

ORDINANCE NO. 4345

TITLE: AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF ALBANY OF CONTIGUOUS TERRITORY CONSISTING OF 5.52 ACRES OF PROPERTY LOCATED ACROSS FROM LINN-BENTON COMMUNITY COLLEGE BETWEEN HIGHWAY 99 E AND THE SOUTHERN PACIFIC RAILROAD TRACKS AND C-1 ZONING AND WITHDRAWING SAID TERRITORY FROM THE ALBANY RURAL FIRE PROTECTION DISTRICT

WHEREAS, the Planning Commission of the City of Albany has recommended that a certain territory described in Section 1 of this Ordinance which is contiguous to the City of Albany be annexed and that more than 50% of the owners of the property in said area who own more than 50% of the land and real property therein and representing more than one-half of the assessed value of the real property therein have consented in writing to the annexation, said consent having heretofore been filed with the City Recorder in the matter prescribed by law; and

WHEREAS, the City Council by Ordinance No. 4288 adopted on the 23rd day of May, 1979, dispense with an election submitting to the voters of the City the question of annexation of said territory and did at 7:15 o'clock p.m. on the 13th day of June, 1979, in the Council Chambers of the City Hall in said City at the time and place of hearing thereon, and the further question of withdrawing said territory, if annexed, from the Albany Rural Fire Protection District, at which time and place the voters of the City were given an opportunity to be heard on the questions involved; and

WHEREAS, notices of said public hearing were published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of said Ordinance and the published notice, and it appears to be in the best interest of the City and of the area involved that it be annexed to the City of Albany and withdrawn from the Albany Rural Fire Protection District; and

WHEREAS, the City Council finds and determines that the facts and conclusions stated in Exhibit "A" attached hereto and by this reference incorporated herein are true and correct findings of fact regarding annexation and zoning of the property and they are hereby adopted as findings of the Council; now, therefor,

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The following described property to-wit:  
11-3W-30, Tax Lots 300 and 400

(See Exhibit "B" attached hereto and by this reference incorporated herein)

is hereby proclaimed to be, annexed to the City of Albany, Oregon, and zoned as C-1, Neighborhood Commercial.

Section 2: That the above described territory annexed to the City of Albany is hereby withdrawn from the Albany Rural Fire Protection District

Section 3: That the City Recorder shall submit to the Secretary of the State of Oregon a copy of this ordinance, a copy of Ordinance No. 4288, and a copy of the complete consent document signed by the landowners within the territory annexed. The City Recorder shall also, within 10 days of the effective date of this annexation report this annexation to the County Clerk and to the County Assessor of Linn County, Oregon.

Section 4: Conditions

The following conditions shall be met

1. This parcel shall be subject to site plan approval with dedication of right-of-way as an extension of Allen Lane through the properties.

Passed by the Council: February 27, 1980

Approved by the Mayor: February 27, 1980

Effective Date: March 28, 1980

Richard S. Olsen  
Mayor

ATTEST:

[Signature]  
City Recorder

EXHIBIT "A"

PARCEL I:

Beginning at a  $\frac{1}{2}$  inch iron rod on the East right-of-way line of the Pacific Highway and being South  $89^{\circ} 41'$  East 38.78 feet from a point on the West line of and South  $0^{\circ} 31\frac{1}{2}'$  West 2103.70 feet from the Northwest corner of Section 30, Township 11 South, Range 3 West of the Willamette Meridian, Linn County, Oregon, and running thence South  $0^{\circ} 31\frac{1}{2}'$  West 17.1 feet to a point being North  $0^{\circ} 31\frac{1}{2}'$  East 531.30 feet from the quarter section corner of the West line of said Section 30; thence East 284.65 feet to the West right-of-way line of the Southern Pacific Railroad, being the West line of that tract conveyed to Southern Pacific Railroad by Deed Book 301, Page 663, Deed Records; thence North  $0^{\circ} 07'$  East 17.1 feet to the Southeast corner of the tract conveyed to Orval Vern Gleason, et ux, as recorded in Book 308, Page 569, Deed Records, Linn County, Oregon; thence North  $89^{\circ} 41'$  West 284.52 feet to the place of beginning.

PARCEL II:

Beginning at a  $\frac{1}{2}$  inch iron rod 38.66 feet East of a point on the West line of and South  $0^{\circ} 41.5'$  West 287.18 feet from the quarter section corner on the West line of Section 30 in Township 11 South, Range 3 West of the Willamette Meridian, Linn County, Oregon, said  $\frac{1}{2}$  inch rod being on the East right-of-way line of the Pacific Highway; and running thence North  $0^{\circ} 32'$  East, along said right-of-way, 818.48 feet to a point 38.78 feet East of a point on the West line of and North  $0^{\circ} 31.5'$  East 531.30 feet from the quarter section corner of the West line of said Section 30; thence East 284.65 feet to the West right-of-way line of the Southern Pacific Railroad, being the West line of that certain tract conveyed to the Southern Pacific Company by deed recorded in Book 299, Page 332, Linn County Deed Records; thence South  $0^{\circ} 07'$  West along said right-of-way, 818.48 feet to a  $\frac{1}{2}$  inch iron rod; thence West 290.72 feet to the point of beginning.

B.

Findings: (STAFF FINDINGS FOR COMP PLAN AMENDMENT/ANNEXATION AND ZONING FOR SPENCER (A-6-79))

1. This property is directly across from Linn-Benton Community College, south of Ellingson Road, at the point where Allan Lane intersects Highway 99. The property is currently vacant although it appears to have been cultivated for grass farming in the past.
2. The property is contiguous to the City limits on its frontage along Highway 99 and lies within the Preliminary Urban Growth Boundary.
3. North of the proposed site within 1000' are two other proposed neighborhood commercial sites; one is a 3 acre site zoned C-1 at the corner of Belmont Avenue and Pacific Highway; another is 3.66 ac. site considered for annexation at your meeting in April and continued to this agenda. Both of those sites are currently vacant, although the Hearings Board has approved a site plan for the construction of a 7-11 Market at the corner of Belmont and Pacific. To the south, approximately a mile and a half, the City of Tangent is designating a substantial amount of acreage on its preliminary comprehensive plan for a commercial center.
4. Storm sewers are not available to the site which is upstream from an area currently having flooding problems and under study for a master storm sewer system. Storm water currently drains from the site to Highway 99 and to the railroad barrow ditch. From there it runs north along existing natural water-courses. Development of the site will increase the amount of stormwater runoff generated there.
5. Sanitary sewer service is not available to the site and will have to be obtained by a crossing of the existing sewer line serving LBCC beneath Highway 99. The cost of this sewer extension could be borne by the applicant with reimbursements given to him by future benefiting owners when they annex.
6. The applicant has submitted findings (attached) intended to substantiate the public need for a neighborhood commercial development at the proposed site and compliance with LCDC Goals and Guidelines.
7. To the east of the railroad tracks from this property, a current annexation request has proposed industrial development; to the south of this property, on the strip between the Highway and railroad tracks, a substantial amount is currently developed into industrial uses.
8. The Planning Department has received one letter in support of the proposed Annexation/Zoning/Comprehensive Plan Change from L.H. Boswell (attached).
9. The annexation of this property would create an island of unincorporated territory if the Weatherford Annexation is approved.
10. The zoning and comprehensive plan designation for this property will have significant implications on the other remaining parcels between Highway 99 and the Southern Pacific railroad.
11. The entire strip of land between the railroad and Highway 99 exhibits varied land use characteristics ranging from attractive single family residences to medium industrial uses. This problem must be addressed as the City develops its Comprehensive Land Use Plan with appropriate areas designated for residential, commercial, and industrial uses.
12. Strip commercial zoning of Highway 99 in this vicinity should be avoided; however, at least one neighborhood commercial center may be appropriate.

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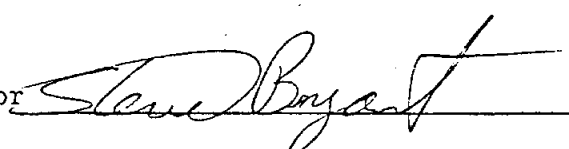
INTERDEPARTMENTAL MEMORANDUM  
Planning Department

SUBJECT: Comprehensive Plan Amendment, Annexation and C-1(PUD) zoning for 5.52 acres across from Linn-Benton Community College between Highway 99E and the Southern Pacific Railroad Tracks.

TO: Mayor and Members of the City Council

VIA: City Manager

FROM: Steve Bryant, Planning Director



DATE: June 13, 1979

This request is for a comprehensive plan amendment from Farm Residential to Commercial and for annexation and C-1(PUD) zoning for 5.52 acres across from Linn-Benton Community College between Highway 99 and the Southern Pacific Railroad tracks.

At its May 7th meeting, the Commission recommended that the Comprehensive Plan be amended from Farm Residential to Commercial for the 5.52 acres based upon the findings presented by the applicant (herein attached) as amended:

The applicant's findings for compliance with LCDC Goal No. 3 will read:

Findings of Fact on Agricultural Lands, LCDC Goal 3:

It is not consistent with existing and future needs for the agricultural products produced upon the proposed annexation property, grass seed, to preserve and maintain the proposed annexation property as agricultural land.

The proposed annexation property is within the urban growth boundary of the City of Albany.

Open space and wooded land remains in flood plain and adjacent agricultural land in great quantity.

The transition from agricultural land to the use proposed by the annexation would have beneficial environmental, energy, social and economic consequences. It is a transition that has been foreseen and planned as the city developed by interim zoning and plans which recognized urban expansion and industrial use of the property. The environmental, energy, social and economic consequences are a part of the planned growth of the City of Albany, necessary to the utilization of city facilities, adjacent land, employment and public service to the area.

The proposed use is needed by the City of Albany consistent with Goal 14 and to provide an orderly growth of the city and sufficient commercial land to meet present day commercial site requirements.

The proposed annexation property use is compatible with and beneficial to related agricultural land. There is an oversupply of annual rye grass land and related grass production causing costs of production to exceed the price of the agricultural product. The reduction of land producing the grass seed would benefit the remaining producers. There is no shortage of agricultural lands and the proposed annexation would have no adverse effect on agriculture.

Mayor and Members of the City Council  
Spencer - Comp Plan/Annexation  
June 13, 1979  
Page Two

B.

The soils are within the classes of soils to be retained in farm use. All lands surrounding the City of Albany are of a similar class. The city must expand ~~to~~ comply with Goal 14, Urbanization, and provide areas suitable for all urban uses, and thus use soils within the classes I through IV to meet the LCDC requirements as a whole. The urban growth boundary encompasses the proposed annexation property and the proposed annexation is necessary to meet Goal 14 of the LCDC.

Compliance with LCDC Goal No. 14 shall read:

The proposed annexation provides an orderly and efficient transition from rural to urban land use. The urban growth boundary has been established to identify and separate the proposed annexation property from rural land. There has been a demonstrated need for neighborhood commercial property to accommodate new commercial development within this area and further improve the economic stability of the community. The annexation of the property is an orderly expansion that has been planned for the public facilities and services of the City of Albany.

and as further supplemented by the staff's findings (herein attached).

The Commission further recommended that the requested annexation and C-1 zoning for the 5.52 acres be approved based on the findings of fact as submitted by the applicant and as further amended, the staff's findings, and with the condition that site plan approval be required for this parcel, thereby eliminating the requested PUD designation.

aph

6.

PROPOSED ANNEXATION REQUEST  
SECTION 30, TOWNSHIP 11 SOUTH  
RANGE 3 WEST, WM, TAX LOTS 300 AND 400  
LINN COUNTY, OREGON

*Applicant's  
findings  
like an old  
document  
6/13/2011  
repaired  
B.J.*

Based upon the following data, conclusions and facts, the initiators respectfully request that the subject property be annexed to the City of Albany, and that the zoning be changed to C-1 PUD in accordance with applicable Zoning and Land Use Regulations.

The area concerned consists of 5.52 acres of undeveloped land with approximately 1,040 feet of frontage on U. S. Highway 99E. The southern end of this frontage is oposite the Allen Lane intersection which provides access to Linn Benton Community College. The property is bounded on the north and south by private residences, and on the east by the Southern Pacific Railroad right-of-way.

Compliance With LCDC Goals and Guidelines

Goal 1. Citizen Involvement

Concurrent with the submission of this application, each land-owner of record within 500 feet of the subject property will be advised, in writing, as to the proposed development. Input will be solicited concerning the types of business activity that would be considered favorable as well as those that may be objectionable. In addition, a survey of the market area will be made to determine which types of retail outlets will be supported.

Goal 2. Land Use Planning

The proposed annexation is within the preliminary urban growth boundary. The current designation of the property is Urbanizing Multiple Family.

*6/13/2011*

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The applicant is requesting a zone change to C-1, Planned Unit Development for the purpose of developing a full service neighborhood shopping center. The applicant is in possession of a contract to construct a 20,000 square foot supermarket building on the south end of the subject property, pending approval of this application.

Goal 3 Agricultural and Forest Lands

and 4.

The preservation and maintenance of agricultural and forest lands would not be adversely affected by the approval of this application.

Goal 5. Open Spaces, Scenic and Historical Areas, and Natural Resources

Open space, as designated in the comprehensive plan, will be unaffected by the approval of this application. Linn Benton Community College provides a generous amount of open space in the vicinity of this project.

There are no known scenic or historical areas that would be affected by the approval of this application.

Goal 6. Air, Water and Land Resources Quality

The use of this property as a neighborhood shopping center will have no significant impact on the air or water quality, except that when those residing in the neighborhood avail themselves of the services of the proposed shopping center, they will usually have operated their automobiles a lesser distance than had the shopping center not been available for their use, resulting in less air pollution. Land resources quality is unaffected by this project.

Goal 7. Areas Subject to Natural Disasters and Hazards

The area for which annexation is requested does not lie within a flood hazard area. No other hazards are known by the applicants.

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Goal 8. Recreational Needs

*This site has not been selected or designated to meet recreational goals. Area needs are adequately fulfilled by existing facilities at Linn Benton Community College.*

Goal 9. Economy of the State

*The approval of this application will have no significant effect upon the economy of the state as a whole, however the eventual completion of a full service neighborhood shopping center will result in property improvements in excess of two million dollars, which is a meaningful contribution to the local tax base. In addition, the envisioned shopping center will require 40 to 50 employees, resulting in an annual payroll of over one-half million dollars.*

Goal 10. Housing

*Although this property is designated as Urbanizing Family Development, the location between a major arterial (Highway 99E) and a main line of the Southern Pacific Railroad results in a very high degree of noise pollution during peak traffic periods and during the passage of high speed freight trains, particularly during the evening and late night hours. In addition, evening classes at Linn Benton Community College generate a considerable amount of evening traffic in front of the subject property. Consequently, a zone change as requested would be in keeping with Goal 10 by preventing the construction of family housing in such an undesirable area.*

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Goal 11. Public Facilities and Service

No known adverse impact would be created upon the various public utilities, facilities and services by annexation of this property and its subsequent development as a neighborhood shopping center.

In the event of annexation, services would be provided as follows:

Water and electricity	Pacific Power and Light
Sewer and fire protection	City of Albany
Natural gas	Northwest Natural Gas Company
Telephone service	Pacific Northwest Bell
Public health	Linn County Health Department

Goal 12. Transportation

Due to the location of the proposed development on a major arterial (Highway 99E) there should be a favorable impact upon the existing transportation plan. When it is considered that in each instance that the proposed shopping center fulfills a need or provides a service, traffic from the area served to a more distant area providing the need or service is eliminated. For example, the nearest comparable supermarket to the proposed development is approximately two miles north. Considerable additional residential development is anticipated within the market area of the proposed shopping center which will result in an even greater future contribution towards reducing the traffic level on Highway 99E north of the proposed shopping center.

Goal 13. Energy Conservation

As noted under goal 12 above, the completion of the proposed shopping center will result in shorter trips for shoppers residing in the market area, resulting in a savings of gasoline and other products relating to the operation of motor vehicles.

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Goal 14. Urbanization

*Annexation of the subject property and the concept of the proposed shopping center are compatible with the goals and guidelines for urbanization as set forth by the Oregon Land Conservation and Development Commission.*

Goals 15 through 19 are not applicable to this application.

Other Considerations

*The applicants are aware of an application presently before the Planning Commission requesting a zone change to C-1 for a 3 acre parcel located in the vicinity of the subject property of this application. We further understand that there are plans to construct a convenience type grocery store upon that property. The undersigned have no objections to the zone change or the construction of a convenience type grocery store at that location. We do not feel that there will be a duplication of services to any significant extent if both projects are carried through to completion. We do feel that the neighborhood needs and will support more than the limited services offered by a convenience type market.*

*In the event that the Planning Commission or the neighborhood should object to the construction of both projects, we firmly believe that the project that we are proposing will offer many more benefits to the neighborhood than can ultimately be offered on the smaller parcel that the convenience store will be located on.*

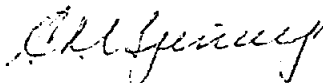
*The applicants feel that the request for a zone change is in keeping with applicable goals and guidelines cited above and that the requested change will put the subject property to a higher and better use than allowed under the present designation, further that the community will benefit from the services provided, and that the proposed shopping center will make a beneficial contribution to the orderly growth of our city.*

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The prime reason for using the planned unit development procedure for the proposed shopping center is to provide the city planners with the assurance that they will have the opportunity to imput to the developer, any guidelines deemed desirable and be assured that they will be followed.

Respectfully submitted,

  
C. D. Spencer Jr.

Louise M. Spencer  
3013 S. W. Lawnridge  
Albany, Oregon 97321

*"Neighborhood Shopping Center"*

EXHIBIT "A"

TO COMPREHENSIVE PLAN AND/OR ZONE CHANGE APPLICATION NO. —

*Submitted  
By appli-  
cant at  
5/7/77  
advised*

PUBLIC NEED

The proposed development will definitely fulfill an existing public need, and will do so in a better manner than the two other proposed commercial properties. This property has by far the superior location due to the fact that it is located at a principal intersection that is designed for heavy automotive traffic. It is neither an entrance to a residential neighborhood, nor is it located almost a mile from a major highway. This property is large enough to provide a "Neighborhood Shopping Center" which will eliminate many unnecessary vehicle trips to shopping centers many miles distant from this area. This will provide a savings of fuel and time for people in our area. The services we plan to offer through this shopping center do not in fact exist in this neighborhood.

*Bij*

SIMILARLY ZONED PROPERTY

There is approximately 31 acres of commercial property beginning approximately 1.7 miles to the north of the property referred to in this application. The commercial property to the north is primarily devoted to three major commercial users (two farm implement sales and services, and one retail food chain store). The majority of the balance of the used commercial property is devoted to non-retail type uses i.e., medical, Red Cross, and even some multi-family uses. It does not serve the public need and market demand of this neighborhood. We are in need of a satellite of this type at this location.

VACANT PROPERTY AVAILABLE

Similarly zoned property does exist and there are some vacant sites, however, if this type of development was to be located in the now existing commercial property, it would serve no purpose to the market area now developing in this neighborhood. We do not wish to compete with a chain food market, but to provide a convenient full service neighborhood shopping center. It would be questionable to introduce "retail sales" in the vicinity of the Liberty School which is developing especially well in the "professional" character.

#### MARKET DEMAND

We recognize the fact that market demand is created along with new development. This area is developing with many homes which need the neighborhood services we propose to provide in a compatible shopping center. This shopping center will supply the existing market demand and grow with the area.

At the present time, there are about 227 new and relatively new homes including some multiple family units. An immediate market of approximately 510 people within walking distance exists. The surrounding area will produce an additional 1,500 people. The incoming traffic from the south as well as the traffic from the west provides many vehicle trips per day past this property. In addition to future markets, there is already an existing market demand.

#### VACANCY RATES

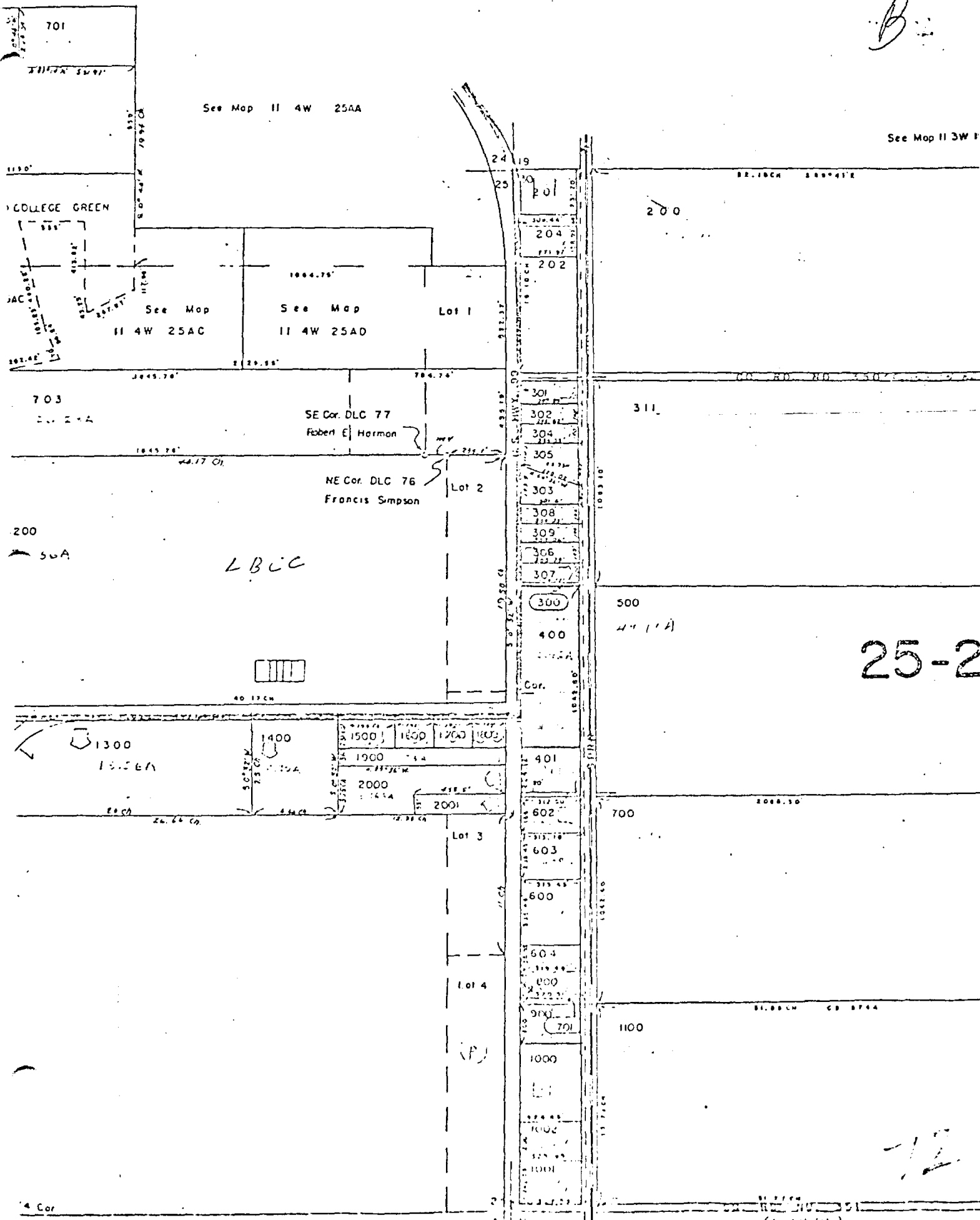
Vacancy rates, per se, do not exist.

#### OTHER QUANTIFIABLE DATA

Due to the unique location of this property, the logical zone is commercial. It is the proper size for neighborhood commercial, especially with the Commercial P.D. which will allow for the input of the City Planning Staff to assure a development compatible with the area. The applicant is in possession of a signed contract to proceed with a supermarket on the property upon your favorable consideration. Engineering features have been reviewed and we find it is feasible to proceed with this type of development. Utilities are available and the companies have been contacted. As depicted by the "Preliminary Sketch" the property can be developed with pride. Lastly, this development will be large enough to provide some employment for students attending L.B.C.C. so they can earn extra money without traveling many unnecessary miles.

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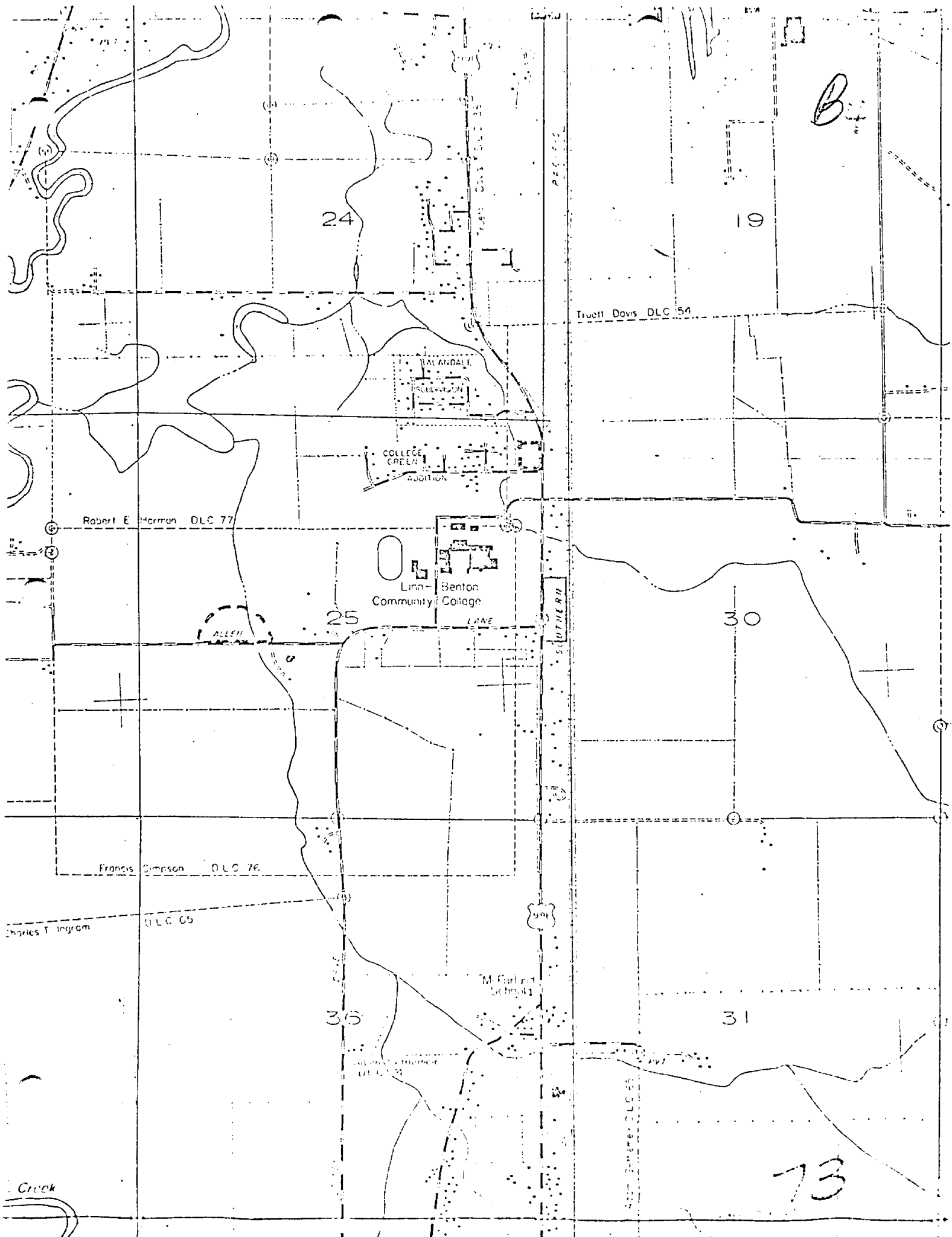
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RECORDS



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Truell Davis DLC 54

WALLENDALE  
BUILDING  
COLLEGE GREEN  
ADDITION

Robert E. Herman DLC 77

Linn-Benton  
Community College

25

30

ALLEN

LANE

SOUTHERN

Francis Simpson DLC 76

Charles T. Ingram DLC 65

501

35

31

M. Earl and  
Schmidt

W. J. Hunter  
DLC 71

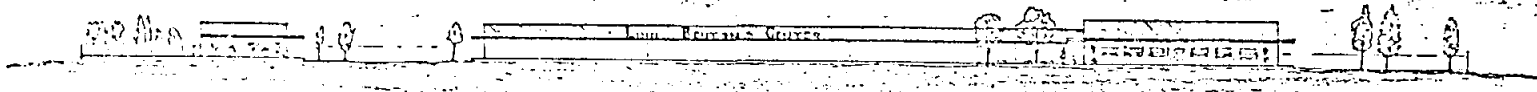
W. J. Hunter DLC 65

Creek

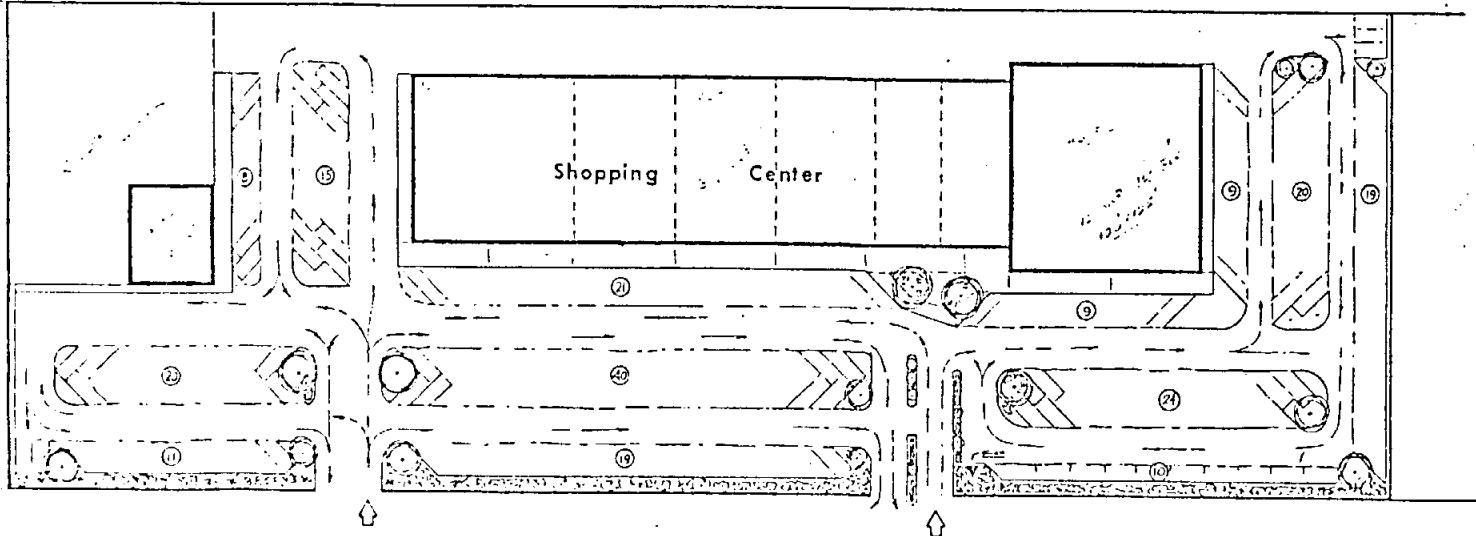
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PROPOSED SHOPPING CENTER



S. P. R. R.



HWY. 99

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Beginning at a 1/2" iron rod on the East right of way line of the Pacific Highway said rod being S.89°41'E. 38.78 feet from a point on the West line of and S.0°31'30"W. 2108.70 feet from the Northwest corner of Section 30 in T. 11 S., R. 3 W. of the Will. Mer., Linn County, Oregon; and running thence S.0°32'W., along said right of way line, 835.38 feet to a 1/2" iron rod which is 38.66 feet East of a point on the West line of and S.0°31'30"W. 287.18 feet from the Northwest corner of the Southwest quarter of said Section 30; thence East 290.72 feet to a 1/2" iron rod on the West right of way line of the Southern Pacific Railroad as described in Book 299, page 332, Linn County Deed Records; thence N.0°07'W., along said railroad right of way line, 833.78 feet to the Southeast corner of that parcel conveyed to Orval Vern Gleason, et ux, by deed recorded in Book 308, page 569, Linn County Deed Records; thence N.89°41'W. 284.52 feet to the point of beginning.

Checked and approved this 18th day of July, 1979.

*Orris A. Carnegie*  
\_\_\_\_\_  
Orris A. Carnegie  
Linn County Surveyor



1864.75'

See Map  
11 4W 25AD

Lot 1

29.55'

784.74'

SE Cor. DLC 77  
Robert E. Harman

U.S. HWY. 99

CO. RD. NO.

311

NE Cor. DLC 76  
PARCEL 1 TL#300

Lot 2

P.O.B. - S89°41'E 38.78' and S0°31½'W  
2108.70' from the northwest corner of  
Section 30, T.11S., R.3W.

301  
302  
304  
305  
303  
308  
309  
306

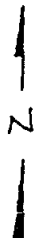
S0°32'W 16.9'  
S0°31½'W 17.1'

N89°41'W 284.52'

East 284.65'

N0°07'E 17.1'

SPENCER ANNEXATION  
A - 6 - 79  
JUNE 1979



40.17 CH

1400

PARCEL 2 TL#400

N0°32'E 818.48'

S0°07'W 813.48'

P.O.B. - East 38.66' and S0°41½'W  
287.18' from the quarter corner on the  
west line of Section 30, T.11S., R.3W.

West 230.72'

2088.50'

1500

1600

1700

1800

Lot 3

312.50'

602

313.18'

603

315.45'

600

604

319.48'

800

320.51'

900

1000

700

31.85 CH CS 37

1100

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Orris A. Carnegie*

OREGON  
MAY 2, 1947  
ORRIS A. CARNEGIE  
213

1979.10.11