

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

504B



**FROM:** TLMA - Planning Department

**SUBMITTAL DATE:**  
December 3, 2004

**SUBJECT:** CONSIDERATION RECOMMENDATION - FOUNDATION COMPONENT  
GENERAL PLAN AMENDMENT REQUEST

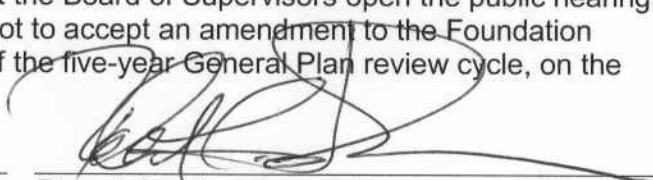
- Office of the Third District Supervisor (Jim Venable), for Sam and Mary Boersma and Stella Joann Houk – Third Supervisorial District – San Jacinto Valley Area Plan – Hemet – San Jacinto Zoning District – 159.63 acres (148.87 acre Boersma properties and 10.76 acre Houk property) – Location: Westerly of Warren Road and northerly of Tres Cerritos Road. Portions of Section 1 of Township 5 South, Range 2 West, S.B.B. and M., and portion of Section 36 of Township 4 South, Range 2 West, S.B. B. and M. The Boersma property is located southerly of Esplanade Avenue, while the Houk property is located northerly of Esplanade Avenue. REQUEST: Amend the San Jacinto Valley Area Plan designation of the properties within the project area from Rural Residential (one dwelling unit per five acres) within the Rural Foundation Component to Low Density Residential (two dwelling units per acre) (proponent's preferred alternative) or Very Low Density Residential (one dwelling unit per acre) within the Rural Community Foundation Component.

**CONTROVERSIAL ISSUES:**

Surrounding property owners have indicated a desire to maintain rural five-acre lot sizes in this area.

**RECOMMENDED MOTION:**

The Planning Department recommends that the Board of Supervisors open the public hearing, consider public testimony, and direct staff not to accept an amendment to the Foundation Component designation until the initiation of the five-year General Plan review cycle, on the

  
Robert C. Johnson  
Planning Director

RCJ:JJGJG

(Continued On Attached Pages)

Departmental Concurrence

REVIEWED BY EXECUTIVE OFFICE  
*James J. Johnson*  
DATE 12/19/04

Policy  
 Policy

Consent  
 Consent

Dep't Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.

District: 3<sup>rd</sup>

Agenda Number:

COUNTY OF RIVERSIDE

DEC - 3 10 3: 01

OFFICE  
EXECUTIVE

16.9

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basis that the required findings for a Foundation Component Amendment are not met in this instance.

**FINDINGS:**

1. There is no written evidence to indicate that the designation of these properties within the Rural Foundation Component was in error.
2. The land use designation of these properties was based on accurate information regarding the character of the surrounding unincorporated areas.
3. While the extension of urban development into nearby incorporated areas constitutes a new condition, these new conditions do not justify a modification to the General Plan Foundation Component assigned to these properties.
4. No unusually compelling condition exists that can only be rectified by making changes that would affect the Riverside County Vision, Principles, or Policies.
5. The decision not to process or approve this request will not result in the unconstitutional taking of property, especially since the 2003 General Plan provides for a higher level of development intensity than would be allowed by the underlying zoning of these properties.
6. The proposed Foundation Component Amendment change is not necessary to facilitate implementation of a transportation corridor, as the ultimate right-of-way selection for the applicable segment of State Highway Route 79 has not occurred and the necessary actions to assure that General Plan dwelling unit yields are not reduced may be achieved through clustering, which is allowed within the Rural Foundation Component.

**BACKGROUND:**

Earlier this year, the Office of Third District Supervisor Jim Venable initiated a proposal to change the designation of 359.36 acres of property located westerly of Warren Road and northerly of Tres Cerritos Avenue from Rural Residential, Agriculture, and Rural Mountainous to Very Low Density Residential – Rural Community, Public Facilities, and Rural Mountainous. This proposal was included in General Plan Amendment No. 717 as Exhibit A.

In its review of this proposal, the Riverside County Planning Department determined that the proposed amendment on these properties, including those owned by Mr. and Mrs. Boersma and Ms. Houk, did not meet the criteria for technical amendments and would constitute a foundation change. Such changes may only be processed with prior official authorization from the Board of Supervisors. On November 9, 2004, the Board of Supervisors approved a procedure for processing of requests for consideration of Foundation Component General Plan Amendments. Pursuant to this procedure, requests for Foundation Component Amendments must include a completed General Plan Amendment application form and a written justification for the proposed amendment. Since this request was initiated by the Office of the Third District Supervisor, no fee is being charged for the processing of this request.

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The process requires the Planning Department to review each such request to determine whether the required findings for a Foundation Component Amendment can be made and whether the request has a degree of urgency that merits prompt consideration of the proposal. The Department then makes a recommendation concerning the request, called a Consideration Recommendation (either for or against), which is to be submitted to the Board of Supervisors for consideration. The Board of Supervisors will then make a determination as to whether to allow the general plan amendment to be processed in the normal manner. If the Board determines that consideration of a Foundation Component Amendment is not appropriate (generally because the required findings cannot be met), the Planning Department may not accept the application until the County initiates its five-year General Plan review cycle.

#### **GENERAL PLAN CERTAINTY SYSTEM:**

A fundamental basis of the Riverside County General Plan, as adopted in 2003, is the General Plan Certainty System. The key operational factor here is that, with specified exceptions, amendments to the Foundation Component designations of any property shall be limited to five-year General Plan review cycles. The General Plan Certainty System is intended to maintain the integrity of, and confidence level in, the new Riverside County General Plan, to promote coordinated long-range planning and implementation between the cities and the County, and to avoid erosion of the Foundation Components upon which the General Plan is structured by requiring consideration of any changes to be conducted in a comprehensive manner.

Under the General Plan Certainty system, all land use designations in the General Plan are grouped into five foundation components: Community Development, Rural Community, Rural, Agriculture, and Open Space. Except under extraordinary circumstances, or where particular findings can be made, or, in the case of Agriculture, where a separate set of amendment rules apply, amendments from one land use designation to another within the same foundation component may be adopted on a quarterly basis, but amendments between designations in different foundation components may only be made on a five-year cycle basis unless extraordinary findings are made. The purpose of the extraordinary findings requirement is to preserve the integrity of the General Plan Certainty System.

#### **FOUNDATION AMENDMENT FINDINGS:**

In order to approve an Extraordinary Foundation Amendment (that is, to approve an amendment to the Foundation Component of a property, other than as a correction of an error or omission), the County must make the following findings:

- a. The Foundation change is based on ample evidence that new conditions or circumstances disclosed during the review process justify modifying the General Plan, that the modifications do not conflict with the overall Riverside County Vision, and that they would not create an internal inconsistency among the elements of the General Plan; and,
- b. A condition exists or an event has occurred that is unusually compelling and can only be rectified by making changes in the current Riverside County Vision, Principles, or Policies.

Additionally, the County must make one or more of the following findings:

- c. An unconstitutional taking of property would occur without the amendment, and the amendment alters the General Plan Foundation Component designation only to the extent necessary to avoid the taking.
- d. A natural or man-made disaster or public emergency has occurred that warrants a change in General Plan Foundation Component designations in order to protect the public health, safety, and welfare.
- e. A Foundation Component amendment is required to conform to changes in State or Federal law, or applicable findings of a court of law.
- f. A component change is required to comply with an update of the Housing Element or change in State Housing Element law.
- g. A Foundation Component amendment is required to significantly expand basic structural employment (such as industrial, agricultural processing, and research and development), excluding retail, service commercial, warehousing, and residential uses not ancillary to the primary employment use.
- h. A Foundation Component amendment is necessary to facilitate implementation of open space or transportation corridor designations arising from the MSHCP and CETAP programs, and that could not be accomplished by a lesser change in the General Plan.

**THE PROPONENTS' REQUEST – The “Error” Argument:**

The proponents believe that the Rural Residential designation now applied to their properties resulted from a mapping error, namely a failure of the final adopted map to reflect the designation that the Board of Supervisors (or at least The Office of the Third District Supervisor) had intended to establish for their properties. It is their position that the Office of the Supervisor had committed to a higher density prior to the adoption of the General Plan, but that either that office or Planning staff failed to follow through.

The proponents have provided evidence that they participated in the General Plan process. Joann Houk wrote a letter in 1999 requesting consideration for a designation that would allow five-acre lots on her property and requesting consideration for a commercial designation on the easterly five acres of her property. The first portion of this request was supported through the designation of the property as Rural Residential; the second portion was not supported by Planning staff. Ms. Houk later submitted an additional letter (date unspecified) requesting that her “property be zoned for ½ to 1 acre size parcels.” Sam and Mary Boersma (hereafter referred to as the Boersmas) submitted a letter certified mail to Supervisor Venable and Mr. Ken Graff of his staff on September 5, 2003 requesting a “zoning blend” (land use designation) that would allow for one-half acre and one acre lots.

The Boersmas state that “Supervisor Venable recommended LDR-RC Land Use Designation because we are clearly a transition property between city dense housing and RR parcels.” The problem is that such changes should have been directed prior to the adoption of the General

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Plan. Neither the proponent nor the Office of the Third District Supervisor has provided documentation that such direction occurred prior to October 7, 2003. All of the subsequent discussion of "errors" included in the Boersmas' request is dated February 2004 or later and, therefore, does not constitute documentation that a mapping error was made in 2003.

The Boersmas also state that they never requested a Rural Residential designation. Their property is in agricultural use. It is zoned A-2-10 (Heavy Agriculture, 10 acre minimum lot size), and at one time was subject to a Land Conservation (Williamson Act) Contract. In the course of the General Plan hearing process, after hearing testimony from a number of farmers and from the Riverside County Farm Bureau, the Board of Supervisors modified the original General Plan Certainty System concept to allow for amendments from the Agriculture Foundation Component to other Foundation Components without being subject to the five-year restriction. The Boersmas cannot utilize this exception because their property is designated Rural Residential – an upgrade in intensity from the Agriculture designation that had initially been proposed for their property. Unlike Ms. Houk, the Boersmas had not requested a 5-acre designation, which was applied to their property by the Planning Commission in conjunction with a decision to change the designation of the property to the west from Agriculture to Rural Residential. (The Agriculture Foundation Component Amendment exemption did not exist at that time, and limiting the Boersmas' property to a ten-acre lot size requirement was felt to be unduly restrictive if the property to the west were to be allowed to develop at a density of one dwelling unit per five acres. Essentially, the Planning Commission and staff supported a five-acre designation for the Boersmas' property in the interest of fairness and equity.)

The proponents assert that changing the designation of their properties to a designation within the Rural Community Foundation Component would not change the policy direction or intent of the General Plan because a rural atmosphere may still be maintained with the use of one-half acre or one acre lots and because their properties would serve as a buffer between the urban development within the City of Hemet and the five-acre lot area to the west.

#### **ANALYSIS:**

The Planning Department determined that this proposal does not meet the criteria for consideration as a correction of a mapping error or omission, as there is no available documentation to demonstrate that the Board of Supervisors, or the Office of the Third District Supervisor, had directed staff to amend the proposed designation of these properties prior to issuing its directive in September 2003 to make no further changes to the General Plan land use designations. Nor have there been any previous County approvals that would suggest that a characteristic of the property had been overlooked in the decision to designate the properties as Rural Residential.

#### **THE PROPONENTS' REQUEST – Foundation Component Findings:**

Foundation Component Amendments must be based on ample evidence that new conditions or circumstances justify modifying the General Plan and that the modifications do not conflict with the overall Riverside County Vision.

In regard to this requirement, the proponents cite as evidence of new conditions or circumstances the processing, approval, and to some extent the construction, of numerous new

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developments within the boundaries of the cities of Hemet and San Jacinto – over 3,100 new homes at urban densities. Given these developments, the proponents maintain that modification of the General Plan to move these properties into the Rural Community Foundation Component is justifiable, and would not conflict with the overall Riverside County Vision. They maintain that their properties are in a transitional area between the established five-acre lots to the west and the urbanized uses to the east and south. In fact, these developments have now extended westerly of the MWD aqueduct and include developments with lot sizes smaller than 7,200 square feet. These developments include the “Four Seasons” development (1,070 homes with lot sizes ranging from 3,400 to 6,300 square feet, associated with the Landmark & Hemet Golf Club) and a proposed tract map located southerly of Devonshire Avenue and westerly of the aqueduct. Urban developments are also located on the easterly side of Warren Road in the City of Hemet, including the “Stoney Mountain” development (400 homes with lot sizes of 7,200 to 9,000 square feet), which is located northeasterly of the Boersma property. (Many of the letters in support of this proposed amendment were submitted by residents of that development.) The City of San Jacinto is processing a specific plan for a 1,045-home development located easterly of Warren Road and northerly of Esplanade Avenue, directly easterly of the Houk property.

In order to approve a Foundation Component Amendment, the County must find that “a condition exists or an event has occurred that is unusually compelling and that can only be rectified by making changes in the current Riverside County Vision, Principles, or Policies.” The Boersmas cite as evidence of an “unusually compelling condition” that must be rectified the fact that the Rural Residential designation applied to their property placed their property in an unfavorable situation relative to other historically agricultural properties due to their inability to utilize the “financial hardship” provisions allowing for the possibility of conversion of lands designated Agriculture. The Boersmas state that their “family farm is no longer capable of growing and supporting itself in today’s competitive markets” and that their proposed LDR-RC designation “will give our property a higher value thereby giving us flexible borrowing power for farm assistance loans.”

As to the third finding, the proponents suggest that in regard to Finding h. noted above, their properties are likely to be affected by the proposed routing of the segment of State Highway Route 79 extending from Gilman Springs Road on the north to Domenigoni Parkway on the south. Due to the extent of existing development along the more easterly routes in the vicinity (Sanderson Avenue and Cawston Avenue), it would appear that there is a very good possibility that the future State Highway Route 79 will cross the Boersma property, resulting in the loss of approximately 35 acres (about one-quarter of the property), including the on-site preserving, processing, and warehousing buildings. The remaining portions of the property would, therefore, require a higher intensity designation simply to maintain the allowable dwelling unit yield of the current designation. The future routing could also impact the Houk property, especially if the design involves controlled access with on- and off-ramps at Esplanade Avenue. While State Highway Route 79 is not technically a CETAP corridor, its completion as a six-lane expressway is anticipated in the Riverside County General Plan traffic analysis.

#### **ANALYSIS – Foundation Component Findings:**

The proponents have provided evidence that urban development is proceeding westerly into the area westerly of Warren Road. This is a new condition that was not obvious at the time that the

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San Jacinto Valley Area Plan was prepared. However, the question is whether this evolution in the character of the surrounding area is sufficient to justify modification of the General Plan designation of these properties as a matter of urgency. The County's vision for this area is that of a rural and agricultural area. There is a definite, established pattern of five-acre lots in this enclave that is characterized by horse ranches. The existing County zoning in the area is A-1-5 and A-2-10, and there are no lots smaller than 4.75 acres. This vision is shared by the residents along Los Rancherias Road, Mazestone Circle, Three Springs Road, and other streets in the immediate unincorporated area who have indicated a desire for this area to be maintained at a density of one dwelling unit per five acres. In fact, there is a real issue as to whether the County should approve higher densities of development in this area at any time in the future, including the 2007-2008 General Plan review cycle. Planning staff is of the opinion that the Rural Residential designation is an appropriate long-term designation within this area. The General Plan allows for the potential of clustering, which, as discussed below, may be necessary in order to maintain the General Plan density of one dwelling unit per five acres in the event that these properties are impacted by right-of-way acquisition for a major roadway. The new higher intensity development is located within the Cities of Hemet and San Jacinto. These jurisdictions are better equipped to provide the level of public facilities and services required to serve higher intensity development. In staff's opinion, the new condition or circumstance (development within adjacent cities) is not sufficient to justify modifying the General Plan Foundation Component designation of Rural.

The second issue is whether a condition exists that is unusually compelling and can only be rectified by a change in the Foundation Component designation of the property. The Boersmas note that the placement of their property in the Rural Foundation Component, rather than the Agriculture Foundation Component, has subjected the property to a hardship that does not burden properties designated Agriculture, in that properties designated Agriculture are not necessarily subject to the five-year limit on Foundation Component Amendments. While this is true, it should be noted that there are likely many properties throughout the County that are subject to a similar "hardship". The Rural designation actually is an upgrade in density from the original proposed Agriculture designation, the 1996 Open Space and Conservation Map designation of Agriculture, and the existing A-2-10 (Heavy Agriculture, 10 acre minimum lot size) zoning of the Boersma property. Furthermore, the provisions regarding the Agriculture Foundation Component clearly do not exempt changes from the Rural Foundation Component to the Agriculture Foundation Component from the five-year review restrictions, so as to prevent use of the Agriculture exemption as a means of evading the Certainty System requirements. In staff's opinion, the hardship, while present, is not unusually compelling. This issue does not apply to Ms. Houk's property, since this property was not originally proposed for the Agriculture designation, was not designated Agriculture on the pre-existing (1996) Open Space and Conservation Map, and was not located within an agricultural preserve (although it does share the A-2-10 zoning).

The third issue is whether a Foundation Component Amendment is necessary to facilitate implementation of a transportation corridor arising from the CETAP program in a manner that could not be accomplished by a lesser change in the General Plan. Staff would agree that there is a very good possibility that the future State Highway Route 79 Gilman Springs – Domenigoni connector will intersect these properties and thereby potentially limit the life of the farming operation on the Boersma property and the usefulness of at least a portion of the Houk property. However, the ultimate route has not yet been selected. According to the documents provided,

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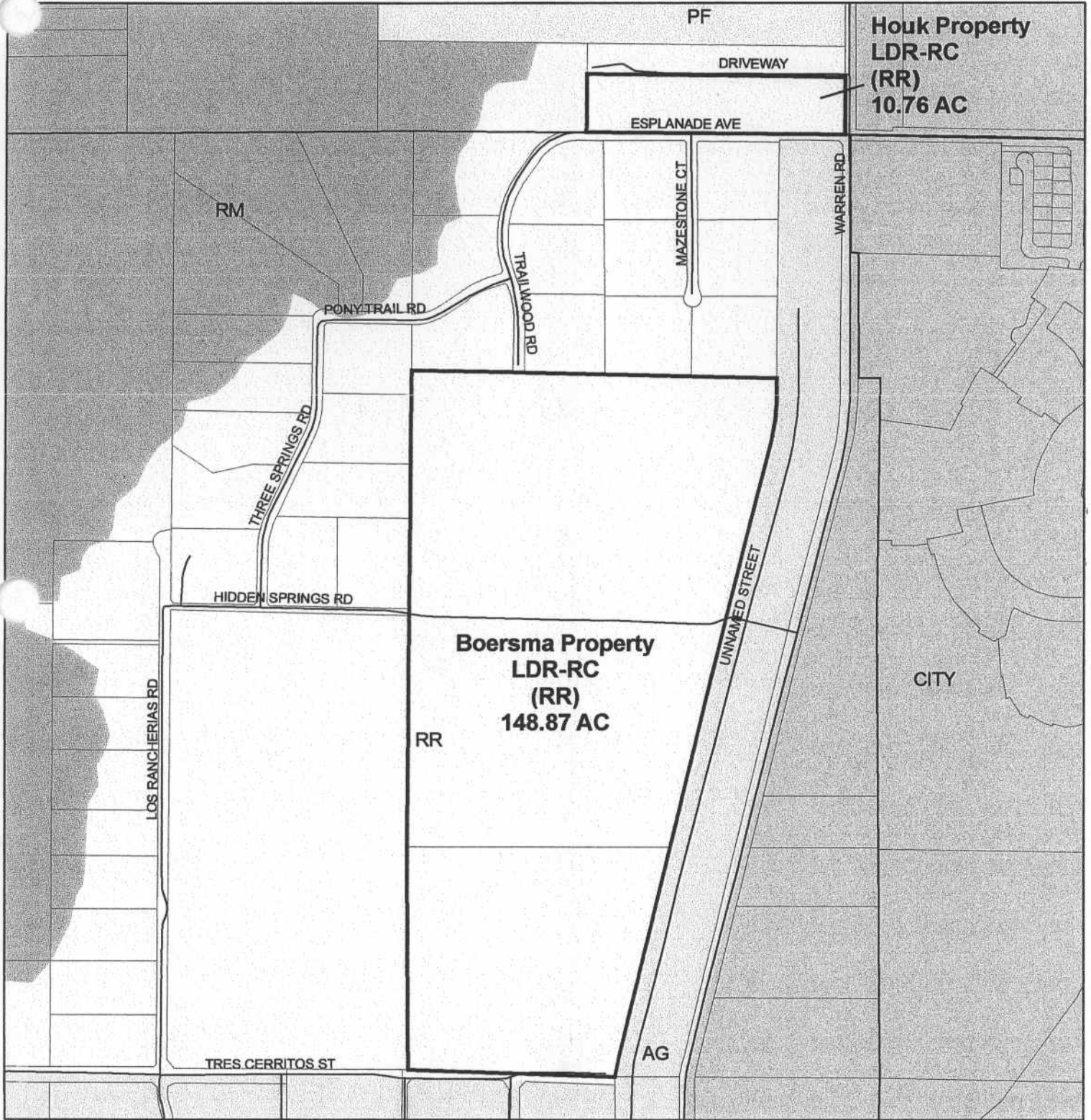
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the ultimate right-of-way acquisition will not occur until at least 2007. Even then, the alternative of clustering would be available. Specifically, the Boersma property dwelling unit yield of perhaps 30 dwelling units could be clustered on the remaining area of the property. Ms. Houk's property has a potential dwelling unit yield of 2 units on the General Plan. This dwelling unit yield could easily be accommodated on the westerly portion of her property. In the event that this route is selected, if a Foundation Component Amendment is in order, that could be considered as part of the General Plan review cycle, which will likely commence in 2007 for finalization in the fourth quarter of 2008. Such an amendment should address the entire corridor affected by the proposed routing. Since the final routing of the facility is not yet known, it is too early to state that a Foundation Component Amendment will be required to facilitate implementation of the transportation corridor.

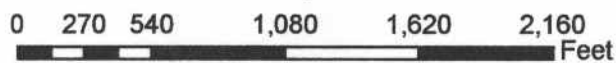
Therefore, staff concludes that the required findings for a Foundation Component Amendment (Extraordinary Amendment) cannot be met. Staff recommends that the properties remain in the Rural Residential designation at least until the adoption of the General Plan review cycle in 2008.

# Foundation Component Amendment Consideration Request



Township/Range: T4SR2W & T5SR2W

Section: 1 & 36



Assessors  
Bk. 431 & 455  
Pg. 110 & 270

Date: 12/01/2004