2011.

The County filed a Petition for Review of the FDO with Thurston County Superior Court September 30, 2011. The FDO was affirmed by the court August 16, 2012.

The County filed its Report on Compliance on July 31, 2012. On September 6, 2012 the GMHB found that Lewis County failed to achieve compliance and issued the following Order:

*The Board finds Lewis County has failed to achieve compliance with RCW 36.70A.070 (preamble) and RCW 36.70A.130(1)(d) and is in continuing noncompliance: There are similarly situated properties included on the Comprehensive Land Use Map as FRL when some of those properties do not meet the Lewis County FRL criteria in violation of RCW 36.70A.070 (preamble) as all elements are not consistent with the future land use map (the Comprehensive Land Use Map). There are similarly situated properties on the zoning map as either FLLTCS or FLLI when such properties could only be one or the other in violation of RCW 36.70A.130(1)(d) resulting in a failure to be consistent with and to implement the comprehensive plan. This case is remanded to the County for compliance.*

## **DISCUSSION**

In discussions with Forecastle, it was determined that in light of the GMHB and Thurston County Superior Court decisions that the best course of action was for the subject property to revert to its original designation of Forest Land of Long Term Commercial Significance. On October 1, 2012, the BOCC directed staff to initiate the repeal process.

## **RECOMMENDATION:**

Staff recommends repealing Ordinance 1219, Section 5 and Resolution 10-359, Section G which will cause approximately 830 acres on the north side of Mineral Lake to revert to Forest Land of Long Term Commercial Significance (FRL).

# **Ordinance 1241**

## **Attachment B** Zoning Designation Changes Comp Plan Amendments

BOCC Public Hearing Adopted December 17, 2012

# 2012 Forecast Rezone Repeal

Lewis County

Ordinance 1219, Section 5 and Resolution 10-359, Section G  
T14N R5E Section 3-4 and T15N R5E Section 33-34

Forest

Forecaste Timber Co, LLC  
Rezone Repeal  
FRL-L1 to Forest

MINERAL LAKE

RDD-5

STMU

SI



## Legend

Rezone Parcels

Rezone Boundary



# 2012 Rezone Application Lewis County

Proposed Rezone December 2012  
Township 13 North Range 9 East Sections 27 & 28

RDD-10



MSC10-0102 Hampton Lumber Mills, Inc  
US Highway 12, White Pass, WA  
Small Town Industrial to Small Town Mixed Use,  
Previously STI

035239004001

Mine

RDD-20

-  Rezone Application Parcels
-  Rezone Application Boundary





# 2012 Rezone Application Lewis County

Proposed Rezone - Remand December 2012  
Township 11 North Range 1 West Section 11

ARL

MSC 10-0103 Keith Gastfield  
Eadon Road, Toledo, WA  
Agricultural Resource Land to RDD-10,  
Current Zone ARL

011505002000

ERL-11

RDD-20

-  Rezone Applications
-  Boundary
-  Rezone Application
-  Parcels



# Correspondence

REC'D 11-19-12 6:19pm

**November 5th, 2012**

**Commissioners:**

**We support the decision to appeal the ordinance regarding Mineral Lake and Forecastle.**

**Being long time residents of Mineral, Washington ( 18 years ) we have seen many changes transpire, we love the chance to walk trails, search for wild berries and most of all view all of the wild life in our own back yard, deer, elk, Mtn. Goats, Eagles, Bob cats, and with all of this be able to peacefully live with neighbor's of like mind in a setting that is still tranquil.**

**Sincerely,**

**Richard Olds**



**Norajeanne Olds**



**Richard H. Olds and Norajeanne Olds**

**P.O. Box 3 5**

**Mineral, Washington**

**98355 - 0035**

**BOCC AGENDA ITEM SUMMARY**

(revised 02/24/99)

AGENDA ITEM #: \_\_\_\_\_ ORDINANCE #: 1241 BOCC MEETING DATE: Dec. 17, 2012

SUGGESTED WORDING FOR AGENDA ITEM:  Notice  Adoption  Discussion  Hearing

Adoption of Ordinance 1241, amending Lewis County Code Chapter 17.200.020(1) Official Lewis County Zoning Map, to reflect zoning changes requested by property owners, consistent with the Comprehensive Plan.

**BRIEF REASON FOR BOCC ACTION:**

Amendments to County Code are done by ordinance, and require published notice of a public hearing and intent to adopt prior to final action by the Board of County Commissioners. The hearing with final Board action will be held on December 17, 2012 so that the effects of all proposed comprehensive plan amendments and implementing development regulations can be considered together.

Stan May PHONE: 1389 DATE SUBMITTED: November 15, 2012

CONTACT PERSON WHO WILL ATTEND BOCC MEETING: Stan May, Senior Long Range Planner

**TYPE OF ACTION NEEDED:**

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Resolution                              | <input type="checkbox"/> Call for Bids / Proposals   |
| <input checked="" type="checkbox"/> Approve Ordinance (Traffic or other) | <input type="checkbox"/> Bid Opening   |
| <input type="checkbox"/> Execute Contract / Agreement                    | <input checked="" type="checkbox"/> Notice for Public Hearing <i>*(see Publication Requirements)</i> |
| <input type="checkbox"/> Other (please describe): _____                  |  |

\*PUBLICATION REQUIREMENTS:  Resolution e-mailed to Clerk  Not applicable

Hearing Date: December 17, 2012 *(Must be at least 10 days after first publication date)*

Publish Date(s): NOV. 28 *(2 weeks for routine budget, property disposal / auction or vacations)*  
December 5, 2012 *(3 weeks for property lease)*

Publication(s):  EAST COUNTY JOURNAL  CHRONICLE  OTHER: \_\_\_\_\_

**ALL AGENDA ITEMS:**

Department Director / Head: DO for Lee Napier  
Prosecuting Attorney: \_\_\_\_\_

**EMPLOYEE ITEMS:** (relating to employment, salary, position, reclassification, union, etc.)  
Personnel Director: \_\_\_\_\_

**BANKING OR REVENUE ITEMS:**

Treasurer: \_\_\_\_\_

**BUDGET AND PAYROLL ITEMS:**

Budget Officer: \_\_\_\_\_ Fund: 121

Chief Accountant: \_\_\_\_\_ Department: Com. Dev.

Total Amount: \_\_\_\_\_

**APPROVALS MUST BE OBTAINED BEFORE SUBMITTING ITEM TO BOCC CLERK**

**CLERK'S DISTRIBUTION OF SIGNED DOCUMENTS:**

Send cover letter: _____ <i>(city/state/zip)</i>	Additional copies: _____ <u>Stan May</u>
File originals: <u>BOCC mtg folder</u>	<u>Lee Napier</u>
File copy: <u>hearing/bid folder</u>	<u>Donna Olson</u>
File copy: <u>working file</u>	<u>Dawna Truman</u>