

A8 10f' d

FILED  
J. DEAN FOUQUETTE, SR.  
UMATILLA COUNTY CLERK

BEFORE THE BOARD OF COMMISSIONERS  
OF UMATILLA COUNTY

1988 MAR -2 P 1: 38

An Ordinance amending #85-10, 84-6 )  
and 85-9, which is the Umatilla )  
County Comprehensive Land Use Plan )  
as acknowledged by LCDC and later )  
was remanded to the County for further )  
amendments by LCDC after a Court of )  
Appeals remand, to bring the Compre- )  
hensive Plan into compliance with )  
Statewide Planning Goals and into )  
acknowledgeable form as required by )  
LCDC and ORS Chapter 197. )

ORDINANCE #88-1

WHEREAS, Umatilla County adopted a Comprehensive Land Use Plan and Development Ordinance on May 9, 1983 and amended it on August 29, 1983, which Umatilla County found to be in compliance with Statewide Planning Goals and other pertinent state laws; and

WHEREAS, Umatilla County submitted its Comprehensive Plan and Development Ordinance to the Land Conservation and Development Commission (LCDC) on May 15 and September 1, 1983 for acknowledgement; and

WHEREAS, LCDC found the Plan and Development Ordinance to not be in conformance with Statewide Planning Goals, and gave the County until July 1, 1984 to submit amendments to its Plan and Development Ordinance to bring them into compliance with Statewide Planning Goals; and

WHEREAS, Umatilla County adopted amendments on June 28, 1984 and September 6, 1984 and submitted them to LCDC for their review in September; and

WHEREAS, in a staff report dated February 21, 1985, LCDC stated that the Comprehensive Plan and Development Ordinance were still not in compliance with Statewide Planning Goals, and recommended that the County complete its revisions by May 23, 1985 and be placed on expedited review; and

WHEREAS, the County Planning Commission and Board of Commissioners held public hearings on June 11, 1985 and June 12, 1985, respectively, and adopted amendments to the Plan and Development Ordinance which it believed would satisfy LCDC requirements in the February 21, 1985 staff report, and subsequently submitted the materials to LCDC on September 9, 1985; and

WHEREAS, in a staff report dated October 10, 1985, the LCDC staff found ten (10) specific deficiencies which prevent acknowledgement of the plan, but noted that most changes were minor but required, and recommended to LCDC that Umatilla County's Comprehensive Plan and Development Ordinance be acknowledged upon the adoption of these specific changes; and

WHEREAS, the Board of Commissioners adopted these amendments on November 6, 1985, and submitted them to LCDC for their review to ORS Chapter 197;

WHEREAS, LCDC acknowledged the Plan on November 21, 1985 and notified the County; and

WHEREAS, 1,000 Friends of Oregon appealed Umatilla County's acknowledged Comprehensive Plan on January 21, 1986 to the Oregon Court of Appeals; and

WHEREAS, on April 22, 1987 the Oregon Court of Appeals remanded several portions of the Comprehensive Plan back to LCDC for corrective action; and

WHEREAS, LCDC, on June 11, 1987 adopted a continuance order for those portions remanded by the Court of Appeals; and

WHEREAS, the Planning Commission and Board of Commissioners held two public hearings to discuss the adoption of actions necessary to comply with LCDC's continuance order on February 25, 1988 and February 29, 1988, and adequate public notice was provided pursuant to ORS Chapter 197; and

WHEREAS, the Board considered testimony and other materials presented by citizens of the county, its Planning Commission, planning staff, and other interested persons; and

WHEREAS, it now appears to the Board that the plan with these amendments is now in knowledgeable form in conformance with ORS Chapter 197; and

WHEREAS, the health, safety and welfare of the citizens of the County would be adversely impacted because of statutory penalties if the plan amendments are not adopted;

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Umatilla County that:

(1) All references to Parcel C of the Battle Mountain Exception Statement be deleted from the Comprehensive Plan, and the property be designated Grazing/Forest in the Comprehensive Plan and rezoned to Grazing/Farm on the county zoning maps.

(2) All references to the East 1/2 portion of the Emminger Exception (Special Exception #5) Statement be deleted and designated Grazing/Forest in the Comprehensive Plan and rezoned to Grazing/Farm on the county zoning maps.

(3) All references to the area north of the Feed Canal within the Hinkle-Feedville Exception Statement be deleted and designated North/South County Agriculture in the Comprehensive Plan and rezoned to EFU Exclusive Farm Use and FI Future Industrial Overlay Zone on the county zoning maps.

(4) Incorporate the text of Attachment #1 into the Comprehensive Plan text and map and amend the county zoning map from G/F Grazing Farm to FR Forest Residential.

(5) Amend the Comprehensive Plan text and map and zoning map according to Attachment #2.

An emergency exists, and these ordinance amendments take effect immediately upon the signature of the Board of Commissioners and attestation by the County Clerk.

All 1 of 2

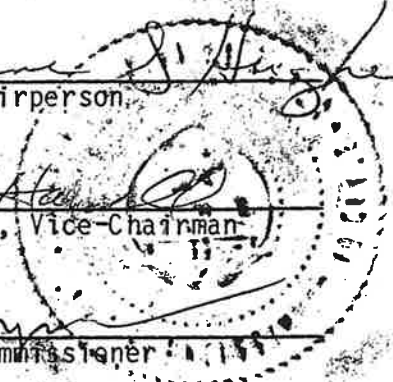
DATED THIS 3rd day of March, 19 88.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Jeanne S. Hughes  
Jeanne Hughes, Chairperson

William S. Hansell  
William S. Hansell, Vice-Chairman

Glenn Youngman  
Glenn Youngman, Commissioner



ATTEST:  
J. Dean Fouquette, Sr.  
County Clerk

ATTACHMENTS

- #1 TOLL GATE EXCEPTIONALS (DRAFT #11)  
ADD. JUSTIFICATION  
(INCLUDING MAPS)
- #2 ~~LETTER TO STATE BUREAU FROM UECA~~
- #3
- #4 PLAN MAP SECTION BEGINNING  
AT XVIII-404 (HINWILLE)  
(INCLUDING INDUSTRIAL NEEDS ANALYSIS)

DRAFT III  
TOLLGATE EXCEPTIONS (Chalet Area)--ADDITIONAL JUSTIFICATION

Explanation

The following justification is being submitted in response to LCDC's Continuance Order 87-CONT-251 of July 3, 1987. LCDC's order is the result of a remand from the State Court of Appeals of Umatilla County's Acknowledgment Order 85-ACK-76, Case No. A38601.

Petitioner, 1000 Friends of Oregon, contested LCDC's acknowledgment of the committed exceptions for this area. The Court of Appeals assignment of error caused LCDC to suggest the rezoning of this exceptions area to an appropriate resource plan designation and zoning.

The county, however, does not feel this area is grazing or forest resource land. The county believes that it can provide substantial evidence to conclusively show recreational residential commitment.

It was unfortunate the county did not provide the necessary exceptions evidence when earlier submitted in 1985. Proper and conclusive evidence could have been offered. The decision not to expand the justification factors was partly a result of a recommendation of DLCD and later approval by LCDC that this exception area had been properly substantiated in 1985. The extent of heavily developed, adjacent recreational use in the immediate area was the main reason for proceeding with submittal as originally supported. In other words, the area was predominately in recreation-residential and commercial use with obvious resource incompatibilities and impracticalities needing little explanation.

Another reason not to more fully develop exceptions factors for this area was the fact that numerous other areas were felt to be more questionable exception lands by DLCD. To substantiate them would require extensive work and proving relevant factors of non-resource commitment. Work loads and time

constraints dictated spending what little time remained to the other areas needing more substantial evidence and letting this exceptions area stand on its own.

Regretably, the above decision left the subject exception area vulnerable to 1000 Friends' appeal. From the county's standpoint, contesting a very, very small acreage within a very large LCDC approved regional recreational exceptions area seems retaliatory. But now with adequate time to conclusively prove a committed exceptions, the county will have another opportunity to finally resolve this matter.

The county's commitment statement is largely based on the record of approval of many other developed and committed areas and parcels along the Tollgate Recreational Corridor. Among those questionable and weakly supported exception lands reworked in 1985, eight areas were in the Tollgate Recreational Corridor, and all were successfully proven to be irrevocably committed to recreational residential use and no longer practicable for resource use. The regional and neighborhood recreational characteristics of Tollgate was a major reason for exceptions approval. All these eight exceptions areas were situated among less dense, non-resource developed portions of the Tollgate corridor. Several parcels within these eight areas were of a similar size and even larger than the largest parcel within this exceptions area. Simply stated, the subject area is only one small portion of a very large regional recreational residential and commercial development on Tollgate Mountain. A regional recreational characteristic exceptions for this area will be one element of proving a non-resource commitment of this area in relationship to the entire recreation corridor.

#### Location/History

From a regional recreational perspective, this exceptions area in the vicinity of the Chalet is located near the middle of an elongated nine mile corridor of non-resource recreational homes and cabins. There are a little over 79 acres involved in this exceptions statement compared to the 3,170 acres

already substantiated as committed in the Tollgate Recreational Corridor (see map following page).

A 158 acre area had been considered and probably could be justified for a committed exceptions, but the owner of the east 79 acre parcel wanted to remain in resource zoning, even though not in resource use. Not including this parcel is consistent with several other landowners who did not want recreational zoning within the recreational corridor in 1985. Therefore, only the west 79 acre area in three separate parcels and ownerships of 5, 10 and 64.8 acres will be justified for recreational residential use.

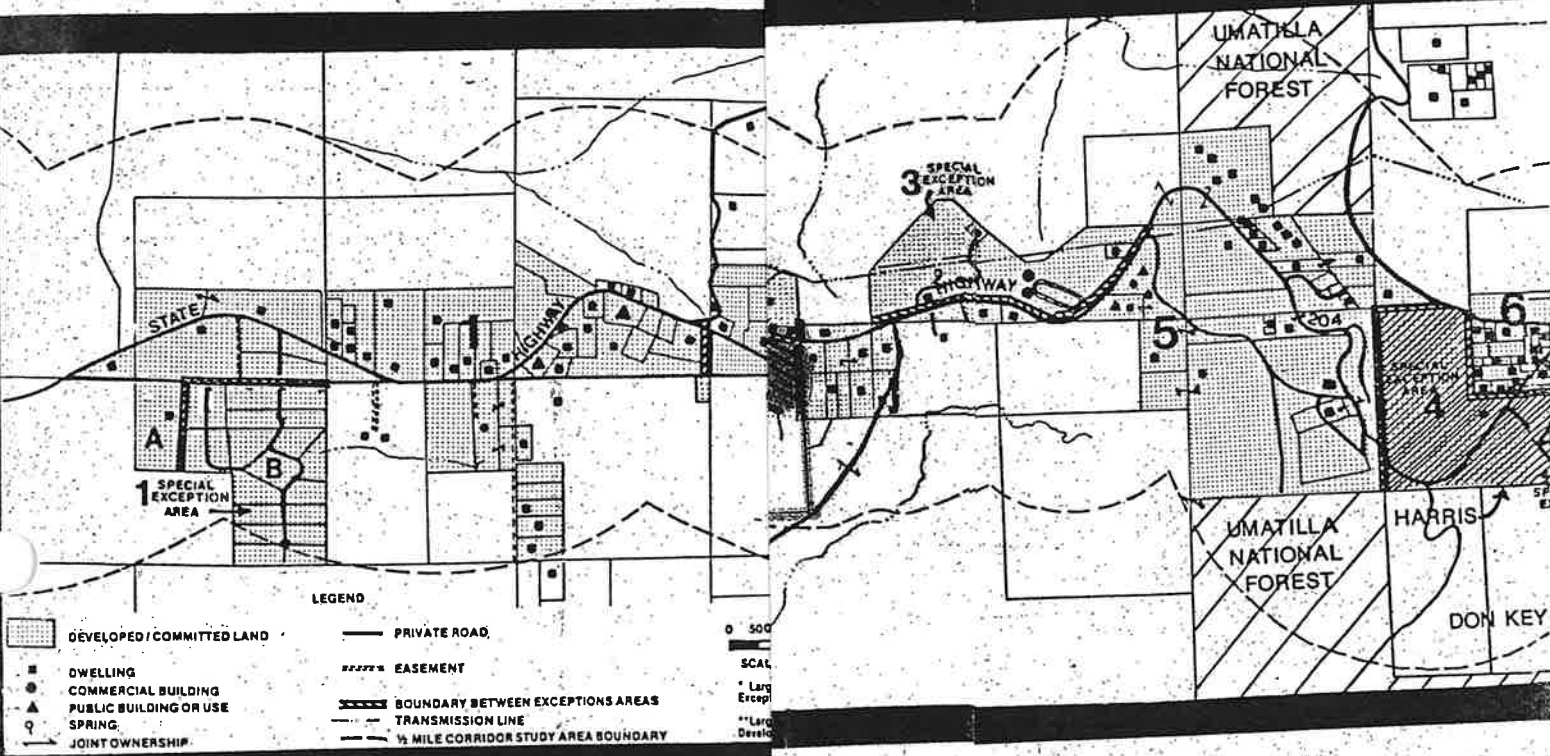
One aspect of this exceptions proposal (1987) is the slightly changed area than the 1985 exceptions proposal. Two years ago, the northerly one-half of two 79 acre tracts was being considered for an exception. At that time, only one owner was involved. In 1987, there are four owners, but the proposed exception area is the same size as in 1985, only it is now more to the west, closer to greater concentrations of recreational residential development. The owner to the east does not wish to be in the exception statement (see map on following page).

#### Land Use

All of the three exceptions parcels are undeveloped. However, each parcel is used for recreational purposes as summer camping or winter recreational activities by the owners. All three parcels have questionable amounts of merchantable timberland with some small, interdispersed open areas where water ponds up or where there is rocky soil unable to support trees. Drainage and springs in the area create wet areas, causing growth restrictions for indigenous fir and spruce trees. Parcels like this exceptions area under discussion are typical of the Tollgate Recreational Corridor--that being if there are no permanent structures

posab  
ty)

DEVELOPED / COMMITTED LANDS

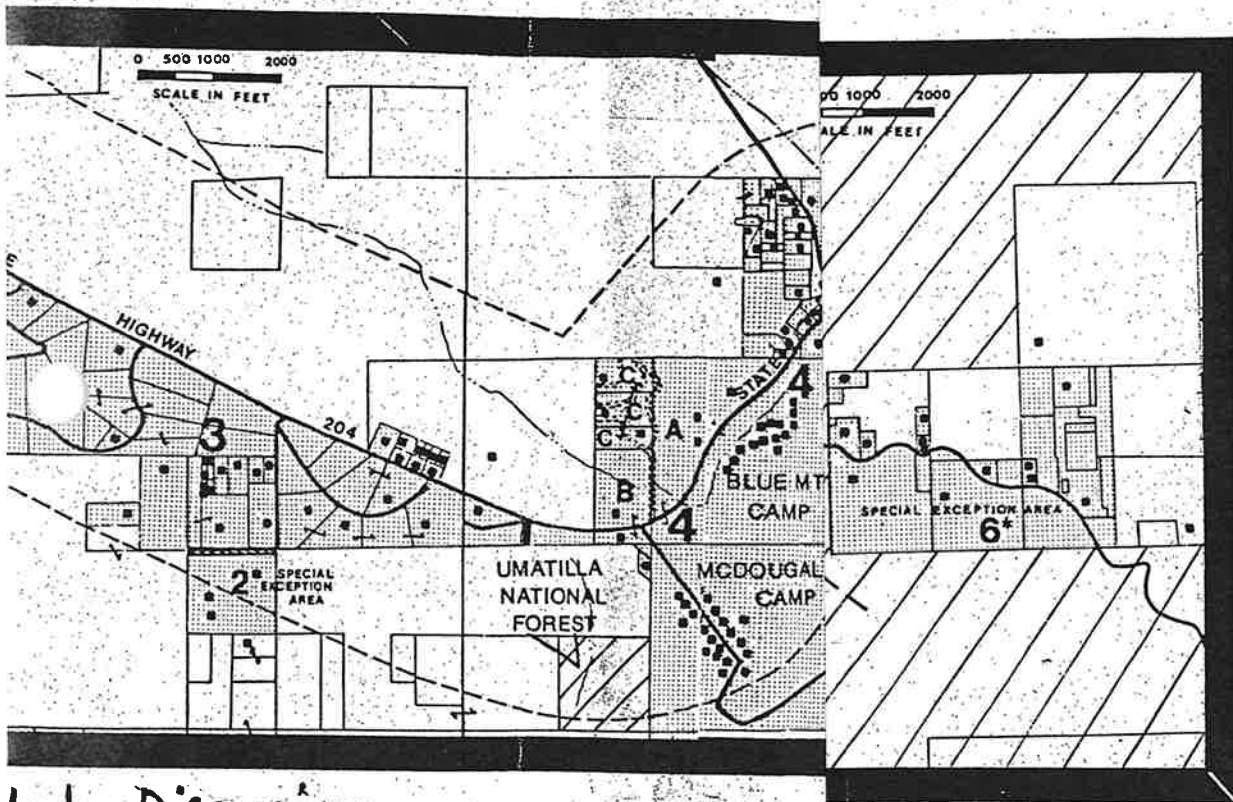


ational Plan & Zoning

ORD 88-01



Chalet Area  
(Emmings)



Under Discussion

Proposed For Recreational

Proposed For Resource

Resource Plan & Zoning

 Existing

 G

 F

on these properties, they are used as temporary sites for hunting, summer vacation camping, or snowmobiling.

### Adjacent Land Uses

The predominate land use in the immediate area is recreational home development. To the north is a mixture of 15 full-time and seasonal recreation cabins and dwellings on 11 small lots. Location of these homes and lots are between Highway 204 and the north property line of this exceptions area. There are another 26 recreational dwellings directly across Highway 204 to the north, plus the Tollgate Chalet. The Chalet is a family restaurant with a gas station and a 20 unit travel trailer/mobile home park. Total figures approach 60-65 recreation homes and mobile homes north of this exception area within a 1/8 mile distance. There is also a church camp bordering the northeast corner of the exceptions area. All this heavy recreational development is shown on the map following page 3.

Two large, long-established adjacent recreation home developments are cited on the west and southwest. Blue Mountain Camp has 15 recreational dwellings, and the developed portion is only 500 to 1000 ft. to the west of the subject exception area. On the southwest corner of the 64.8 acre parcel is another private recreational home development (McDougal Camp) containing 17 dwelling units (see map following page 3). Several dwellings border the northeast corner of the subject exceptions area.

The south boundary of this exceptions area abuts onto two parcels of 16 and 20 acres. They are under the same ownership as the 64 acre exceptions parcel. Though the uses occurring on them are the same (recreation), they are not included in the exceptions statement. These tracts are beyond the 1/2 mile corridor boundary along Highway 204 established by the Tollgate Citizens Committee. Beyond this line land is to be classified as resource land. The county has been consistent in complying with this policy despite several areas of committed land beyond the

corridor. Concentrating development in areas where services and access can be realistically and economically provided is the main purpose for this policy. Also, there is less chance of conflict between resource activities and recreational uses closer to the existing recreational development near Highway 204.

A county road cuts across at an angle separating a small sliver of a 400 plus acre tract that lies between the 16 and 20 acre tracts just described above, and the county road. To the east lies the 79 acre tract mentioned earlier as qualifying for an exception, but the owner desires to have it remain in resource zoning. Some incidental seasonal grazing occurs in this general area.

#### Public Facilities and Services

Highway 204 serves as the main access to the exceptions properties. It is the main arterial to most all the nine miles of recreational home development in the Tollgate area. The exception area is on the south side of Highway 204 within 500 ft. of this main access roadway. Ingress and egress are from several points along Highway 204. An easement road takes off from Highway 204 to the northwest and travels eastward across the entire north border of this exception area. The road is rather primitive.

Two other established roads come directly from the north off Highway 204 onto the general vicinity of the exception parcel. Several primitive roads meander throughout the area (see map following page 3).

Electricity and phone utilities border on or are nearby all exceptions parcels. Both utilities are readily available and have expansion capabilities. This is true of all properties within the Tollgate Recreational Corridor and is substantiated by letters in the Appendix (see Attachment C).

#### Neighborhood and Regional Characteristics

This portion of the exception is justified based on the neighborhood and regional characteristic factor in OAR 660-04-028(2)(d). The area is no different

than all the other 3,170 acres justified and approved and acknowledged by LCDC due mostly to the tremendous regional recreational home influence upon area properties. More pointedly, the county will provide the necessary facts said lacking by the Court of Appeals. These facts show additional recreational uses are occurring in the area besides just berry picking and hiking. Furthermore, this exception shows that these additional recreational uses are of the incompatible, non-resource type effectively rendering resource use of the exception area impracticable.

The Tollgate area is by far the heaviest used and developed recreational area in the county. A near solid corridor of cabins, recreational trailers, and supporting commercial facilities on private property extends some nine plus miles in Umatilla County along both sides of Highway 204. There are only a few gaps where recreational home development is less sparse, and all these gaps have been substantiated and conclusively proven to be committed to recreational residential development. By contrast, the subject area under discussion is near the middle of the corridor and in the most densely developed area. So, from a regional perspective, the county is attempting to except only 79 acres located within the nearly 3,200 acre recreational corridor appraised as exceptions lands by the state. Re-emphasized, this leaves only 79 acres and only three property owners along the intensively developed nine-mile corridor that is being questioned by the Court of Appeals, 1000 Friends of Oregon and LCDC.

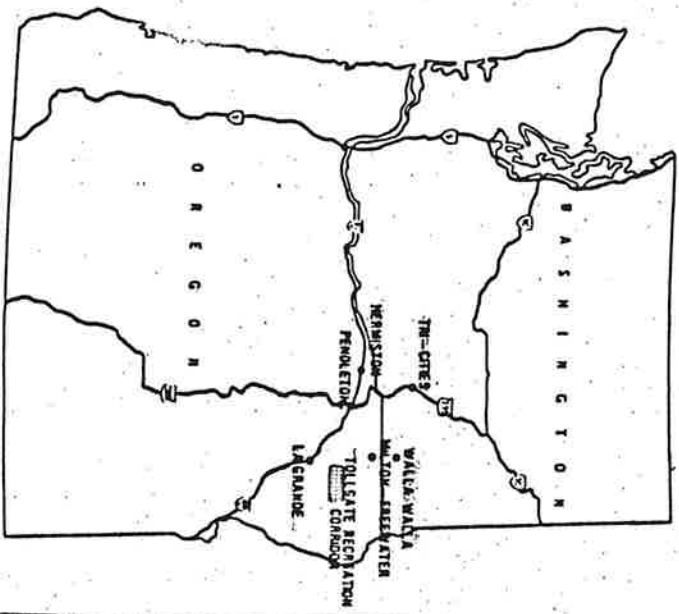
The extent of recreational development and its regional influence is also highlighted by the fact that within the state approved 3,170 exception acres, there are over 325 recreational dwellings. The density per dwelling averages one dwelling per 10 acres over a nine mile length. In fact, there are well over 50 additional recreational dwellings in the Tollgate vicinity just outside the recreational corridor. They are not as close or as impacted by the easy access of Highway 204 and the existing recreational home development along it, and thereby are not able

to be justified under current administrative rules as recreational exceptions lands. Their presence, however, helps substantiate the regional recreational use of the area. A portion of these other recreational dwellings also includes some cabins on Forest Service land just inside Union County, further extending this continuous regional recreational corridor another mile. The presence of Spout Springs, a ski facility, and Woodland Campground, also in Union County, only 2 1/2 miles from Umatilla County, also substantiates the vastness of regional recreational use of the area (see map on following page).








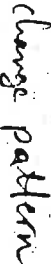
The long corridor development along Highway 204, including the large numbers of recreational dwellings within this area, puts extreme recreational use pressure upon all lands and land use activities in the general area, especially immediately along the highway. This highway is the only paved and all-seasoned maintained road into and out of the area. Recreational pressure is therefore persistent throughout the year. Also, the access aspect goes beyond just Highway 204 in that the Tollgate area is centrally located and easily accessible to four major population centers, three of which are out of Umatilla County (see Location Map on next page). These four population centers are: (1) Tri-cities, Washington (Richland, Pasco, Kennewick) with a population of 100,000; (2) Walla Walla/College Place, Wash. with a population of 40,000; (3) LaGrande, Oregon in Union County, population 12,000; (4) Pendleton/Milton-Freewater in Umatilla County, with a combined population of 20,000. This regional use aspect above is confirmed by the significant percentage of out of county ownerships in and adjacent to the Tollgate exceptions areas. A 1981 computer print-out of Tollgate property owners shows that 38% have permanent residences outside the county. Over 30% reside out-of-state, most from Washington state around the Walla Walla and Tri-Cities areas. This number of out-of-state, out-of-county ownerships itself rather conclusively shows the tremendous regional recreational use that this area attracts. The subject exceptions area is very near and for a short distance abuts Highway 204. The site is very accessible, then, to the regional recreation use taking place on Tollgate.

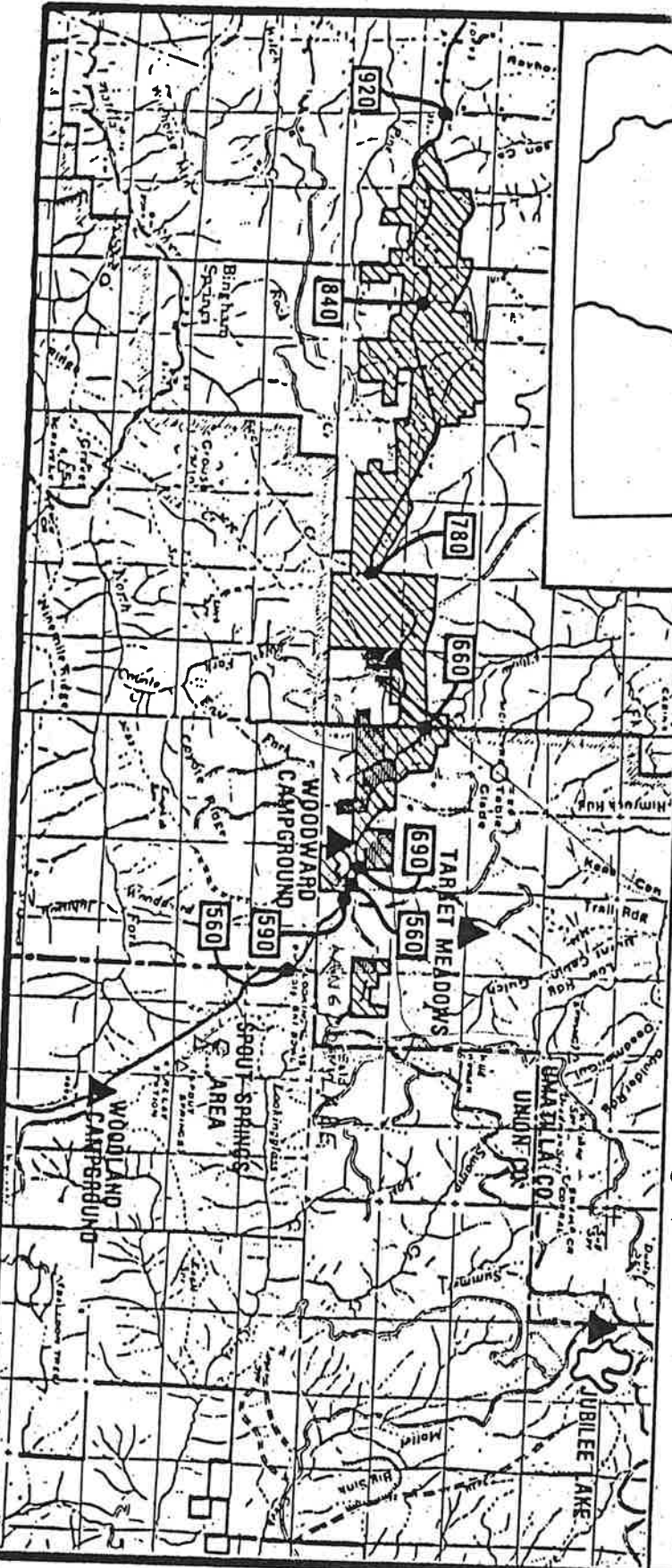
For Appendix page 6

LOCATION MAP



LEGEND

-  L.C.D.C. Approved EXCEPTION LANDS
-  CAMPGROUND SITE
-  NATIONAL FOREST BOUNDARY
-  EXCEPTION LANDS UNDER DISCUSSION
-  TRAFFIC COUNTER SITE
-  [920] NUMBER OF VEHICLES PER DAY  
(Average Daily Traffic Count-1983, Highway 207. Source: Oregon State Highway Division.)
-  County Boundary
-  Change pattern



TOLLGATE RECREATION AREA



Further factual data supporting regional recreational commitment and/or influence upon Tollgate Corridor properties is substantiated by the Umatilla National Forest Supervisor's Office. In two of their letters, one dated August 13, 1980, the other May 16, 1985 (Attachment B), recreational use is most clearly shown by the enormous numbers of people using the forest service land and existing facilities within their jurisdiction that borders along less developed, LCDC approved, committed parcels on the east end of this corridor only one mile from this exceptions area. Clearly, on the developed sites, where day use figures directly correlate to a specific area, some 67,000 Recreation Visitor Days (RVD) in 1984 have been tabulated. This is up some 4,000 RVD's from the 1979 figures. (One recreation visitor day consists of 12 visitor hours spent by persons in any activities, except those which are part of or incidental to the pursuit of gainful occupation). This increase has occurred despite a worsening national, regional and local economy since 1980. The county believes that this increase relates to the numerous attributes and long-established recreational use in the general area.

The attributes of the Tollgate area attract a variety of recreational activities nearly the entire year round. Again, the above mentioned letters from the Forest Service show the major recreation types occurring here, and rather vividly show the numbers pursuing these activities. While not all figures in the May 16, 1985 letter (Attachment B) are exactly correlated to the Tollgate area, the snowmobiling, cross-country skiing, and snow play category figures very accurately reflect winter recreational use at Tollgate.

Tollgate has the only all-season~~ed~~ maintained highway with the capability of conveniently bringing people into this mountainous area. Spout Springs, only six miles from the subject exceptions parcel under discussion, is a very popular ski area. Spout Springs is the only developed skiing facility having chair lifts, groomed runs, day use lodge and off-highway parking in this very large regional



population area from which to draw. In the case of berry picking, the Tollgate area also receives the bulk of this activity, again due to the good highway access. The only dispersed recreational activity that recent Forest Service use figures may not appropriately reflect is hunting. The 165,900 RVD figures are for the entire Walla Walla Ranger District. According to Lyn Roehm of the Umatilla National Forest staff, breaking out 1984 RVD hunting use for just the Tollgate area is not possible at this time because of staff constraints. However, he indicates that the 40,000 RVD figure in the August 13, 1980 letter would still be a representative figure for the general Tollgate area. This figure might be on the conservative side. This would mean that nearly 25% of all hunting in the Walla Walla Ranger District takes place on Forest Service land along and in the general vicinity of Highway 204. The significance of mentioning these figures is that hunting means recreation, and this type of recreation has caused other recreational uses to locate here. This exception area is located only one mile from the center of this popular hunting area within the national forest, and really in the middle of the more regional hunting area that occurs all along the Tollgate Highway from Weston, Oregon to Elgin in Union County. A regional recreation corridor has then developed along Tollgate Highway due in part to hunting's tremendous popularity. Cabins, dwellings and hunting co-exist together to form the recreational corridor as it exists.

The above Forest Service data conclusively shows that heavy recreational use occurs in the Tollgate area. This use has been steady. Persistent recreational use has placed a lot of use pressure on private land, not only because of the always present need to recreate at fixed sites (owning your own land, having a cabin or trailer site in the mountains, heavy use of forest service camps), but also because people using forest service areas, more often than not, trespass onto these private lands. Many trespass despite warning signs and/or barriers. This is especially true of hunting and snowmobiling--the two more popular, dispersed recreational activities.



The specific impacts of general public trespassers upon the subject exceptions area are obvious, but will be specifically and more thoroughly discussed later. For now, however, it is important to note what the U.S. Forest Service plans and policies are for their lands, and what impacts and directions they will have upon the existing and future use of the subject exceptions properties.

The county is simply pointing out the regional recreational use perception in the Tollgate Corridor Area of which even Forest Service land is located along and similarly used for recreational purposes. The subject exceptions area is only one small area within this corridor and consequently used for recreational purposes.

Forest Service plans and policies recognize the heavy recreational use on their lands along Highway 204 in the near vicinity of Special Exceptions Area #5 (see map following page 3). The specific plan allocation emphasizes recreational activities over resource uses. In other words, the existing regional recreational use and value here predominates or is more important than the resource use and value. Quoting the forest management objective for this area: "To provide nearly all types of recreation, from the highly developed to the near primitive, located in one general area. The area should have a natural environment that has a potential for both summer and winter activities such as vehicle and tent camping, back-packing, horseback riding, trail-bike riding, skiing, snowmobiles, fishing and hunting." (Emphasis added; see Attachment #1). Policies within this land management type direct any timber harvesting or livestock range use to be subservient to recreation objectives. The Forest Service recognizes that commercial resource uses are impractical in the recreational corridor because of the many conflicts with existing and established recreational use and users on their lands as well as with recreational activities taking place on private lands (includes subject exceptions area) in the near vicinity.

Another Forest Service policy applicable to the Tollgate area that helps support the county's regional recreation commitment of the subject exception properties is that existing recreational facilities on Forest Service lands just to the east will not be expanded, and that any new development is to be encouraged on private property. The county understands that the word "development" in this policy includes cabins and other commercial/recreational uses not provided under Goal 4 (personal phone communication with Lyn Roehm, Forest Service employee). The county contends that this policy, along with the extensive regional recreational use and perception that this area has, and the nearness to Forest Service land, has caused the subject exception area to be used for recreation and not for commercial timber or grazing purposes.

Another fact showing regional recreational commitment of the Tollgate area and this exceptions area is land curve value data used by the County Assessor's Office (see Attachments 2 and 3). Land values are very high, especially along Highway 204, because of the predominant and nearly exclusive recreational use of these properties. Also, recreational demand is calculated into these values. Recreation use is then perceived and the actual use is reflected in the higher land values assigned to properties here. The highest land values are given to those parcels where access is good, where land sales are most frequent, and where recreational use pressure is greatest. According to county appraisers, the highest values are placed upon lands within 3/4 to one mile back on either side of Highway 204. For example, one acre in the higher value area just described (see "Land Curve Weston Mountain", Attachmant #2) is valued at \$6,874, whereas a one acre parcel in the lower value area beyond the one mile line (see "Very Limited Access", Attachment 3) is valued at over 50% less or \$3,000.

The point being made is three-fold: (1) Land values are very high within one mile along Highway 204, where this subject exceptions area is located; (2) All exceptions properties in question are taxed based upon recreational value and use;

and (3) The escalated values due to recreational use and somewhat to speculation make it too costly to purchase these exceptions parcels for resource uses. In other words, resource use of this exception area is rendered impracticable in part due to high land values and prices, which are directly affected by the regional recreation use of the entire Tollgate area.

Traffic count data also supports regional recreational use along and in the vicinity of the subject exception area. On the "Tollgate Recreation Area" map (following page 6) are 1983 average daily traffic count figures at selected sites along Highway 204. From west to east, the direction most all recreationalists travel, traffic figures drop, indicating the recreational use of adjacent private land. From the National Forest Service boundary, the count increases slightly to Langdon lake. Then from here traffic counts decrease somewhat, all indicating use of the forest service lands and their facilities, and the significant recreational home development around Langdon Lake. Traffic count data at the Union County Line east to just east of Skyline Drive again increases and then drops off slightly, again showing vehicles diverting off from or onto Highway 204 from the good Forest Service roads that lead to developed campsites (eg. Target Meadows, Jubilee Lake, etc.) and other private recreational development along Tollgate Highway and Skyline Drive. It will again be noted that these private lands within the National Forest have been substantiated for commitment based upon the same regional characteristics exceptions criteria, and are located near lesser dense development and less convenient access points along Highway 204 than found at this exceptions area. According to the local state highway engineer, Highway 204 is the most heavily traveled state highway into the Blue Mountains in Umatilla County, and one of the busiest state highways passing over mountainous areas in Northeastern Oregon.

Again, the subject exceptions parcels have direct access along or access very near to Highway 204. Also, a heavily used Forest Service road and county

road to the west and south respectively encircle the subject exceptions area. The opportunity to trespass and recreate on these parcels is tremendous because of the convenient location along this highway and these other two access roads.

Trespass problems due to access convenience are especially true in the wintertime, when side road use is restricted because of snow depths, and therefore recreation use pressure is concentrated on lands along snow-plowed Highway 204, especially in the vicinity of a few "side spot" parking areas. The Tollgate Chalet is across the highway (only 1000 ft. away) and is one of only four pull-off stops wide enough to park along the nine mile recreational corridor. The other pull-off point is just to the west at Blue Mountain Camp. Besides concentrating recreational use here due to parking opportunities, snowmobile traffic is also especially heavy here due to the many recreational homeowners in the vicinity and regional recreationalists snowmobiling along the county and forest service roads. These roads are cleared of trees, offering a nice circle route, making snowmobiling ideal. Snowmobilers often cut across the entire exceptions area from all points along the circuitous route for shortcut purposes and more adventuresome forested snowmobiling. Young trees are often damaged as they are just above snow levels where snowmobiles run over them. Fence cutting has occurred along with other minor damage, and unfortunately some vandalism to property and other improvements.

Summer recreation pressures are also great in the immediate vicinity of the Tollgate Chalet because it attracts many traveling public. They stop here and eat or gas up recreational vehicles and then go off on short treks across private land. Similar vandalism occurs as described above from activities and associated pressures that take place in the winter. The only difference is that the incidence of fence cutting is greater during the summer and fall months.

All this year round recreational pressure has had significant negative impacts upon resource use attempts in the past and have prompted decisions not to use the subject exceptions land for resource purposes. The point here,

however, is that the tremendous regional recreation use (especially in the fall and winter) and easy access that Highway 204 affords, both in part, proves the county's case that the subject exceptions properties are used and committed to a regional, recreational use. This use makes the subject exceptions parcels not practicable and no longer managed for resource purposes.

### Compatibility

Several circumstances exist that assure compatibility with adjacent land uses next to the exceptions area. Zoning density requirements, for one, limits total possible cabins or recreational dwellings to 12-15. This amount certainly can be accommodated easily into the existing, on-site, major utility systems along Highway 204 (phone and electricity) if so desired (see Umatilla Electric Co-op letter, Appendix). Also, existing roads and required improvements to them outlined in the Development Code will assure safe and adequate access into and out of the area. Since there is extensive existing recreational development to the north and west and some development on the northeast, the relatively small amount of planned recreational development permitted is a logical extension with little anticipated conflicts with the adjacent land now used mostly for recreational purposes. (There are nearly 70 recreational dwellings now in the immediate area of the subject exceptions area).

Secondly, the larger exceptions parcel requires a cluster development plan (Comprehensive Plan, pg. XVIII-169, Policy #6). Cluster development standards are rather stringent and require buffering and other mitigating measures to protect nearby lands (Development Ordinance, Section 3.510 to 3.525). Blue Mountain and McDougal Camps adjacent to the west are long-established clustered developments of similar sizes than would be potential development on the 64 acre exceptions parcel. Thus, the adjacent land in this area is the same type of use and is compatible or will be adequately protected and buffered if the eventual 10 to 12 recreational dwellings are developed on the larger tract involved in this exceptions.

Concluding, the resource zoned parcels to the south and southeast should not be impacted anymore than other parcels of similar circumstances and size adjacent to committed and developed land along the Tollgate Recreational Corridor. In fact, clustering standards will require the placement of dwellings and cabins away from property lines and away from the resource zoned land to the south, southeast and east. It has been repeatedly stressed and cannot be emphasized enough about the tremendous recreational use pressures in the Tollgate area, and in particular the immediate area under discussion. Nearby off-highway parking, the Tollgate Chalet, Langdon Lake, Spout Springs Ski Resort, Jubilee Lake, National Forest Service land, used mainly for recreational activities, and the popularity of hunting, fishing, skiing, snowmobile trails and mushrooming all exert great pressures upon the land. Since the overwhelming use in the area is recreational and residentially related homes and cabins, the impacts of planned recreational development on these three exceptions properties will be compatible with the regional characteristics of the area.

#### Resource Impracticalities and Incompatibilities

The county has on many previous occasions listed the numerous resource management problems that exist for properties in the heavily recreated Tollgate area. However, more specific documentation and/or expert testimony is required by the court of Appeals to conclusively show commitment. The following will provide such documentation.

Timber management is a very cumbersome and virtually impossible proposition on parcels along the Tollgate Highway Corridor. This statement is according to Robert Messenger, a professional forester employed by Boise Cascade. During several April 1985 phone conversations with Mr. Messenger, a district timberlands manager for Boise Cascade, it was his professional opinion that the subsequently approved LCDC exceptions lands along Highway 204 in the East Tollgate Area Exceptions were committed to recreational use (see map following page 3). This

approved exception area is only one mile away from the subject exceptions parcels under discussion. In a more recent phone interview, Mr. Messinger reiterated his professional opinion that all lands adjacent to or in the near vicinity of Highway 204 were impracticable for resource uses, especially timber management.

The reasons for Mr. Messinger's recreational commitment point of view was based upon his previous comments in 1985. These factors will be resummarized and correlated more specifically to the subject exceptions area in the following justification statement.

Mr. Messinger's main reason of recreational residential commitment of Tollgate Corridor properties is based largely upon conflicts with numerous existing incompatible land uses that do or will occur if normal timber management were to take place on the subject exceptions lands. He has seen and further visualizes conflicts in the form of noise, dust, road use, slash abatement, fence line maintenance and chemical application. Specifically, the noise, dust and road problems are associated with timber cutting, skidding and log hauling. The noise of chainsaws and heavy skidding equipment is very often unacceptable near recreation homes as is the case in the vicinity of the subject exception parcels. Dust and traffic hazards from logging trucks is another continual forest management conflict common to the entire Tollgate Recreation Corridor Area. Vandalism and snowmobile damage are often a deterrent to growing trees in the Tollgate area.

Other existing and potential timber management conflicts come about from concern over the use of chemicals for insect and vegetation control. This is a controversial practice even though such a management tool may be the only economically practicable method of control. Very seldom will such an effective timber management practice be acceptable near existing cabins, homesites or other similar recreational improvements as is the case adjacent to these subject exception properties. Many, many homes, a church camp, and recreational commercial uses are near or adjacent to this exceptions area.

Another effective management tool not practicable in the Tollgate Recreational Corridor is prescribed fire that prepares a site for reforestation, either natural or planted. The smoke associated with this activity is not acceptable, especially near areas of intensive recreational use like that occurring on and adjacent to the exceptions parcels under discussion.

In conclusion, Mr. Messinger felt that most management activities necessary to optimise timber management and output from the exceptions properties are rendered impracticable because of the adjacent and very densely developed incompatible recreational commercial and residential uses. Even though some management activities are biologically sound and environmentally safe, they have been and usually are not always aesthetically and visually pleasing. The short-term visual quality of clear-cutting, burning, and replanting is not well received in an area of high recreational development like in the immediate area of this exceptions area. Mr. Messinger further expressed that even employing alternative forest management techniques that mitigate or resolve conflicts would be more expensive, and in some cases so expensive that they are not feasible. This would be the case for timber management attempts or conflict resolution alternatives on the subject exceptions lands because their location is nearly surrounded by heavily developed recreational homes and commercially related uses. Regionally, the subject exception area is also within a large recreation area highly valued for its restful aesthetics and scenic beauty.

None of the exceptions parcels are actively grazed or leased for intensive grazing use. These lands are no longer practicable for commercial grazing use in this recreationally dominated region for many of the reasons given above that make timber management impracticable. For example, the presence of recreational dwellings, their occupants and domestic animals (family dogs), and dispersed recreationalists using not only the subject exceptions lands but also adjacent committed lands and nearby National Forest areas, represent existing and potential



problems should there be an attempt to again utilize this area for commercial grazing use. Much public testimony has indicated frequent property damage to recreational dwelling owners' yards and landscaping caused by unattended livestock. This has created incompatibilities and impracticalities to the point where livestock ranchers do not want to lease these lands. If the parcel is of any size, livestock operators are only interested if the land is fenced, and this is not practicable because fencing is expensive and is frequently damaged by hunters, snowmobilers, and even the natural elements (eg. heavy snowfalls). Man caused damage is especially prevalent nearer the Tollgate Highway.

Fencing costs are usually \$2,000 per mile but range from \$3,000 to \$4,000 per mile in the Tollgate area because extra support and wire are needed to withstand the winters (personal communication with Pendleton Grain Growers management who sell fencing materials, May 1985). Expected revenues from grazing leases do not even come close to justify fencing. Again, this is especially true when fences are repeatedly cut and/or run over. This fencing impracticability experience had been documented for several LCDC approved exceptions properties in the Tollgate Corridor.

Don Key, an owner of one of a smaller LCDC approved exceptions parcels (20 acres), had submitted a letter (Attachment #4) typical of grazing management problems along the Tollgate Recreational Corridor. His parcel is just to the west of Langdon Lake, about two miles from the subject exceptions area, but is applicable to all lands along Highway 204. The letter indicated that a maximum of \$200 a year income was all that could be generated on his 20 acre parcel from grazing activities. He is a cattle rancher and farmer in West Umatilla County. (The largest parcel in this exceptions area is three times the size, thereby generating approximately \$600 per year income). This is far from incomes associated with commercial operations. Mr. Key also said that the cost of providing water for livestock would be prohibitive. A well would have to be drilled at great expense for only a very small head of livestock and used only for a very

limited time during the summer months. Nearly the same circumstances occurred on a majority of the LCDC approved exceptions parcels where no significant surface water sources existed. His letter also mentioned the often stated fact or argument of high, recreationally based land costs in this area being economically prohibitive for either resource land purchases or consolidation purposes. An earlier discussion of county appraiser land value curves used in the approval of regional characteristic exceptions for applicable lands along Tollgate substantiated this fact. This factor certainly applies to the subject exceptions parcels which are taxed for recreational use and not for resource. Resource uses are not occurring because they are impracticable, given the recreational nature of the area.

The major points being made regarding the above discussion of grazing impracticabilities are: (1) Exceptions parcels are in three separate ownerships with little chance of consolidation; (2) Only one parcel is of a size that even begins to interest livestock operators, and then only if the land is fenced and some distance away from Highway 204 and some distance from recreational homes. The exceptions area is only 1/8 mile from Highway 204 and bounded by over 25 recreational dwellings to the west and north. The strong likelihood of frequent damage, repair and maintenance costs are not justified when considering the low income returns generated from short-term summer grazing on small tracts. (3) The larger parcel is simply too small for grazing use; (4) There are no resource attributes (eg. water, large parcel sizes, compatible land uses) for practicable commercial grazing use on all of these subject exception lands.

There are several other forest uses under Goal 4 that cannot be practicably applied on the subject exceptions land due in part to existing incompatible recreational home development and the dominant regional recreational commitment in the area. However, the majority of these other forest uses really do not or no longer apply. Specifically, the area where the subject exceptions lands are

located is not in a critical winter range for deer or elk. None of the exceptions lands have streams of any size that support fisheries habitat or water supplies used by others requiring protection. These exception lands are not needed for maintenance of clean air and water because again, there are no major water supplies on them and air quality is excellent in the region. Therefore, the area wouldn't be affected by the insignificant additional development possible on the subject exceptions properties, especially in comparison to the extensive existing development. These exceptions lands are also within a regional recreational area, having low density zones (5 and 10 acre densities); and in the case of the 64 acre parcel, clustering standards are required which permit both open space and most all types of recreational opportunities. Therefore, these parcels are not needed exclusively for open space, for noise buffers or for visual separators between conflicting uses. Lastly, the exceptions lands and general Tollgate area are not severe slope lands, have ground cover and are in a low wind area with stable soils. Therefore, the area is not classified as forest land needed for wind breaks.

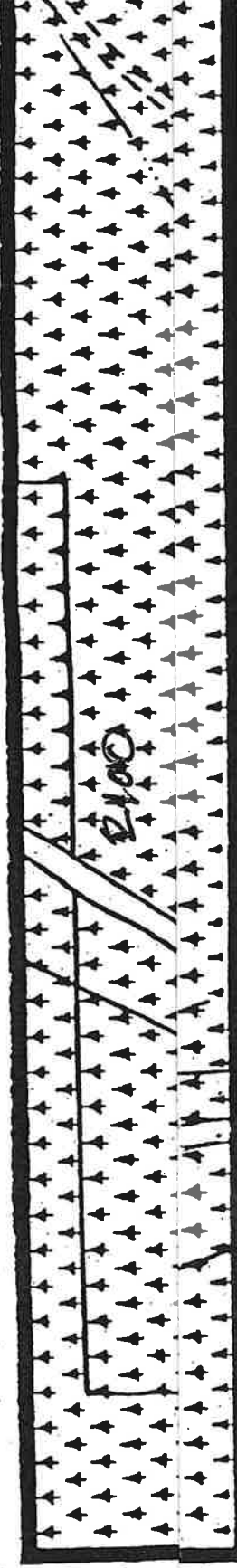
#### Overall Conclusion

The county has provided an abundant amount of evidence that substantiates irrevocable commitment of the subject exceptions parcels as multiple use lands or for recreational dwellings and similar type uses and activities. Most all factors listed in Oregon Administrative Rule OAR 660-04-025 and 028 regarding irrevocable commitment justification have been addressed. The evidence documented under each commitment factor supports the fact that resource management is not practicable. For example, the county has conclusively shown that the subject exceptions parcels are only one small area within a very large regional, recreational use area. Also, the subject exceptions area is located within one of the densest and most heavily recreated areas of developed properties and dwellings found along the entire Tollgate Recreational Corridor. All the recreational uses

in the immediate area have caused or created a situation where the use of the subject exceptions area is overwhelmingly committed to a variety of non-resource related recreation uses (eg. cabins, dwellings, service commercial activities, church camps, snowmobiling, hunting, camping, etc.).

All the above situations render the subject exceptions area no longer practicable to use for resource management. Recreational pressure is so intense and it affects so many land use aspects (eg. economic, social, environmental) that this regional development pattern dictates the infilling of similar recreational residential uses on the subject exceptions parcels. Resource management has been abandoned for the many facts cited above.

UCBC 25 FEB 88  
UCBC 29 FEB 88



BLACK AREA IS NOW GF

LEGEND

29 FEB 88

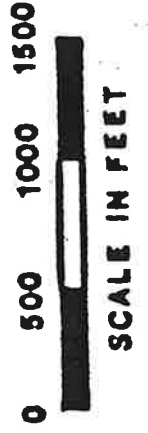
ORD # 88-01  
(4 MARCH 88)

- DWELLING
- COMMERCIAL BUSINESS
- WELL
- ↳ JOINT OWNERSHIP
- COMMITTED LAND BOUNDARY

- MULTIPLE USE PLAN DESIGNATION  
FOREST RESIDENTIAL (FR-5 AC10  
Zoning Classification)
- GRAZING / FORSET PLAN DESIGNATION  
GRAZING FARM (GF- Zoning  
Classification)

\* Letters correspond to areas in the Developed and Committed Exceptions list.

# EXCEPTIONS AREA BATTLE MOUNTAIN & VICINITY





# UMATILLA ELECTRIC COOPERATIVE ASSOCIATION



P. O. BOX 48 • HERMISTON, OREGON 97838

June 9, 1981

TELEPHONE 567-6414

Jim Burns  
Tollgate Area Planning Advisory Committee  
410 North Main  
Milton-Freewater, Oregon 97862

Dear Mr. Burns:

I am responding to a letter dated June 4, 1981 from Bob Perry of the Umatilla County Planning Department (see copy enclosed).

The answer to question #1 - The Umatilla Electric Cooperative Association currently serves 485 customers on Weston Mountain, which includes the area near Spout Springs, which is in Union County. The total number of customers per type is: Rural, 115; Seasonal, 339; and Commercial, 31. There are approximately 22 Seasonal customers and 5 Commercial customers in Union County.

The answer to question #2 - Based upon what currently is being consumed per customer, and if the customer of the future uses what he is today, the UECA can handle 50% more expansions without any major changes. Remember that with the higher cost of power, customers conserve more. Therefore, the 50% figure could conceivably be 75% 20 years into the future. There are many variables that could change this 50% figure. The increased load of Spout Springs could change this over night. A large resort adding considerable load could do the same thing.

The answer to question #3 - From the Cooperative's view point, we react to the customer's needs. Therefore, if additional developments of say two or three times happen in the next 20 years, then we would have to provide the service. One has to realize that many factors influence and change policies that exist today, but may not be here tomorrow. These policies, primarily due to cost, could have an impact on development. For example, some utilities currently require the customer in mountainous regions to pay the total cost in providing service to Seasonal cabins. Also, this type of policy could cause many cabins to not have power. But, this one facet

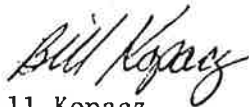
Page 2  
Jim Burns

of the total picture would probably not stop people from building and having cabins. Therefore, if all of the new services in the next 20 years in the mountain received power, then UECA would need to rebuild or add to its substation, and install larger wire to handle the loads. Hopefully, the cost to add new facilities can be justified by those new and old customers who are required to pay those rates for their type of service. UECA currently uses the cost of service approach in determining its rates for each type of customer.

The answer to question #4 - If the development continues as in the past five years, UECA proposes to bury all its main overhead line out of the Weston Substation going east to Spout Springs. Also, we plan to rebuild our existing overhead line west out of the substation down to the Umatilla River. Remember that several decisions are needed from other bodies prior to implementing any major rebuilding or construction. Our Board of Directors, REA and CFC (Cooperative Finance Corporation) ask questions that require answers prior to building or rebuilding any lines. Please remember that all proposals by UECA have their limitations.

I hope this will give the Planning Advisory Committee enough information from which to make a decision. Remember, whatever is done has to be paid by the customer in the long run since we are a non-profit cooperative utility.

Sincerely,

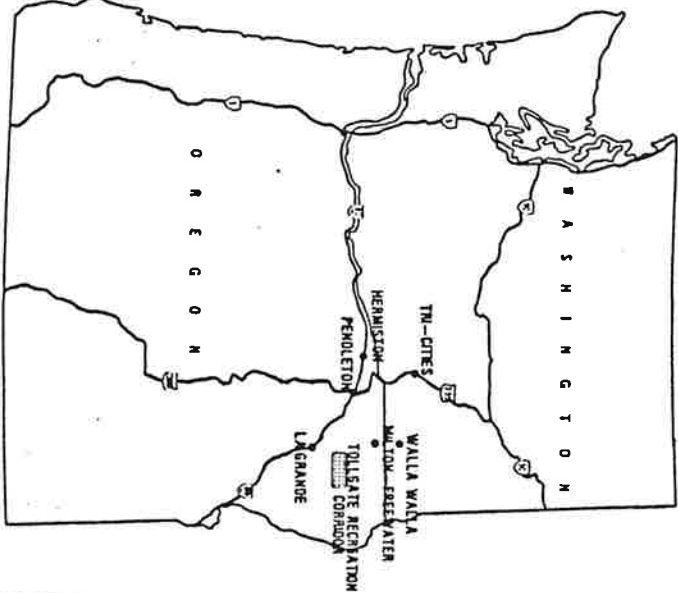


Bill Kopacz  
Customer Service Manager









BK/lh  
encl.

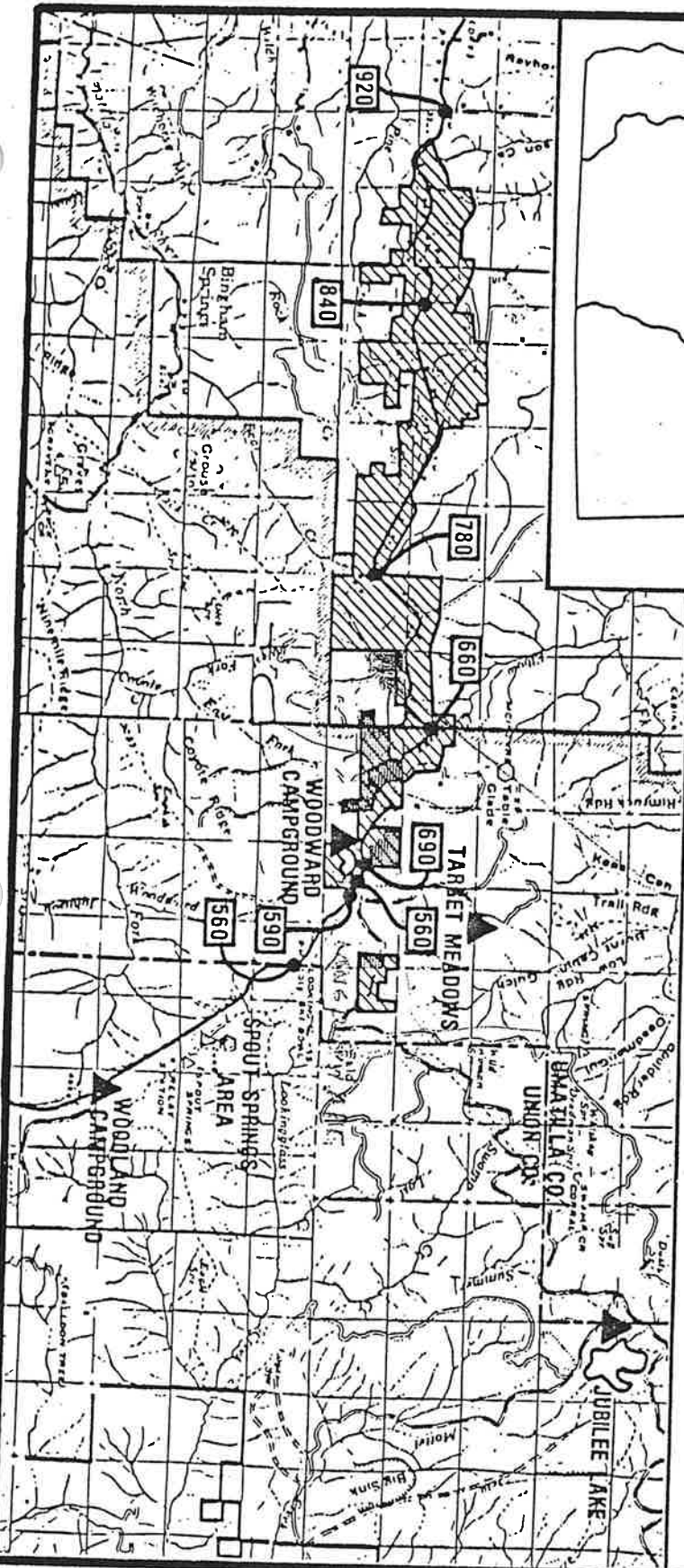
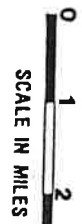
For map of the page 6

LOCATION MAP



LEGEND

-  L.C.D.C. Approved EXCEPTIONION LANDS
-  CAMPGROUND SITE
-  EXCEPTIONION LANDS UNDER DISCUSSION
-  TRAFFIC COUNTER SITE
-  NATIONAL FOREST BOUNDARY
-  NUMBER OF VEHICLES PER DAY  
(Average Daily Traffic Count-1983, Highway 207.  
Source: Oregon State Highway Division.)
-  County Boundary
-  Charge pattern



TOLLGATE RECREATION AREA





P.C. No. 8/14/80

Exhibit # 10

Attachment B

B

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

Umatilla National Forest  
2517 S.W. Hailey Avenue  
Pendleton, Oregon 97801

2310  
August 13, 1980



Mr. Larry Cross  
Tollgate Mountain Resort  
2326 West 16th  
Kennewick, WA 99336

Dear Mr. Cross:

The following is the recreation use data that you requested from Dick Lemmon. The data pertains to recreation use of U.S. Forest Service facilities and land along and near Highway 204.

Developed Sites

Jubilee Lake Campground	25,500 RVDU
Target Meadows Campground	4,000 "
Woodward Campground	10,400 "
Woodland Campground	3,600 "
Spout Springs Ski Area	11,794 "
Spout Springs Recreation Residences	7,800 "
Subtotal, Developed Sites	<u>63,094 RVDU</u>

Dispersed Recreation

Snowmobiling	36,400 RVDU
Cross-Country Skiing	2,000 "
Snow Play	9,100 "
Hunting	40,000 "
Berry Picking, etc.	2,000 "
Subtotal, Dispersed Recreation	<u>89,500 RVDU</u>

Grand Total

152,594 RVDU

RVDU means recreation visitor-days use. A recreation visitor-day consists of 12 visitor-hours in which the visitor-hours contained therein have been spent by persons in any activities, except those which are part of or incidental to the pursuit of a gainful occupation. The 12 visitor-hours may be aggregated continuously, intermittently, or simultaneously by one or more persons. Thus, twenty-four visitor-hours use of National Forest will be recorded as 2 visitor-days. It may help to visualize this as representing 1 visitor-day of use, and 1 visitor-day of overnight use.

Page 2

The use figures for the developed sites are firm figures. The dispersed recreation use figures are estimates adjusted to fit this use along and near Highway 204. The use figures are from 1979.

Sincerely,

*Roger E. Baker*

ROGER E. BAKER  
Resource Staff

Attachment #B



United States  
Department of  
Agriculture

Forest  
Service

Umatilla  
National  
Forest

2517 S.W. Hailey Ave.  
Pendleton, OR 97801

Reply to 2310

Date May 16, 1985

Mr. Bob Perry  
Umatilla Planning Commission  
216 S.E. 4th  
Pendleton, Oregon 97801

Dear Mr. Perry:

This letter is in response to a request for information on the land management allocations for U.S. Forest Service lands along State Highway 204. The allocation for this area under the current Elgin Land Management Plan is LMA 17. LMA 17 provides for a variety of recreational experiences. The objective for this allocation states: "To provide nearly all types of recreation, from the highly developed to the near primitive, located in one general area. The area should have a natural environment that has the potential for both summer and winter activities such as vehicle and tent camping, backpacking, horseback riding, trail bike riding, skiing, snowmobiles, fishing and hunting." Enclosed is a copy of Land Management Allocation 17 to show the direction for the other resource areas. Current policy also directs us to encourage further facility development on private lands..

The following is the recreation use data you requested:

DEVELOPED SITES		RVD*
Jubilee Lake Campground		35,800
Target Meadows Campground		4,900
Woodward Campground		5,200
Woodland Campground		4,100
Spout Springs Ski Area		5,500
Spout Springs Recreation Residence		7,200
DISPERSED RECREATION		
Snowmobiling		24,900
Cross Country Skiing		5,800
Snow Play		3,400
Hunting		165,900
Berry Picking		<u>2,500</u>
GRAND TOTAL		265,200

\*RVD - Recreation Visitor Day



The use figures for the developed sites are firm figures. The dispersed recreation figures are the estimated use figures for the entire Walla Walla Ranger District. The use figures are from 1984.

If you have any questions, please contact Lynn Roehm here at our office.

Sincerely,

*Gordon Reinhart*

GORDON REINHART

Fire and Recreation Staff

LAND MANAGEMENT ALLOCATION 17

OBJECTIVE

To provide nearly all types of recreation in a highly sensitive area. The area should have a natural environment that has the potential for both summer and winter activities such as vehicle and tent camping, backpacking, horseback riding, trail bike riding, skiing, snowmobiles, fishing and hunting.

PRINCIPAL VALUE:

Various recreation.

DIRECTION:

- Timber: Commercial timber harvesting permitted with the following constraints: harvesting entries reduced to decrease conflicts with recreationists; all timber management prescriptions subservient to recreation objectives.
- Recreation: Preference Types I through V.
- Wildlife: Elk habitat will be optimized with habitat provision for other general forest wildlife; snag habitat will be maintained to provide for viable population levels as outlined in the Region 6 and Umatilla Forest Snag Supplement; threatened and endangered species and fisheries habitat protected; old growth habitat will be maintained for self-sustaining wildlife populations.
- Range: Cattle and sheep grazing will meet recreation objectives.
- Fuels: Fuels reduced to levels consistent with protection objectives in areas where timber is managed for consumption; fuel breaks allowed but will meet recreation objectives.
- ORV: Permitted in some areas.
- Transportation: Roads constructed for timber management may be closed to auto traffic.
- Visual: All roads and trails will be classified as Sensitivity Level I (Quality Objectives of Retention and Partial Retention).
- Other: Streamside Management Policy practiced.

Land Curve Weston Mountain  
 (4N36-4N38 & Submaps)  
 July 1, 1981

<u>Acres</u>	<u>\$/Acres</u>	<u>Lump Sum</u>
.25	\$13,000	\$3,250
.50	\$8,000	\$4,000
.75	\$7,250	\$5,438
1.	\$6,874	\$6,870
2	(\$5,438)	\$10,880
3	\$4,188	\$12,560
4	\$3,250	\$13,000
5	\$2,624	\$13,120
6	\$2,220	\$13,320
7	\$1,980	\$13,860
8	\$1,812	\$14,500
9	\$1,668	\$15,010
10	\$1,592	\$15,920
11	\$1,530	\$16,830
12	\$1,470	\$17,640
13	\$1,440	\$18,720
14	\$1,400	\$19,600
15	\$1,342	\$20,130
16	\$1,310	\$20,960
17	\$1,270	\$21,590
18	\$1,250	\$22,500
19	\$1,188	\$22,572
20	\$1,160	\$23,200
25	\$1,110	\$27,750
30	\$1,057	\$31,710
35	\$1,010	\$35,350
40	\$1,000	\$40,000
45	\$890	\$40,050
50	\$805	\$40,250
60	\$675	\$40,500
70	\$579	\$40,530
80	\$549	\$43,920
90	\$519	\$46,710
100	\$498	\$49,800
110	\$490	\$53,900
120	\$460	\$55,200
130	\$430	\$55,900
140	\$400	\$56,000
150 Up	\$390	\$58,500

Note: This curve is based on Average Topgraphy and access in the area.

Note: Overall adjustments for access and Topgraphy limited to + or - 10%

Very Limited Access  
Land Curve Weston Mountain  
(4N36-4N38 & Submaps)  
July 1, 1981

<u>Acres</u>	<u>\$/Acre</u>	<u>Lump Sum</u>
0.25	\$3,750	\$940
0.25	\$3,500	\$1,750
0.75	\$3,250	\$2,440
1.00	\$3,000	\$3,000
2.00	\$2,250	\$4,500
3.00	\$1,664	\$4,990
4.00-40.00	\$1,000	
40.00 and up	Revert to other land curve.	

Note: This curve is based on limited access created by Topgraphy Problems. Extreme Topgraphy may warrant a slight further adjustment.

May 28, 1985

Planning Commission, Umatilla County  
216 S.E. 4th  
Pendleton, OR 97801

Dear Sirs:

We wish to offer testimony that will show commitment or recreation use of our property next to Woodward Campground in the Tollgate/Langdon Lake area.

First, we emphatically state that our 20 acres is neither suitable for grazing, timber or christmas tree sales. These are the only major resource activities taking place in the mountain areas of Umatilla County.

Commercial timber management and or christmas tree horticulture is impractical on our land because of the thick and heavy brush that would have to be removed, cleared and replanted. These preparation costs could amount to \$1,000 per acre. Borrowing the money to do this work at 10% interest is \$2,000 ( $\$1,000 \times 20 \text{ acres} @ 10\%$ ). If added to the \$21,000 original purchase price another \$2,100 in interest would result for a total annual interest cost of \$4,100. You might get \$100 per acre for christmas trees or \$2,000 per year on a 20 acre tract like ours. You can see that economically such tree growing use is impractical. We have also been told that there is a high possibility of the tops of these young trees being damaged by the heavy snowmobile use occurring on our property and on adjacent properties, especially during low snowfall years when they would be exposed. This would make the trees unsaleable. This situation, we have been advised, has occurred in some locations in the Tollgate area both on private and forest service lands.

Grazing management is also not economically practical. The same costs clearing and improving the land are involved (\$1,000 per acre). You may be able to support 5 pair of cows for four months which might net you \$10 to \$200 per year -- a real money making enterprise?!! The only feasible way to manage the livestock so they do not create problems with adjacent recreational uses and lands is to fence them. This is totally ridiculous. We used to run cattle in the general area on much larger properties and have witnessed numerous fence cutting and other similar damage. This is annoying, time consuming and expensive. We know this will happen on our small tract if cattle were contained on it because of all the hunters and snowmobilers that travel across our property. We have had to several times repair the existing fence that runs along part of this property. The cost to provide water for livestock would also be prohibitive because a drilled well is the only possible source of water. A well is extremely expensive and would not make sense to invest in for only 20 head of livestock.

Concluding, we purchased the property some 5 years ago for recreational purposes because of the existing recreational development and similar activities taking place all around our property. We had planned to build a cabin by now except that the bad economic climate of these last several years of which we all have experienced has prevented us from doing so. It makes no sense to us to call our property resource for the reasons we have given above. There is not even a possibility to purchase adjacent lands for consolidation to allow larger resource tracts because the land values



Page 2

here are extremely high and again is one of many cost prohibitive factors restricting and or eliminating resource activities in this region (again, resource use was not our original intent).

We hope this letter will suffice L.C.D.C.'s requirements and permit the County to take an exception for our land and other lands in the Tollgate area. If you have any other questions or need additional data or facts we will try to answer and comply with any of your requests.

Sincerely,

*Don Key*  
Don and Lela Key

PLAN MAP SECTION BEGINNING AT XVIII-404

Hinkle (Area #4)

As originally proposed, this area consisted of approximately 3600 acres of land designated for industrial use. Almost 2700 acres of this land was either vacant or under agricultural production. After further review and refinement of the county's industrial needs analysis, it was found that this area needed to be reduced. Evaluation of the existing land uses and discussion with property owners allowed for an orderly and more compact development area of a reduced size. Industrial development was targeted for approximately 1960 acres of land. This was a reduction of almost 1700 acres of land, which was all vacant or under agricultural use. Of the 1960 acres of land designated for industrial use, approximately 912 acres was found to be developed for industrial use. Another 375 acres was found to be irrevocably committed for industrial use due to the existing land use patterns and development of land for industrial purposes next to these lands. Approximately 660 acres of land was identified for a needs exception under the requirements of ORS 197.732(1)(c).

All of these exception areas were approved and acknowledged by LCDC in 1985 over the objection of the 1,000 Friends of Oregon. 1,000 Friends continued to disagree with the commission's acknowledgement of the county's plan and appealed the commission's approval of the Hinkle exception to the Court of Appeals. That court reviewed the LCDC acknowledgement and found that LCDC had erred in approving the 660 acres of needs (now referred to as reasons) exception lands under the requirements of ORS 197.732(1)(c).

LCDC then remanded this portion of the county's plan back to the county with the requirement that the county, in the Hinkle-Feedville area, "Either justify

an exception for the industrial uses or rezone the area to EFU. If industrial zoning is retained for all or a portion of the site, the exception must meet the requirements below:

- a. An exception to Goal 3. Because the area is not committed to industrial use, a reasons exception (OAR 660-04-022) will be necessary.
- b. If industrial uses are allowed beyond those authorized at OAR 660-04-022(3), an exception to Goal 14 will also be required.  
See also OAR 660-14-040."

After further review of the Court of Appeals' decision, discussions with the LCDC staff, and the landowners involved in this exception (the Union Pacific Railroad), the county determined that a reasons exception was not possible for the entire 660 acres as originally approved by LCDC.

The county's further review revealed the existence of a justifiable boundary for an irrevocably committed exception on a portion of the Hinkle-Feedville Industrial Area. This factor plus other applicable circumstances in OAR's led the county to conclude that a committed exception was justifiable for a portion of the original reasons exception area.

As stated above, there are over 900 acres of developed industrial land in the Hinkle-Feedville area. Much of this land is taken up by the Union Pacific's rail classification yard that lies between the Umatilla River on the south, and the U.S. Bureau of Reclamation's feed canal on the north (see map). The Feed Canal is a large canal that has a 100 ft. right-of-way which conveys Umatilla River water to Cold Springs Reservoir for irrigation purposes. The canal is about 30 feet wide at the top and about 8 ft. deep and travels in a southeast to northwesterly direction in a serpentine manner. The feed canal effectively separates the developed portions of the railroad property from the undeveloped portions. Because of the serpentine nature of the canal and the pattern of

development that has occurred, there are pockets of undeveloped land that lie between the rail classification yard and the canal. These areas the county believes can be shown to meet the requirements of OAR 660-04-028 (lands that are irrevocably committed). Preliminary discussions with the LCDC staff support this contention.

Specifically, factors in OAR 660-04-028(6)(a)(b)(d)(e) and (g) apply to a portion of the Hinkle area. Each factor will be reviewed, and will conclusively show that the land identified is truly irrevocably committed. A majority of the old needed lands exception area will be returned to an EFU Exclusive Farm Use Zone as suggested by LCDC in its Continuance Order.

Based on the county's revisions, there are three major areas that the county considers committed in the Hinkle area totalling approximately 595 acres (see map, page \_\_\_\_\_).

The first area (Area #1) is on the north end of the Hinkle Industrial Area and contains approximately 20 acres of land. It is triangular in shape and is bounded on two sides by railroad tracks (one a main line and one a spur line), and on the third side by the county road which provides access from Hermiston to the whole Hinkle Industrial Area.

The lands to the north and west of this site are lands owned by the Union Pacific Railroad and are vacant sagebrush land. These lands lie across the railroad tracks which is the north mainline for the railroad. Lands to the east area inside the Hermiston Urban Growth Boundary and are occupied by the Oregon State University Experiment Station and a potato packing and processing plant. Lands to the south are used in conjunction with a hay cubing plant and fertilizer plant operated by a local farm cooperative located 1/4 mile further south.

Presently electricity, gas and telephone facilities are available to this site. The property is adjacent to land within the urban growth boundary, and municipal water may be made available. The railroad, which owns this property,

has also developed its own water system for their facilities south of here. The railroad tracks and the county road which surround this property make an excellent buffer from surrounding land use not devoted to agricultural uses. The only land that is being used for agricultural production is that land on the OSU Experiment Station, which is within the Hermiston Urban Growth Boundary. Other surrounding lands are vacant or under industrial use. This property would tie in with the other developed industrial land both in the county and the urban growth area, and would actually be an extension of industrial lands.

The second area (Area #2 on the map) originally consisted of 215 acres of land that were in the shape of a reverse "L". It lies between developed industrial lands to the south and north. After the return of the county's Comprehensive Plan from the Court of Appeals and LCDC, it was determined by the county that there are an additional 220 acres of land which qualify as irrevocably committed. The 220 acres are contiguous to the 215 acres identified and approved by LCDC as irrevocably committed.

The entire 435 acres are in two ownerships: the Railroad and Pendleton Grain Growers (PGG). Both of these landowners have developed industrial or agribusiness related operations adjacent to this committed area.

The existing adjacent uses to the north of this committed area include a fertilizer plant, hay cubing operation, and a farm equipment and irrigation sales outlet operated by PGG. Adjacent to these operations are several other industrial operations within the Hermiston Urban Growth boundary which include a potato processing plant, hay cubing plant, chemical control plant, and farm machinery sales and services. Further to the east, but still north of this committed area, is a large vacant sagebrush covered parcel owned by the Railroad. This parcel lies north of the feed canal and was a large portion of the land that the county attempted to take a reasons exception on in 1985. The Hermiston Urban Growth Boundary is also to the north of this large vacant tract (see map).

The northern boundary of this committed area is formed by Feedville Road and the Feed Canal. The Feed Canal is about 30 ft. wide and about 8 ft. deep and physically separates the railroad lands on either side. The only way to cross the canal is to bridge it.

The eastern boundary is also formed by the Feed Canal. East of the Feed Canal in this area is more vacant sagebrush covered land. Further to the east (less than a 1/4 of a mile) is the Stanfield Urban Growth Boundary. There is a large overnight accommodation facility operated by the railroad in this area for its workers.

To the south is the developed industrial lands of the Hinkle railroad facility. This facility includes repair facilities for rail cars and locomotives, administrative offices, the rail classification yard which has over 30 sets of tracks, and fueling facilities. The mainline of the railroad also is along the entire southern side of this committed area.

The mainline of the railroad heading north towards Spokane, Washington forms a portion of the west side of this committed area while developed industrial land is along the rest of the western boundary (see map). A large feedlot operation is located further to the west which is in a separate ownership. Much of the area to the west and north of this committed area has been identified for Future Industrial Use.

All this development shows the regional characteristics of this area as being a major industrial area in the county. These regional characteristics include major food processors, a major rail transportation facilities, and an ideal location which takes advantage of its close proximity to two freeways. Because of these factors, the county has conclusively shown that regional characteristics irrevocably commit this land to a non-resource use.

As stated earlier, this committed area is buffered on two sides by developed industrial lands and on the third side by the main line of the Union

Pacific Railroad. The fourth side across the Feed Canal is other vacant land owned by the railroad. This adjacent land is not farmed and has no water rights to it. The railroad has indicated that it has no desire to maintain this area for farming as it is adjacent to other developed industrial lands of the railroad's. The soils on the property, even with water, are Class VIc and VIe soils which are not very productive in this area if they were utilized for agricultural purposes. Seeing how these lands are not nor have they been used for agricultural purposes, and the railroad desires to someday have the land designated for industrial use, there would be little conflict with adjacent lands that are actually devoted to resource use.

Committed Area #2 is surrounded by developed industrial land or other physical features such as railroads, irrigation ditches and county roads. The serpentine nature of these features break up the land into odd pieces. There is no water right as stated above and no wheel line or circle irrigation equipment on the property. Even if water were available to this committed area for agricultural purposes, the existence of these physical features and the adjacent developed industrial lands effectively impede practicable resource use of this exception area.

The county also finds that certain existing public facilities and services are available to this property which further irrevocably commit this property to a non-resource use. This area is served by electricity, telephone and gas. The railroad has available a water system to service its land. All parcels have direct access to rail facilities and paved county roads. Telephone service is also available to this area. The site is within a rural fire district and the railroad has its own fire fighting facilities. Because of these existing public or semi-public facilities and services, the county finds further justification for meeting the administrative rule for an irrevocably committed exception. Based upon these findings of existing adjacent land uses, existing public

facilities and services, neighborhood and regional characteristics, natural or man-made features which impede practicable resource use of the property, and other relevant factors (OAR 660-04-028(a)(b)(d)(e) and (g)), the county finds that the standards for an irrevocably committed exception has been as required by the Administrative Rule.

The third committed area (Area #3) lies at the west end of the Hinkle industrial area and consists of approximately 140 acres. The entire tract designated for industrial use consists of approximately 220 acres, but approximately 80 acres is already developed as a gravel extraction, crushing, and rail car loading facilities. The entire 220 acres is under the ownership of the Union Pacific Railroad (see map).

Adjacent land uses include to the north the gravel extraction facility, rail car loading, spur lines and the double track mainline of the Union Pacific. Further to the north across the railroad tracks is irrigated farmland. To the east is a major potato processing plant (J.R. Simplot) and its related facilities (trucking facilities, laboratories, industrial waste, parking) and the Buttercreek Highway, which is a paved two-lane state highway. To the south is the Umatilla River, an irrigation diversion and ditch. The area along the river is considered in a floodprone area, although no mapping has been completed by any regulatory agency. The Umatilla River is quite wide through this area and flows year around. On the west is a small area of pasture land and the Umatilla River.

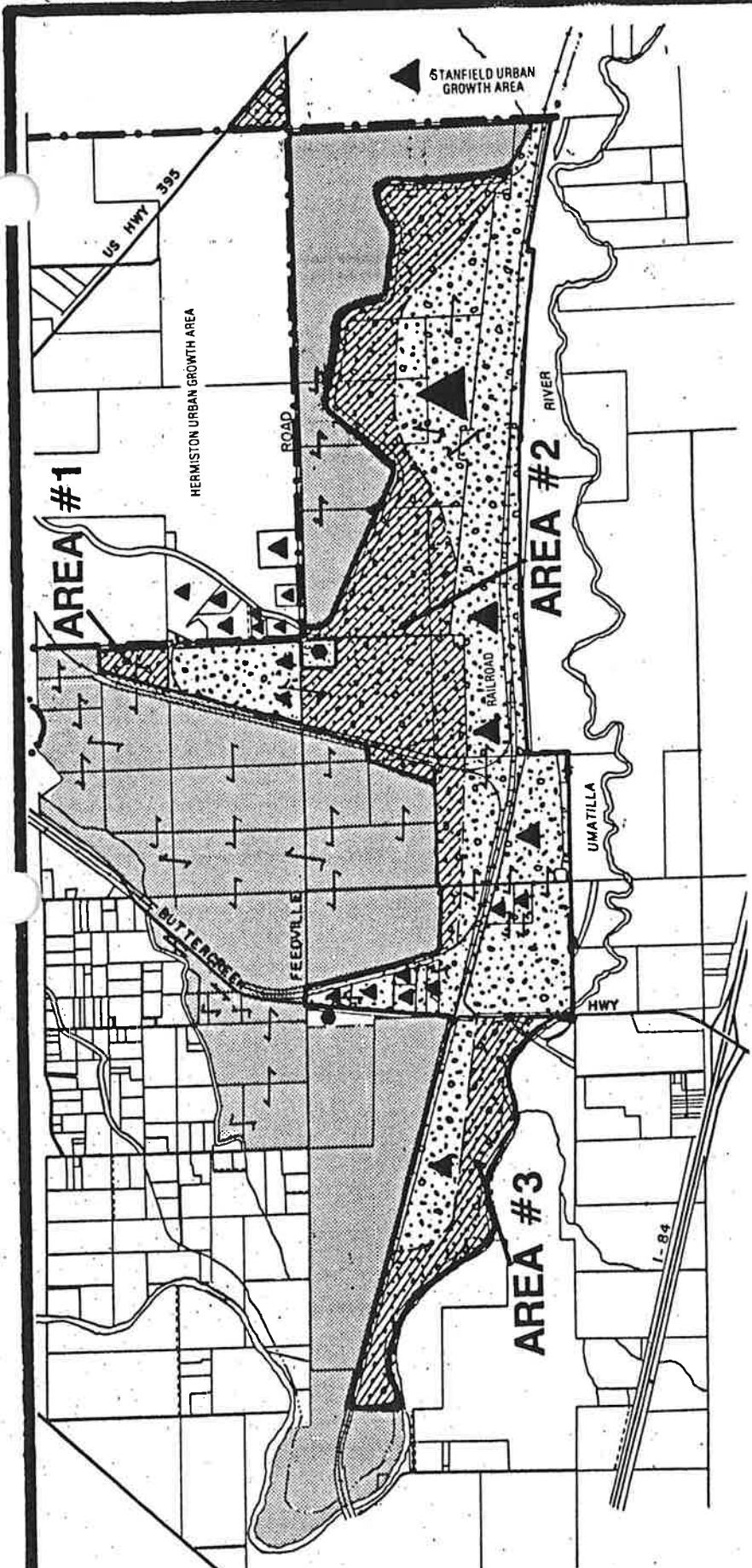
The site is served by a spur line from the mainline of the railroad. A state highway is located on the east side of this area. Electricity and telephone are available to the property, plus the railroad maintains their own communication systems which is on the site. Water for the existing crushing operation is taken from the irrigation ditch that is along the south side of the property.

Committed Area #3 is well buffered from adjacent resource lands by railroad tracks, roads, and the Umatilla River. The agricultural land that is north of



this area lies across the mainline of the Union Pacific Railroad. Through this area the railroad maintains a 100 ft. right-of-way. A double track is provided through this area and the right-of-way is cleared for the full 100 foot width that provides an excellent buffer from the agricultural lands on the north. The land to the east is developed for industrial use, so no conflict between the committed lands and lands to the east will occur in relationship to buffering resource lands. Agricultural land to the south is buffered by the Umatilla River. Prevailing wind patterns would also carry any industrial waste away from these areas (prevailing winds are from the southwest). Only a small amount of agricultural land exists to the west due to the river turning north and the railroad tracks turning west (see map).

The western portion of this committed area has been worked in the early 1970's for gravel extraction. The soils in this area are disturbed and have not been properly reclaimed for future agricultural use. With the development that is occurring on the eastern portion of the site (discussed earlier), this entire area is rendered unsuitable for resource use. For the reasons stated here and above, this area is irrevocably committed to a non-resource use in the county's estimation and understanding of the requirements listed in the Administrative Rule.

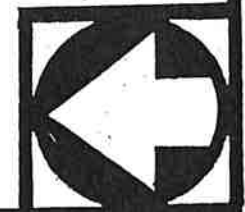


- LEGEND**
- INDUSTRIAL BOUNDARY
  - DEVELOPED INDUSTRIAL LAND
  - IRREVOCABLY COMMITTED AREAS (Refer to text)
  - FUTURE INDUSTRIAL OVERLAY ZONE
  - DEVELOPED AGRIBUSINESS LAND
  - INDUSTRIAL BUILDING OR USE
  - JOINT OWNERSHIP

**LEGEND**

- INDUSTRIAL BOUNDARY
- DEVELOPED INDUSTRIAL LAND
- IRREVOCABLY COMMITTED AREAS (Refer to text)
- FUTURE INDUSTRIAL OVERLAY ZONE
- DEVELOPED AGRIBUSINESS LAND
- INDUSTRIAL BUILDING OR USE
- JOINT OWNERSHIP

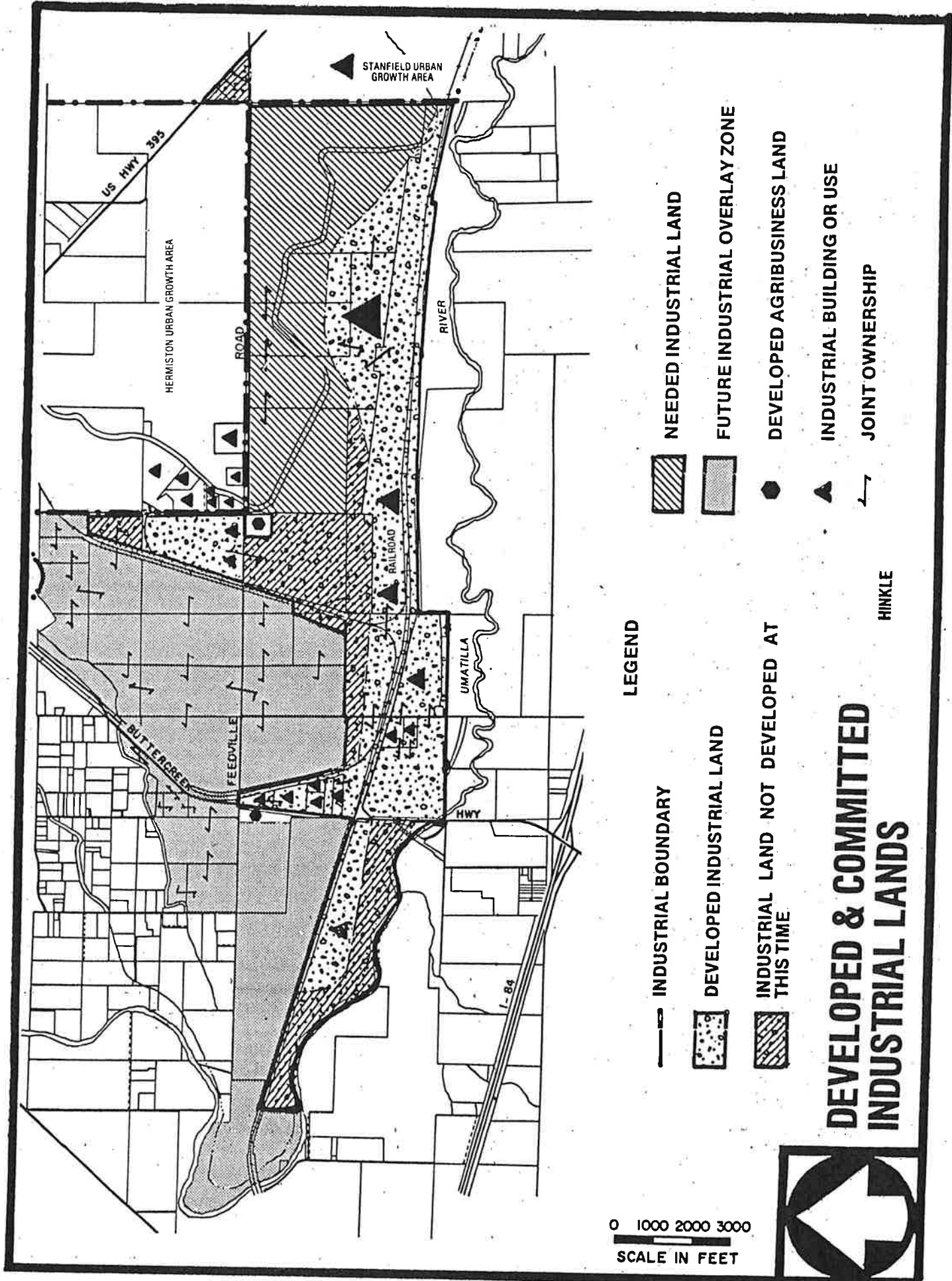
0 1000 2000 3000  
SCALE IN FEET











**DEVELOPED & COMMITTED INDUSTRIAL LANDS**

HINKLE

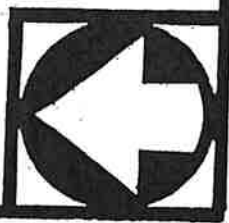
# 1985 Approved Map



## LEGEND

-  INDUSTRIAL BOUNDARY
-  DEVELOPED INDUSTRIAL LAND
-  INDUSTRIAL LAND NOT DEVELOPED AT THIS TIME
-  NEEDED INDUSTRIAL LAND
-  FUTURE INDUSTRIAL OVERLAY ZONE
-  DEVELOPED AGRIBUSINESS LAND
-  INDUSTRIAL BUILDING OR USE
-  JOINT OWNERSHIP

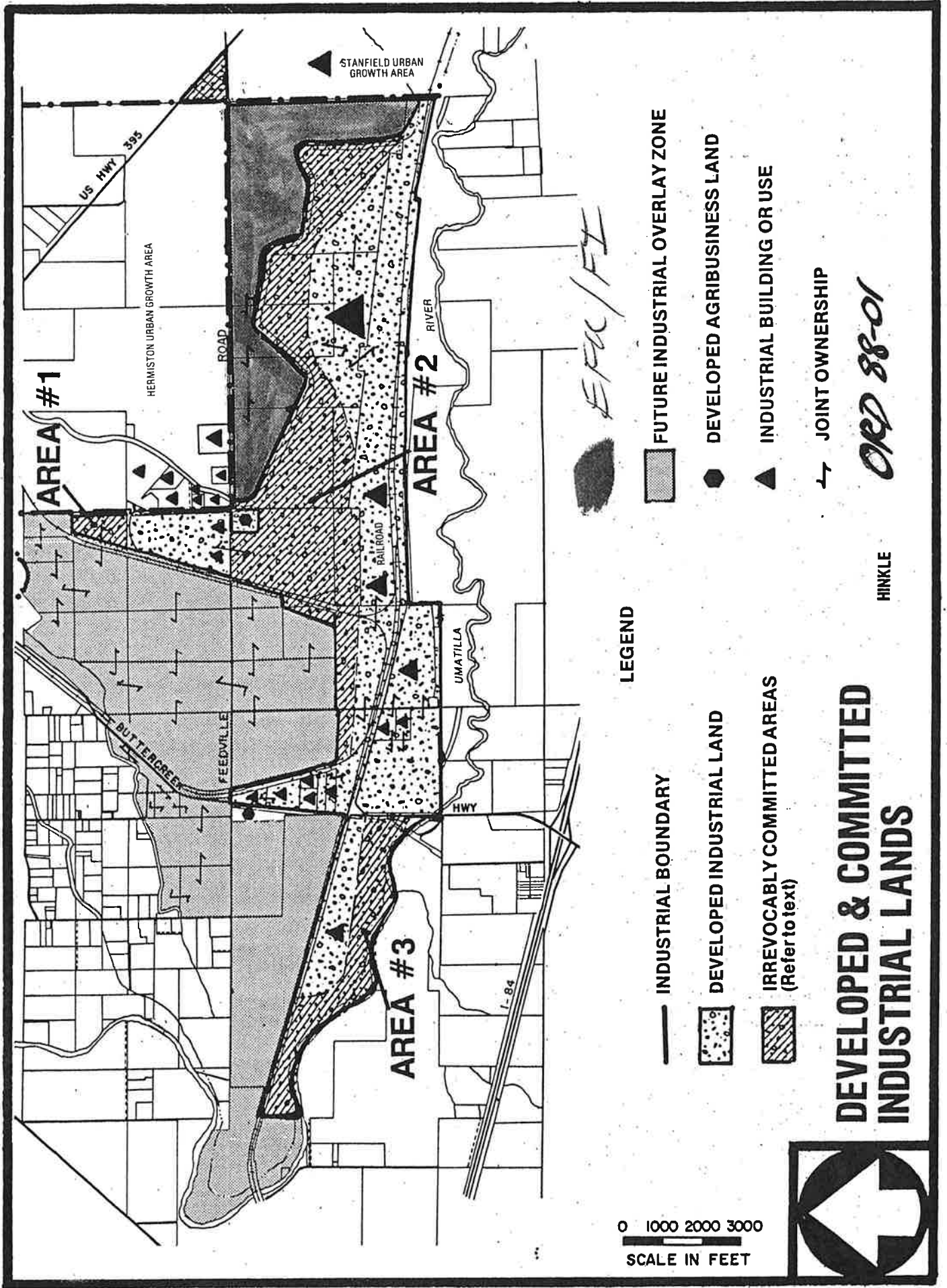
0 1000 2000 3000  
SCALE IN FEET





# DEVELOPED & COMMITTED INDUSTRIAL LANDS





HINKLE

1988 Proposed Revision



LEGEND

- INDUSTRIAL BOUNDARY
-  DEVELOPED INDUSTRIAL LAND
-  IRREVOCABLY COMMITTED AREAS (Refer to text)

-  FUTURE INDUSTRIAL OVERLAY ZONE
-  DEVELOPED AGRIBUSINESS LAND
-  INDUSTRIAL BUILDING OR USE
-  JOINT OWNERSHIP

0 1000 2000 3000  
SCALE IN FEET

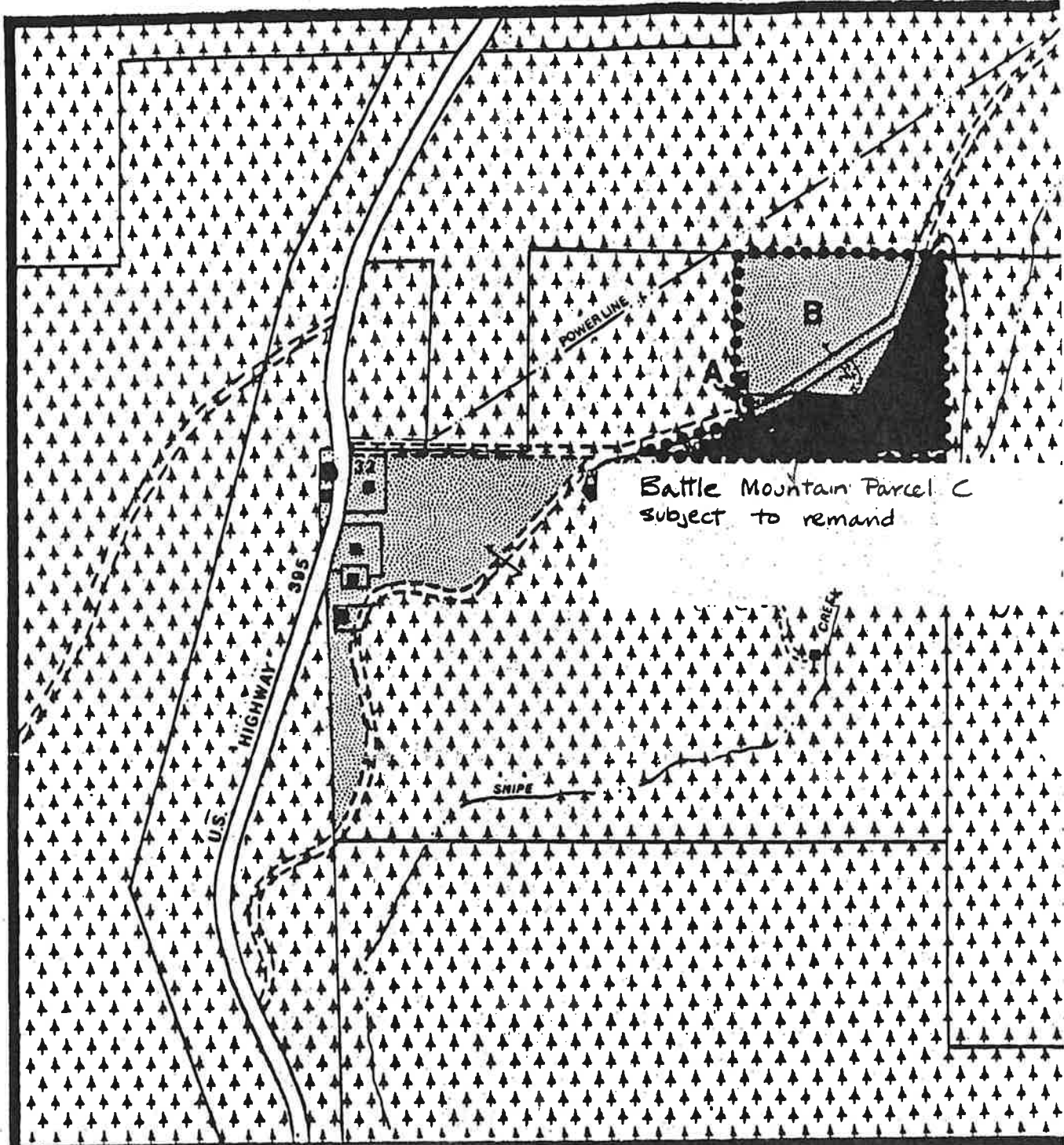


**DEVELOPED & COMMITTED INDUSTRIAL LANDS**

HINKLE

*ORD 88-01*





29 FEB 88  
 CRD# 88-01  
 (4 MARCH 88)

- DWELLING
- COMMERCIAL BUSINESS
- WELL
- ↔ JOINT OWNERSHIP
- COMMITTED LAND BOUNDARY

LEGEND

■ BLACK AREA IS NOW GF

MULTIPLE USE PLAN DESIGNATION  
 ■ FOREST RESIDENTIAL (FR-5 Acre Zoning Classification)

GRAZING / FOREST PLAN DESIGNATION  
 ▲ GRAZING FARM (GF- Zoning Classification)

\*Letters correspond to areas in the Developed and Committed Exceptions text.

# EXCEPTIONS AREA BATTLE MOUNTAIN & VICINITY

