

APPENDIX D

Goal 3 Exceptions

1. Lucas Property
2. Southeast Brooks Area
3. Hopmere Area

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***STATE PLANNING GOAL EXCEPTION
FOR THE LUCAS PROPERTY -
BROOKS COMMUNITY PLAN***

Background

Virgil Lucas owns an 11.8 acre parcel located on the south side of the developed Brooks community. The property is identified as Tax Lot 800 on County Assessors map 6S-2W-17C. A copy of this Assessor's map is enclosed to identify the property location.

This parcel is currently zoned EFU, however, it is not currently in farm use and it has not been in farm use during the recent past. The property has a history of use for wood products manufacturing. In the past the parcel had been used for a timber-processing operation, and activities within the site have included a log deck, bark dump, and other activities related to this type of use. The property's condition in the past is shown on aerial photos from 1967 and 1971 that are on file with the County, and in these photos the surface appears to be highly disturbed from activities other than farming. Copies of these photos are attached. More recently the property has been the site of a wood pallet and box manufacturing business (Western Pallet & Box Co.) which has operated in the north part of the property since the mid-1970's.

The property is situated along the east side of Pueblo Avenue, a public street. The entire length of the property borders the street. Pueblo Avenue extends south from Brooklake Road parallel to the Southern Pacific Railroad (SPRR), and provides the only street access to the property. The parcel is 980' north-south (measured along Pueblo Ave.), and 480' across along its north line. As shown on the County Zoning map, this parcel alone breaks the continuity of the southern Brooks community boundary between the SPRR and Highway 99E. A copy of the zoning map that shows the property and its relationship to the surrounding lands within Brooks is attached.

As the Zoning Map shows, the property is situated in between lands in Brooks that are zoned and used for industrial and commercial activities. The parcel is surrounded on the west, north and east by lands that are currently developed or which are designated for development as a part of Brooks.

The land across Pueblo Avenue to the west is currently zoned IL (Light Industrial), and is occupied by the Oregon Onions agricultural processing operations. The lands to the east are currently zoned CR (Commercial Retail) and CG (Commercial General). To the north, the parcel borders property that is currently zoned IC (Industrial Commercial) and AR (Acreage Residential), which is also used as part of the Oregon Onions operation.

The IL, IC, CR and CG zones are urban zones that allow a wide range of industrial and commercial land uses.

The AR property to the north is owned by Oregon Onions. Under the proposed Brooks Plan, this property is proposed to be designated "Industrial" and zoned IUC - Unincorporated Community Industrial. This will bring all of the Oregon Onions property under a uniform Plan and zone industrial designation. Similarly, the IC property to the north is owned by Marion County Fire District 1, and it is proposed to be designated "Public" and zoned P along with the rest of the Fire District property as a part of the Plan. Therefore, under the proposed Plan the zones to the north of the subject property would change from AR and IC, to IUC and P. The effect of the proposed changes is that there would no longer be residential zoning adjacent to the subject property, and the industrial zoning would be applied to property that is owned by an industrial activity, rather than a public agency.

Only the southern boundary of the property does not border land that is within the recognized Brooks community boundary. The south boundary of the parcel is equivalent to the southern extent of the bordering industrial and commercial lands. The land to the south is zoned EFU. The subject parcel is the only land in the Lucas ownership at this location, and there is no contiguous EFU land in the same ownership.

The Proposal

Virgil Lucas is the owner of Action Truss, a manufacturer of structural wood building trusses. Mr. Lucas proposes to locate the business on the Brooks property. In order for this to occur he requests that the property be included within the Brooks community boundary and zoned IUC (Unincorporated Community Industrial). The manufacture of structural wood building trusses is included in SIC 2439 and fits precisely within the permitted uses that are included in the proposed IUC zone, under 164.020(A)(1)(c)(i), "Manufacture and processing of millwork, veneer, plywood, and structural wood members (SIC 243)."

Because of the property's location and its relationship to the adjoining industrial and commercial lands, including the property within the Brooks community boundary would be a reasonable and logical measure. The property has not been in farm use and the suitability of the property for farm use has been adversely affected by the past industrial activities. The property borders an improved public street that extends south from

Brooklake Road and serves the existing industrial lands to the west. The property's southern boundary coincides with the southern extent of the existing, adjacent industrial and commercial lands within the community boundary, and including the property within the boundary will not extend the community beyond its current limit or intrude into any adjacent land in farm use. Due to its location, street access, the surrounding uses, and its past and current use, the property has historically been considered a part of the community. Including the parcel within the community boundary and zoning it for industrial use will recognize the past and existing use of the property as an appropriate and logical site for ongoing wood products manufacturing.

Brooks Community Plan

The LCDC Unincorporated Communities Rule, OAR Chapter 660 Division 22, requires counties to plan and zone for unincorporated communities. Under OAR 660-022-0010(9), Brooks qualifies as an "Urban Unincorporated Community". 660-022-0020(2) requires that a boundary for the community be established to separate lands within the community from rural resource lands. The lands within the existing developed portions of Brooks were Acknowledged as a Goal 3 Exception area as part of the 1980 "developed and committed" Exception to Goal 3 for Brooks, which was designated as a Rural Community in the 1981 Marion County Comprehensive Plan. Under the current Administrative Rule, 660-22-0020(3) stipulates that only land meeting certain criteria may be included in an unincorporated community boundary. As described in (3)(a), this includes land acknowledged as an exception area and historically considered a part of the community provided that the land only includes existing, contiguous concentrations of commercial, industrial, or public uses, as provided under (3)(a)(A).

The determination of the community boundary has been a focus of the County's Brooks Community Planning process, and inclusion of the Lucas property for the use proposed has been examined as a part of this process. The consideration of the property is consistent with the requirements of OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities". Under -0030(3), the County Plan may authorize only those new industrial uses that meet the requirements found in (3)(a)-(f). The County has determined that the proposed use will be consistent with -0030(3)(c), "Small-scale, low impact uses", as defined in -0030(11). Also, the community public facility plan assessed the sewer and water capacity available to the area. The proposal's impact on these public services has been considered, and the proposed use can be accommodated within the existing service levels that are available to the community. This is consistent with

-0030(e). The property has been included in the Sewer District's system capacity analysis, and although the site is not at present within the District boundary, it is contiguous to the boundary on three sides.

The traffic impacts of the proposed use have been a primary consideration as part of the community planning process. The County's traffic analysis has determined that the proposed use will generate 77 trips per day, and just fifteen trips during the evening peak hour. These traffic volumes will not exceed the capacity of the road system that serves the site, cause a change in the functional classification of any road, or cause the level of service (LOS) at an affected intersection to decrease below acceptable levels. This is consistent with -0030(7), which permits the County to allow only "...those uses which are consistent with identified function, capacity, and level of services of transportation facilities serving the community..."

Because the proposed use is a small-scale, low-impact use that will not exceed the utility service capacities of the community or the capacity of the transportation system, it is consistent with the requirements of 660-022-0030 for inclusion in the Brooks community.

State Planning Goal Exception

Inclusion of the Lucas site in the community boundary and redesignating/rezoning it from EFU to IUC requires adoption of a State Planning Goal Exception to Goal 3, "Agricultural Lands". The site has been considered to be "committed land" during the Brooks community planning process. The requirements for a Goal Exception are provided in OAR Chapter 660, Division 4. The requirements that apply to this proposal are addressed as follows:

660-004-018 - Planning and Zoning for Exception Areas

(1) Purpose. This section explains that an exception for "committed land" is intended to recognize and allow continuation of existing types of development in the exception area. In this case, the subject property has a history of use for wood products manufacturing, including timber processing and wood pallet and box manufacturing. The manufacturing operation was established on the property in 1974 as Western Pallet & Box Co. The proposed use is also wood products manufacturing, and it will be a continuation of the type of use that has occurred on the property. The Plan proposes that the use will be limited under 660-022-0030(3)(c) to a small-scale, low-impact use, through the

application of a "Limited Use Overlay" to the Lucas property that restricts uses and activities and establishes specific minimum lot area and lot coverage standards for the use.

(2) This section requires that for "committed lands" the exception limit the uses, densities, and public facilities and services to meet the requirements of part (a) or (b). Part (a) requires the proposed uses, densities and public services to be the same as the existing land uses. Part (b) applies to uses proposed as rural uses. In this case the proposed use is not a rural use, and part (b) is not applicable. Part (a) is addressed as follows:

(a) Which are the same as the existing land uses on the exception site:

The existing land use on the property is a type of wood products manufacturing, which was established on the property in 1974. The proposed use is a continuation of the wood products manufacturing use that has been present on this property. The proposed use is the same type of land use as the current use. The use of the property will be limited through the IUC zoning designation and placement of a "Limited Use Overlay" on the property. The proposed Limited Use Overlay will limit the use to SIC 2439, "manufacture of structural members and wood trusses", in a structure or structures not exceeding 20,000 s.f. of floor area. Based on the use proposed and the limitations to the use of the property that will be imposed, the proposal meets this requirement.

The proposal is to include the site within the Brooks urban unincorporated community boundary. The determination of the community boundary has been undertaken for compliance with the requirements of OAR Chapter 660 Division 22. Inclusion of the site within the community boundary considers its historical relationship to the community, its relationship to the existing transportation and service facilities, and its past non-rural use which is similar to the adjacent lands that are within the existing community boundary.

The proposed use is a type of wood products manufacturing which is included as a permitted use in the IUC zone. The allowed use of the property will be limited to SIC 2439 by applying a Limited Use Overlay to the property. The density of the use will be limited to a "small-scale, low impact" use under 660-022-0030(3)(c), which limits the building area to 20,000 s.f. The use of the property will involve gravel storage, parking, and loading areas; and on-site water and sewage disposal or connection to the services provided by the service district. With these limitations the proposed use will maintain the land in a manner that is appropriate for its location within the Brooks unincorporated community boundary, and consistent with the provisions of -018(2).

In addition to being appropriate under -0018(2)(a) in terms of the type of proposed land use and the limitations that will be imposed on the use, the proposed use will be compatible with adjacent resource uses. The only resource land adjacent to the subject property is to the south. The other adjacent lands to the east, west, and north are within the existing Brooks community boundary. The proposed use is wood products manufacturing, which is a continuation of the existing use of the property. The adjacent resource use to the south is farm use. The exception site is accessed by Pueblo Avenue, which extends south from Brooklake Road. These streets serve the Brooks community. Pueblo Avenue terminates at the south boundary of the property, and does not extend through or across any land that is in farm use. As a result, no traffic from the site will pass through land in farm use. The proposed use will not create a significant impact in traffic type or volume at this location. There will be no direct access to farm roads, and no interference with farm traffic at this location. There has been no evidence of conflict or interference between the use of the property for wood products manufacturing and the adjacent farm use to the south. For these reasons, the proposed use will be compatible with adjacent resource uses.

660-04-028 Exceptions Requirements for Land Irrevocably Committed to Other Uses:

(1) A committed lands exception may be adopted when existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable. In this case, wood products manufacturing was established on the site in 1974. The property is situated in between lands in the existing Brooks community that are zoned and used for industrial and commercial activities. The parcel is surrounded on the west, north and east by lands that are currently developed or which are designated for development as a part of Brooks. The land to the west is currently zoned IL (Light Industrial), and is occupied by the Oregon Onions agricultural processing operations. The lands to the east are currently zoned CR (Commercial Retail) and CG (Commercial General). To the north, the parcel borders property that is currently zoned IC (Industrial Commercial) and AR (Acreage Residential). The AR land is also used as part of the Oregon Onions operation. The existing IL, IC, CR and CG zones are urban zones that allow a wide range of industrial and commercial land uses. The AR land is proposed to be redesignated and rezoned to IUC, and the IC land is proposed to be redesignated and rezoned to P, in the proposed Plan. The subject property also borders the Sewer District boundary on three sides.

In addition, the exception property is situated along the east side of Pueblo Avenue, a public street. The entire length of the property borders the street. Pueblo Avenue extends south from Brooklake Road and parallels the Southern Pacific Railroad (SPRR). This is the only street access to the property. Therefore, access to the property is through the unincorporated community, and not through rural land.

Three sides of the property border lands that are developed or designated for development within the Brooks community and are contiguous to the Sewer District. In the past the site was the location of a timber processing operation, and wood products manufacturing was established in the site in 1974. The access to the site is from public streets in the community, which do not extend into the farm land to the south. Taken together these factors make the uses allowed by the existing land use designation impracticable. The proposed exception is consistent with the factors of -0028(2)(a)-(d) as follows:

(2) Whether land is irrevocably committed to non-resource use depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must therefore address the following:

(a) The characteristics of the exception area:

The exception area is 11.8 acres. A wood products manufacturing businesses was established on the site in 1974. Prior to that the site was used for timber processing. The site borders land in the Brooks community on three sides. The north, east, and west boundaries of the site border land within the Brooks community that is currently used or designated for industrial, commercial, or residential development. The site also borders the service district boundary on three sides. The border with developable non-resource land that is within the community represents 79% of the site's perimeter. In addition, the street access to the site is through the community. Based on these factors, the characteristics of the site are as a wood processing and manufacturing location surrounded by non-resource lands within the unincorporated community, rather than as a site for commercial farm use.

(b) The characteristics of the adjacent lands:

The lands to the north, east, and west of the exception site are within the Brooks community, and within the service district. The adjacent land to the north is zoned IC and AR, the adjacent land to the east is zoned CR and CG, and the adjacent land to the west, across Pueblo Avenue, is zoned IL. These zones are non-resource, urban land use

designations. The IL, IC, CR, and CG zones allow for intensive industrial and commercial uses. An agricultural products processing activity is located in the industrial zoning to the west of the exception site, as well as in the AR land to the north. Commercial lands are located to the east. Based on these factors, the characteristics of the lands to the north, east, and west are as non-rural properties within the urban unincorporated community.

(c) The relationship between the exception area and the lands adjacent to it:

The exception area is bordered on its north, east and west sides by non-resource development lands within the Brooks community. Access to the exception site is from Pueblo Avenue, which adjoins its entire west line, and which serves the Brooks community including the industrial site to the west. The exception site borders the Sewer District on three sides and has been included in the service capacity analysis, although it remains outside of the District.

The land to the south is farm land in the EFU zone. Only the southern boundary of the site adjoins farm land. The adjacent farm land has not been affected by, and currently has no relationship to the non-resource activities within the Brooks community. The farm land is under separate ownership, and has no access through the community. The characteristics of the farm land will not be affected by including the exception site within the community boundary.

Because of its location, access, and usage, the exception area is more closely related to the adjacent lands within the Brooks community than it is to the farmland to the south, and its logical relationship is to the lands that are a part of the Brooks community.

(d) The other relevant factors set forth in OAR 660-04-0028(6).

The relevant factors of -0028(6) are:

(a) Existing adjacent uses: The existing adjacent uses are industrial lands to the west, commercial lands to the east, industrial-commercial and residential lands to the north, and farm lands to the south. The lands to the east, west, and north are nonresource lands within the community boundary. The uses on the adjacent lands within the community are the predominant influence on the future use of the subject parcel.

(b) Existing public facilities and services (water and sewer lines, etc.): Water and sewer service can be provided through the Brooks Service District and the property has been included in the Service District's capacity analysis. The site borders the Sewer District on three sides; however, it is not currently a part of the District.

(c) Parcel size and ownership patterns of the exception area and adjacent lands: The exception area consists of a single parcel of 11.8 acres. The adjacent lands to the north, east, and west are a part of the Brooks community. They are developed or designated for nonresource uses, including industrial and commercial, and service is available from the community water and sewer system. The parcel sizes of the adjacent lands within the boundary are all smaller than the exception site, and they are in multiple ownerships. The existing ownership pattern has occurred over time within the community, and the development pattern was adopted as an Exception area as part of the 1980 Comp Plan Acknowledgment. The adjacent land to the south is outside of the community boundary and is a single parcel of approximately 29 acres, zoned EFU.

The purpose of this analysis is to examine the relationship of the subject property to the surrounding Brooks community, in order to demonstrate that it is a logical addition to the community boundary in terms of its historical use and relationship to those lands. The relationship of the subject site to the pattern and use of the surrounding lands, the transportation pattern, and the public service capacities, is relevant to the inclusion of the subject property within the boundary. In this case, the existing pattern and use of the adjacent lands, the street access pattern, and the boundary with the Service District, contributes to the subject property being committed to uses other than those provided for by the applicable goal.

(d) Neighborhood and regional characteristics: The neighborhood consists of the lands to the west, north and east that are within the existing Brooks community and within the Acknowledged Exception area, and which are zoned for industrial, commercial, and residential uses.

(e) Natural and man-made features or other impediments separating the exception area from adjacent resource land: There are no such features separating the exception area from adjacent resource lands and this factor is not relevant.

(3) The following uses are impracticable:

(a) Farm use as defined in ORS 215.203: The parcel totals 11.8 acres. The north part of the property has been in use for wood products manufacturing. This use was established in 1974. In the past the site was used for timber processing and its suitability for farming has been affected by activities such as a log deck, bark dump, etc. The affects on the physical character of the property are indicated on the enclosed aerial photos. The parcel is smaller than other farm parcels in the area. Its small size, and the location of the site adjacent to non-farm lands on three sides, make it impracticable for farm use.

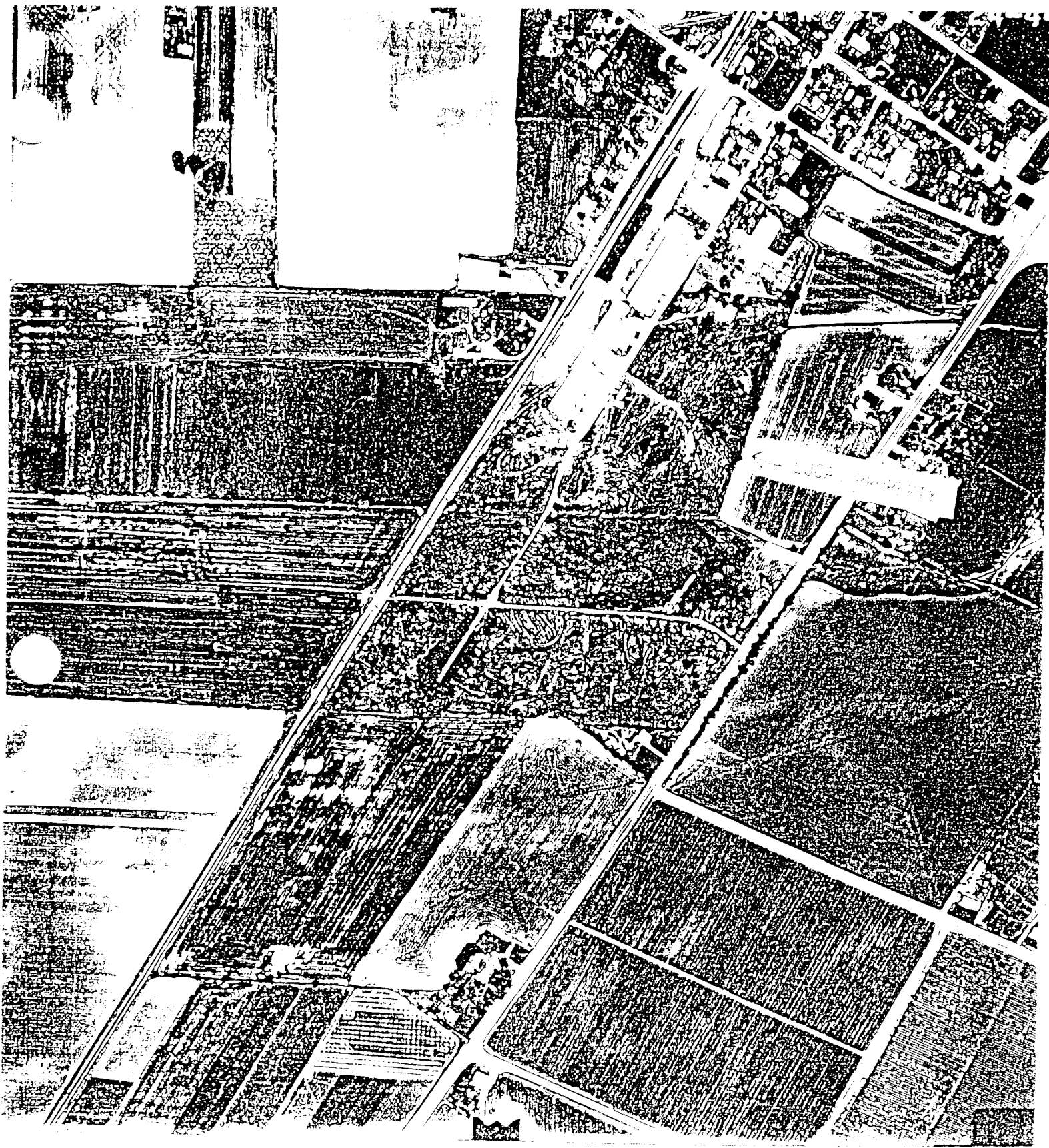
(b) Propagation or harvesting of a forest product: The site has not been prepared, used or planted for forest products. Its small size and use for wood products manufacturing preclude the practicable employment of the land for propagation or harvesting of a forest product.

(c) Forest operations or forest practices: Similar to (b), the size and use of the site, and its location adjacent to lands designated for development with the Brooks community, make it impracticable as a site for forest operations or practices.

Based on its past and current use, its size, the boundary on three sides with non-rural lands that are within the Brooks community and the Service District, and the street access through the community, including the exception site within the Brooks community boundary will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-04-028, and this requirement is met.

Conclusion:

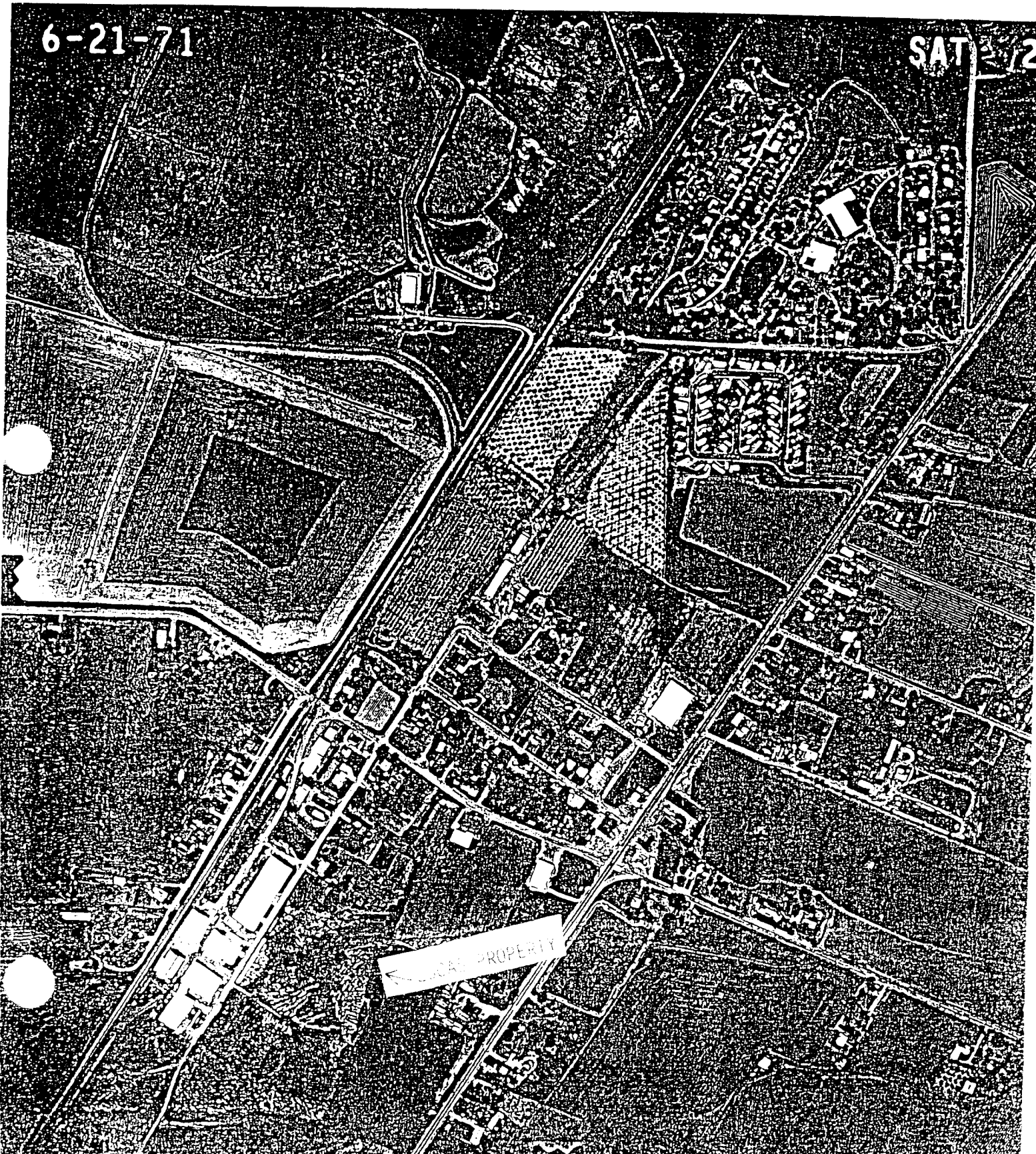
Based on the property's past and current use, and its relationship to the adjacent lands that are within the Brooks community, the site is committed to other nonresource uses in keeping with the requirements of OAR 660-004-0018, and including the site as a part of the urban unincorporated community is consistent with the provisions of OAR Chapter 660 Division 22.



6-21-71

SAT 12

PROPERTY



897.35
U. S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

001 00 21 6

17CA

SEE MAP 06 2W 17DB

SOUTHERN PACIFIC RAILROAD

SOUTHERN PACIFIC RAILROAD

PUEBLO AVE NE

WALNUT

MONTEPEN AVE

800
47524000
LUCAS PROPERTY

219.21
600
47529000
700
47526200
750 SU
47528000

001 00 21 6

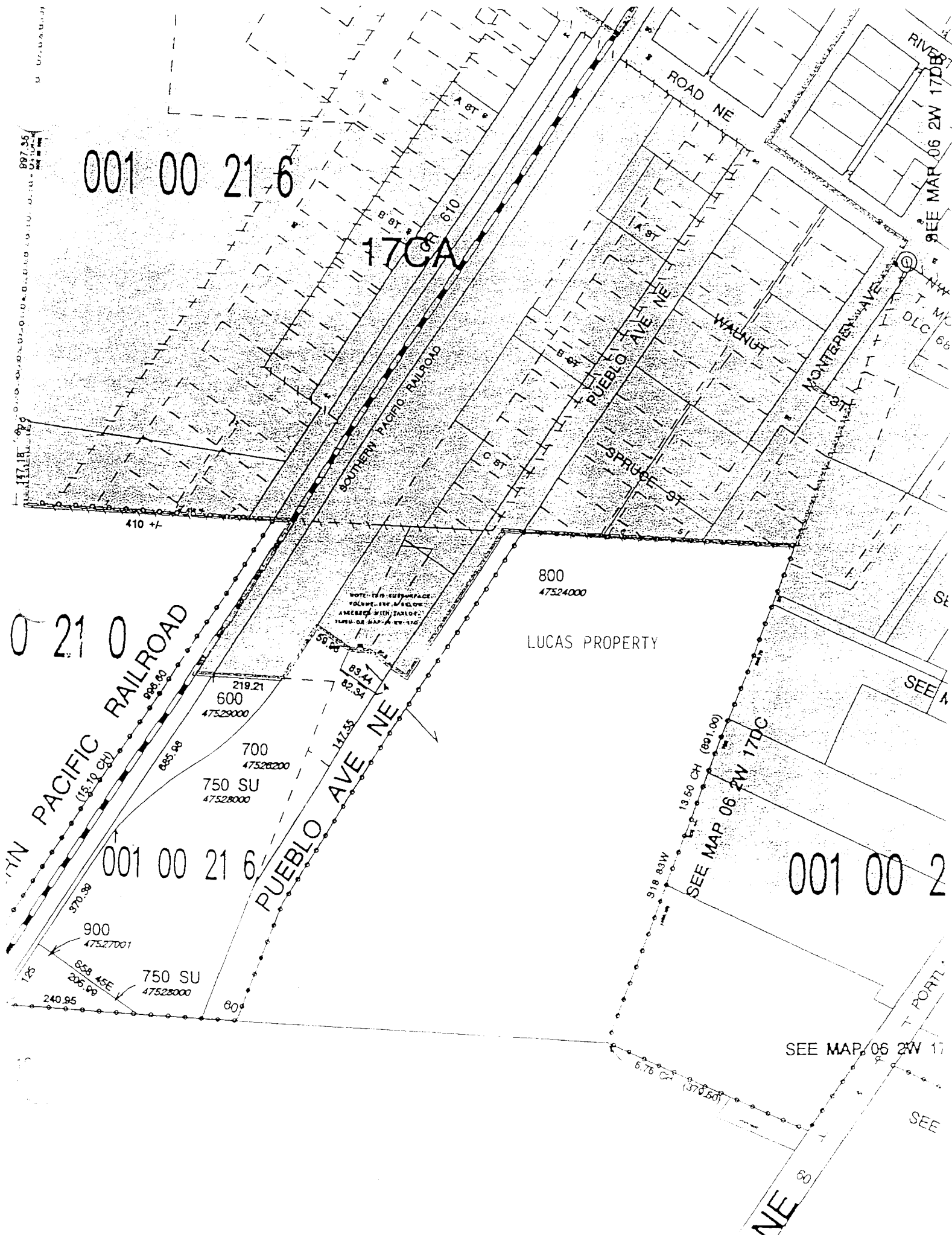
001 00 2

750 SU
47528000

900
47527001

SEE MAP 06 2W 17

NE



EFU

MARION COUNTY ZONING MAP FOR BROOKS

KE RD NE

09

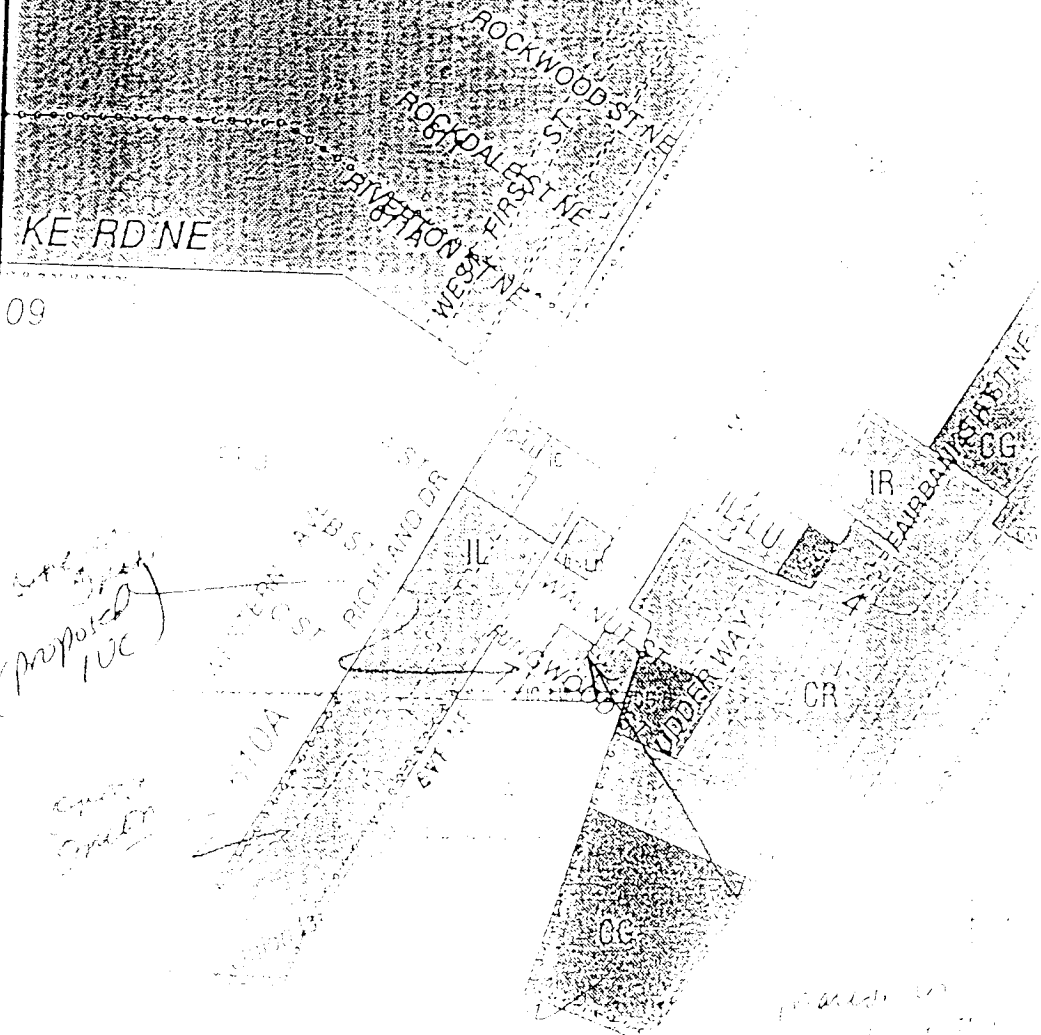
*Proposed
1/2C*

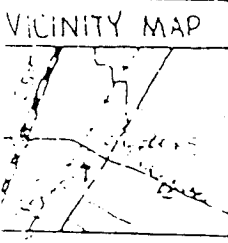
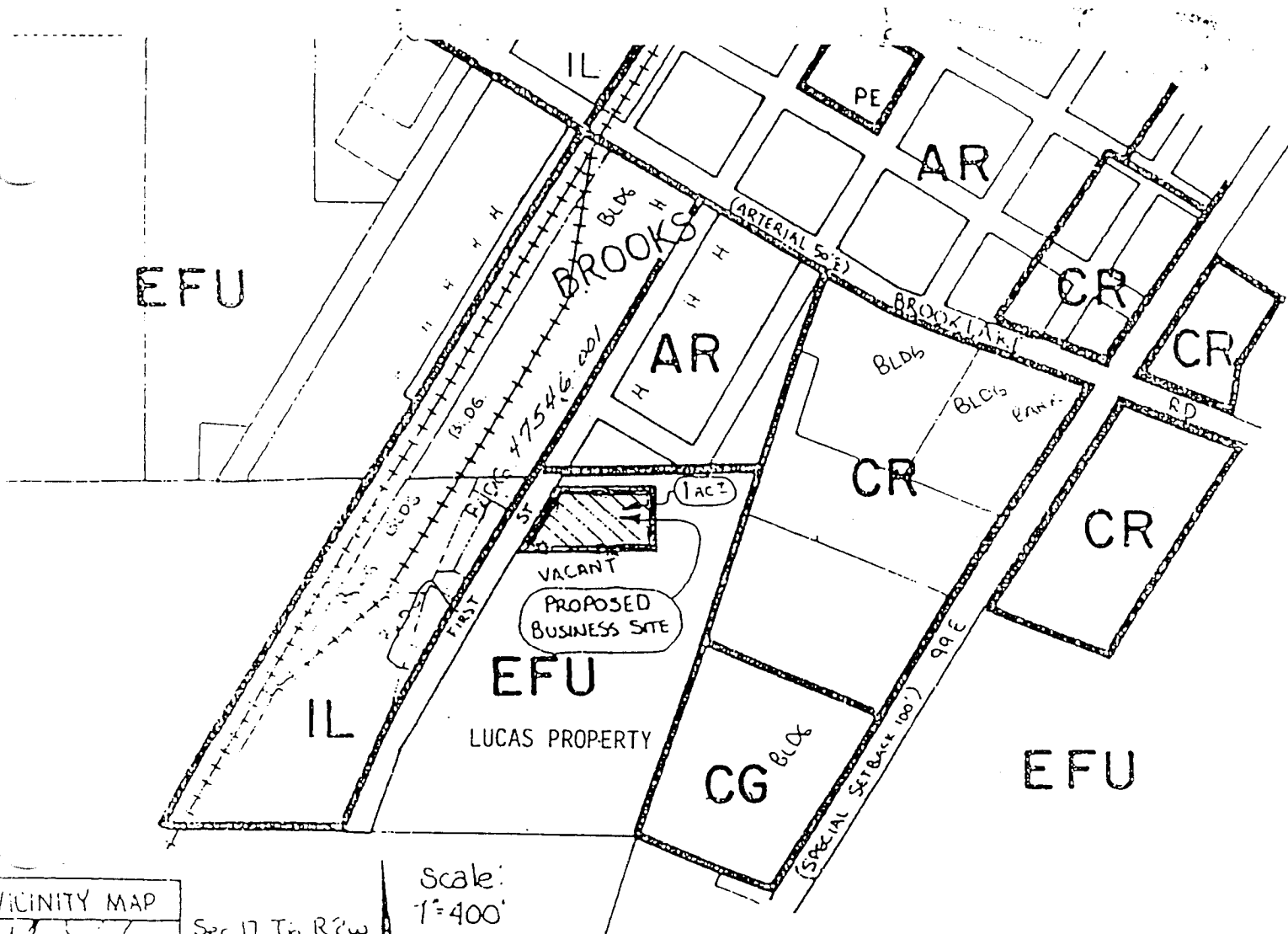
*Spencer
Spencer*



*A limited
proposed 1/2C / 1/2C zoning
for a warehouse*

*March 10
proposed
1/2C*



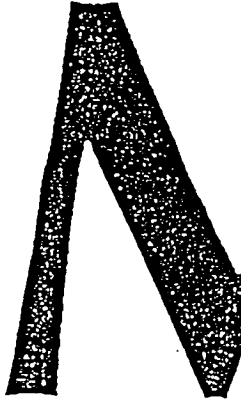


Sec. 17 To R2w
 ZONE MAP
 "27"

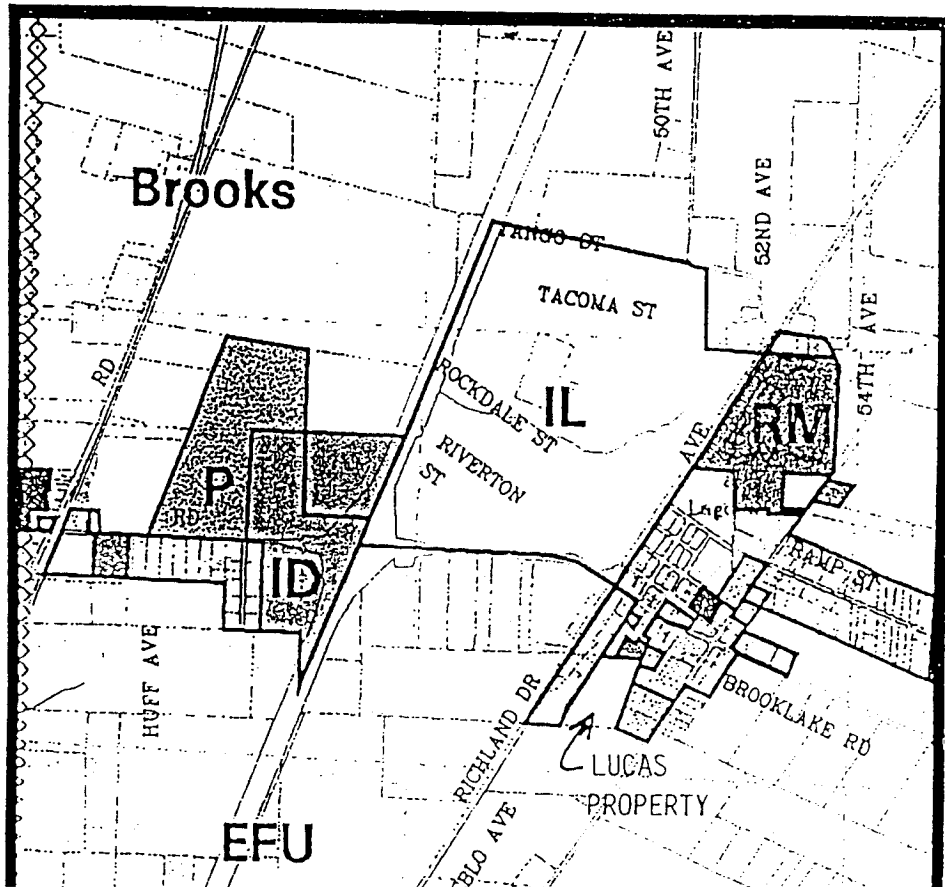
Scale:
 1" = 400'



202



DETAIL FROM MARION COUNTY ZONING MAP



3 South