



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

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Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

## NOTICE OF ADOPTED AMENDMENT

October 13, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Coos Bay Plan Amendment  
DLCD File Number 002-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 27, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Dave Perry, DLCD Regional Representative  
Laura Barron, City of Coos Bay

<paa> ya/



DLCD NOTICE OF ADOPTION

OCT 10 2006

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18

LAND CONSERVATION AND DEVELOPMENT

(See reverse side for submittal requirements)

Jurisdiction: City of Coos Bay Local File No.: ZON 2006-00067

Date of Adoption: October 3, 2006 Date Mailed: October 6, 2006

Date the Notice of Proposed Amendment was mailed to DLCD: July 14, 2006

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
Land Use Regulation Amendment
Zoning Map Amendment
[X] New Land Use Regulation
Other:
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Procedure for property line adjustment and replat were added to the Land Development Ordinance.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: NA to

Zone Map Changed from: NA to

Location: NA Acres Involved:

Specify Density: Previous: New:

Applicable Statewide Planning Goals: NA

Was an Exception Adopted? Yes: No: X

DLCD File No.: 002-06 (15379)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact: LAURA BARRON Area Code + Phone Number: 541-269-8918

Address: 500 CENTRAL AVE

City: COOS BAY Zip Code+4: 97420

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.



# City of Coos Bay

Department of Community Services

500 Central Avenue, Coos Bay, Oregon 97420 • Phone 541-269-8918

Fax 541-269-8916 • <http://www.coosbay.org>

October 6, 2006

## FINAL ORDER

### AMENDMENT TO THE TEXT OF THE COOS BAY LAND DEVELOPMENT ORDINANCE

**APPLICATION:** ZON2006-00067  
**APPLICANT:** City of Coos Bay, 500 Central, Coos Bay, OR

**REQUEST:** Amendment to Land Development Ordinance 93 Chapter 5.8

**ORDER:** Tuesday, October 3, 2006, City Council approved the amendment to the Land Development Ordinance and enacted Ordinance No. 388.

City Council Final Vote:  
**Yea:** Mayor Joe Benetti, Councilors, Roger Gould, Jeff McKeown, John Muenchrath, Cindi Miller, and John Eck

**Abstain:** None                      **Nay:**

**APPEAL PROVISIONS:** See page 2

**DECISION CRITERIA AND THE ADOPTED FINDINGS OF FACT AND CONCLUSIONS:**  
See Exhibit 1

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### FINAL ACTION

Based on the findings and conclusion at Exhibit A, the City Council enacted Ordinance No. 388, amending the Land Development Ordinance (LDO), Chapter 5.8, Alternatives for the Reconfiguration of Property, in order to add language that defines the procedure for a property line adjustment and replat.

The decision to approve will become final at **5:00 PM on October 27, 2006** unless an appeal is filed.

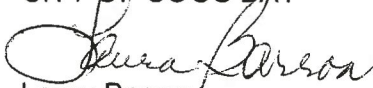
## APPEAL PROVISION

Any person with standing has the right to request review of this land use decision by filing a Notice of Intent to Appeal with:

Oregon Land Use Board of Appeals  
Public Utility Commission Bldg.  
550 Capitol St.  
Salem, OR 97310

Notice of Intent to Appeal must be filed no later than 21 days from the date of mailing of this decision. Therefore, **appeals must be filed no later than October 27, 2006**. Notice of Intent to Appeal must be filed and served in accordance with the Oregon Land Use Board of Appeals Rules of Procedure.

Sincerely,  
CITY OF COOS BAY



Laura Barron  
Planning Administrator

Attachment: Exhibit A, Ordinance No. 388

c: Dave Perry, DLCD

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## EXHIBIT A

### DECISION CRITERIA, FINDINGS AND CONCLUSIONS

The following is a list of the decision criteria applicable to the request as set forth in Land Development Ordinance Chapter 5.19(2). Findings and conclusions may apply to more than one criterion and may be used to support the Council's decision.

#### FINDINGS

**DECISION CRITERIA #1: An acceptable rationale which supports the need for the amendment.**

#### **STATEMENT OF FACT AND FINDINGS:**

1. ORS 92.190(3) states the governing body of a city may use procedures other than replatting procedures to adjust property lines as described in statute. Therefore, in order for the city to have the authority to approve a property line adjustment, a procedure must be included in the Land Development Ordinance.
2. A property line adjustment means the relocation or elimination of a common property line between abutting properties. In situations where few properties are involved this may be a more timely and less expensive process than a replat.

**CONCLUSION:** The proposed amendment to Land Development Ordinance, Chapter 5.8, Alternatives for the Reconfiguration of Property, will provide a process for property line adjustments, as required by statute, and replats. The decision criterion has been addressed and approval of the proposal can be supported.

**DECISION CRITERIA #2: The amendment complies with the applicable provisions of the comprehensive plan.**

#### **STATEMENT OF FACT AND FINDINGS:**

1. Volume I of the Comprehensive Plan, Plan Policies, Chapter 1.1(5) states a plan is not meant to be static; it should change with need in order to be effective.

The Land Development Ordinance, which implements the Comprehensive Plan, is proposed to be amended to provide options to landowners for the reconfiguration of their property.

**CONCLUSION:** The proposed amendment will allow alternative processes for the reconfiguration of property. The decision criterion has been addressed and approval of the proposal can be supported.

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**ORDINANCE NO. 388**

**AN ORDINANCE AMENDING CHAPTER 5.8 OF ORDINANCE NO. 93, THE CITY OF COOS BAY'S LAND DEVELOPMENT ORDINANCE**

The City of Coos Bay ordains as follows:

**Section 1.** Chapter 5.8, Reserved, is hereby amended to read as follows:

**CHAPTER 5.8 ALTERNATIVES FOR THE RECONFIGURATION OF PROPERTY**

**Section 1. REPLATTING AND VACATION OF PLATS**

The act of replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded plat.

1. Replats act to vacate the platted lots, parcels or easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.
2. A replat shall not serve to vacate any public street or road. The replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.
3. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified consistent with notice procedures for notice to owners of property contiguous to the proposed plat.

Any utility company that desires to maintain an easement subject to vacation must notify the governing body in writing within 14 days of the mailing or other service of the notice.

4. If the replat is replatting all of an "undeveloped" subdivision, a hearing before the Planning Commission is required to determine whether the undeveloped subdivision should be revised and the subdivision replatted or vacated and all lands within the subdivision that have been dedicated for public use vacated. Not later than 30 days before the date of the hearing, each owner of record of land described in the plat of the subdivision under review must be notified in writing of the date, place, time and purpose of such hearing.

A subdivision is considered to be “developed” if any of the following apply:

- A. Roadways providing access into and travel within the subdivision have been or are being constructed to meet specifications approved by the city;
  - B. Facilities to provide water or sewer to the lots created by the subdivision have been or are being constructed;
  - C. Buildings have been or are being constructed or permits have been issued for the construction of buildings upon the land;
  - D. One or more lots described in the plat of the subdivision have been sold or otherwise transferred prior to the date of this review.
5. Any plat or portion thereof may be replatted upon receiving an application signed by all the owners as appearing on the deed. All applications for a replat shall be processed in accordance with the procedures and standards for a partition, Chapter 5.9, or a subdivision, Chapter 5.16. The replat must comply with all applicable ordinances and regulations of the City.

## **Section 2. PROPERTY LINE ADJUSTMENTS**

A property line adjustment means the relocation or elimination of a common property line between abutting properties where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with this Ordinance.

1. Application. Prior to filing an application, a prospective applicant shall hold a preapplication conference with the Public Works and Development Department. The purpose of the conference is to provide advice regarding compliance with the applicable standards of this Ordinance. If multiple property line adjustments are proposed, a replat or partial replat of the subdivision may be required.
  - A. The application form must be signed by the owner(s) of record of the real property addressed in the application and the appropriate fee paid. An application form may also be signed by the duly authorized representative of the owner of record.
  - B. A site plan, drawn to scale, is required with the application showing the following:
    1. The existing and proposed property boundaries and dimensions;



2. The footprint of existing structures on the affected properties along with the dimensions, uses, and number of stories for each structure;
  3. Location and dimensions of driveways and public and private streets within or abutting the subject properties; and
  4. Location and purpose of easements, if applicable.
- C. A copy of the deed for the properties involved and any covenants, conditions, and restriction applicable to the subject property.

At the discretion of the Public Works and Development Department, property line adjustments may be a ministerial review, an administrative review or be referred to the Planning Commission. A property line adjustment must not violate any city or state regulations.

2. Survey Required. An adjusted property line created by the relocation of a common boundary must be surveyed in accordance with ORS 92.060(7). This requirement does not apply for the following:
  - A. Property transferred by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the city. If the adjustment is approved, it shall be recorded in the deed records of the county where the property is located; or
  - B. When the adjusted lots or parcels are each greater than 10 acres.
3. Multiple Line Adjustments. When a series of property line adjustments are proposed, each of the property line adjustments must be approved separately and implemented (deed recorded) before proceeding to seek approval for any additional property line adjustment needed to achieve the desired configuration.
4. Deed. Upon approval of a Property Line Adjustment, a Property Line Adjustment Deed must be recorded. A copy of the deed must be provided to the Public Works and Development Department. At a minimum, the property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, the survey reference number and signatures of all parties with property

acknowledgement. If the deed is not filed and a copy provided to the Department within 6 months of approval, the decision of the Department shall be null and void.

**Section 2. Findings.**

1. Notice that public hearing would be held before the City of Coos Bay Planning Commission (the Commission) on September 12, 2006 and the public hearing would be held before the Coos Bay City Council on October 3, 2006 was published in "The World," newspaper of general circulation within Coos County, Oregon, on August 16, 2006.

2. Provisions in the Coos Bay Land Development Ordinance relating to notice have been complied with.

3. Public hearing was held on September 12, 2006 and after receiving evidence and hearing testimony, the Commission recommended approval.

4. The Commission's Findings and justifications supporting its recommended approval are attached hereto as "Exhibit A" and incorporated herein by reference.

5. The City Council of the City of Coos Bay, after considering the Commission's Findings and justification, hereby adopts the findings and justifications, and finds the proposed change should be granted.

**Section 3. Severability.** The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

**Section 4.** This Ordinance shall take effect 30 days after enactment by the Council and signature by the Mayor, whichever is later.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 3<sup>rd</sup> day of October, 2006.

Yes: Mayor Benetti and Councilors Jon Eck, Roger Gould, Jeff McKeown, Cindi Miller, and John Muenchrath

No: None

Absent: Councilor Kevin Stufflebean

## EXHIBIT A

### DECISION CRITERIA, FINDINGS AND CONCLUSIONS

The following is a list of the decision criteria applicable to the request as set forth in Land Development Ordinance Chapter 5.19(2). Findings and conclusions accompanying each of the criterion may apply to more than one criterion and may be used to support the Commission's recommendation to the City Council. The Commission may recommend approval or approval with conditions to the City Council, or, the Commission may deny the request.

#### FINDINGS

**DECISION CRITERIA #1: An acceptable rationale which supports the need for the amendment.**

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Joe Benetti  
Mayor of the City of Coos Bay  
Coos County, Oregon

ATTEST: Jackie Mickelson  
Jackie Mickelson  
Acting Deputy Recorder of the City  
of Coos Bay, Coos County, Oregon