



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/14/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Oakland Plan Amendment
DLCD File Number 001-11

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: Thursday, June 30, 2011

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Elainna Carter, City of Oakland
Gloria Gardiner, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA/



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

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DEPT OF

JUN 10 2011

LAND CONSERVATION Use Only
AND DEVELOPMENT

Jurisdiction: **City of Oakland**

Local file number: **ZC10-01**

Date of Adoption: **6/7/2011**

Date Mailed: **6/9/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 2/10/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

1. Amendment of the Zoning Map changing the zoning of the property owner's parcel from C-1 General commercial to R-1/B Low Density residential.

2. Amendment of the Future Land Use map changing the designation of the future intended use designation of the property owner's parcel from Commercial to Specific Residential I

Does the Adoption differ from proposal? Please select one

no

Plan Map Changed from:

to:

Zone Map Changed from: **C-1 General (commercial)**

to: **R-1/B Residential (low density)**

Location: **436 NE First St**

Acres Involved: **0**

Specify Density: Previous: **C-1 General**

New: **R-1/B Residential**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Elainna Carter, City Clerk**

Phone: (541) 459-4531 Extension:

Address: 637 NE Locust St

Fax Number: 541-459-4472

City: **Oakland**

Zip: 97462-

E-mail Address:

oaklandcityclerk@qwestoffice.net

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 552

AN ORDINANCE AUTHORIZING A ZONE CHANGE FOR PROPERTY LOCATED AT 436 NE FIRST STREET FROM C-1 GENERAL COMMERCIAL TO ZONE R-1/B LOW DENSITY RESIDENTIAL.

THE CITY COUNCIL OF THE CITY OF OAKLAND, OREGON, finds:

1. Chester and Deborah Hackett applicants, have filed a Petition, pursuant to the provisions of the Oakland Zoning Ordinance (Ord. 499), for a change in the land use zoning designation of the property located at 436 NE First Street from C-1 General Commercial to R I/B Low Density Residential and that the Petitioners are the owners of all property within the area to be rezoned and,
2. The Oakland Planning Commission, upon its review of the applicable criteria, found the Applicants' requested zone change to be consistent with and promotional of (1) the objectives of the City's acknowledged Comprehensive Plan and other adopted policies and goals of the City; (2) the objectives of the Oakland Zoning Ordinance and other City Ordinances; and, (3) Oregon's Statewide Planning Goals; and,
3. Upon the Applicants' specific request, the Oakland Planning Commission, by its affirmative and unanimous vote, recommended to this Council that the requested zone change be approved and given full force and effect; and,
4. This Council, upon a duly noticed hearing pursuant to the procedures prescribed by Oakland Zoning Ordinance and applicable state statutes, has approved and adopted the Findings of Fact and Decision of the Oakland Planning Commission in this matter as the Council's own Findings of Fact and Decision; and,
5. Appearing to this Council that there are no substantive or procedural impediments to giving the Applicant's requested Zone Change full force and effect;

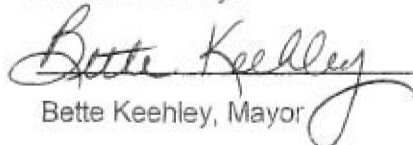
6. THE CITY OF OAKLAND ORDAINS AS FOLLOWS:


NOW, THEREFORE, based on the evidence and testimony received and the foregoing finding of fact and conclusions, THE COMMON COUNCIL OF THE CITY OF OAKLAND HEREBY adopts the findings prepared by the Planning Commission and that the following land use request be GRANTED:

1. The Land Use Zoning Designation of that certain property, located at and commonly known as 436 NE First Street, in the City of Oakland, shall be and is hereby changed from County, C-1 General Commercial to R-1/B Low Density Residential. The City Clerk shall make such appropriate notations and changes to the City's Zoning Map and Future Land Use Map as are necessary to effectuate said re-designation.
2. Emergency Clause. In that it is necessary that this ordinance be in full force and effect by June 7, 2011, the passage of the Ordinance is necessary for the immediate preservation of the peace, health and safety of the City and an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon passage by the Common Council

Approved and adopted by the Common Council this 7th day of June, 2011.

APPROVED by:


Bette Keehley, Mayor

Attest 
Barbara Mock, City Recorder

BEFORE THE PLANNING COMMISSION
OF THE CITY OF OAKLAND

 ORIGINAL

In the Matter of Chester & Deborah Hackett Applicants.	File No. ZC10-01 Findings of Fact & Recommendation
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This matter is before the Planning Commission (PC) for Zone Change of a property in the Oakland C-1 General Commercial zone to R-1/B Low Density Residential zone and change of the Future Land Use Map designation from Commercial to Specific Residential 1. The application was submitted to the City on 19 November, 2010 and referred to the Zoning Administrator (ZA). The ZA enters the following Findings of Fact & Recommendation in connection with the above-entitled matter.

PROCEDURAL FINDINGS

1.

The application was submitted to the City on 19 November, 2010 and turned over to the ZA for processing. After the initial review a letter indicating incomplete and needed information was sent to the Applicant on 27 November, 2010. The Applicant returned a new Site Plan and other requested information to the City on 19 January, 2011. The application was declared complete on 23 January, 2011 and a letter was sent to the Applicant notifying them of this.

2.

Now, therefore, based upon the record before the PC in this matter, the PC makes the following

FINDINGS OF FACT

3.

The existing factual context of the Application is as follows:

A.	Property Owner	:	Chester & Deborah Hackett
B.	Applicant	:	Deborah Hackett
C.	Situs	:	436 First St.
D.	Assessors' Map & Tax Lot Nos.	:	TN25S R05W Sect. 04CA 8000
E.	Land Use Designation:	:	Commercial
F.	Zoning Designation	:	C-1 General Commercial
G.	Surrounding Zone	:	Surrounding properties to the west, north and south are zoned C-1 and properties across the alley to the east are zoned R-1/B.
H.	Parcel Area	:	5,000 sq.ft. (50 x 100)

4.

There is presently a 3 bedroom house structure on the parcel that the property owner's intend to use as rental. The front or western boundary of the parcel borders on 1st St. and the north side parcel boundary is borders on Cypress St. The residence is presently a non-conforming residential use in the City's C-1 General Commercial zone. The Applicant wishes to be able obtain a standard home mortgage at this property and is seeking a change in zoning. Section 9.01.2 Termination of a Non-Conforming Use does not allow a non-conforming structure to be rebuilt in its non-conforming use if it suffers greater than 50% damage of its assessed value which would include such things as fire, flood, or earthquake. This restriction does not allow the Applicants to get a standard mortgage

on their property,

5.

The Oakland City Council adopted a new Zoning Ordinance April, 1999 (Ordinance No. 499, herein "OZO"). Pursuant to Section 12.01.0 Amendments and Rezoning, the rezoning of a parcel requires an amendment to the Zoning Map and the Future Land Use Map and both amendments shall be processed concurrently. The application is subject to the requirements of Amendments and Rezoning and PC approval involving:

- A. Amendment of the Zoning Map changing the zoning of the property owner's parcel from C-1 General Commercial to R-1/B Low Density Residential.
- B. Amendment of the Future Land Use Map changing the designation of the future intended use of the property owner's parcel from Commercial to Specific Residential 1.

6.

The Criteria for Approval of an amendment to the Zoning Map and the Future Land Use Map are found in OZO 12.04.0 and are listed below along with the facts and findings for each.

- 1) ***Whether the change is consistent with and promotes the objectives of the Comprehensive Plan and other adopted policies and goals of the City.***

Finding:

In the City's Comprehensive Plan, Ordinance 500 herein referred to as ORD500, in the section on Existing Land Use, it is acknowledged that Commercial land uses are "concentrated in a small area near the intersection of Locust and Front Streets" and goes on to discuss how the concentration of commercial usage in this manner is advantageous for the City. It is noted that the Applicant's property is in the northern portion of the C-1 Commercial zone and is two blocks distant from any commercial usage and that the two adjacent commercial zoned properties are also non-

conforming residential uses in a commercial zone as are the properties to west on the other side of First St. The applicant's property also shares one boundary with the City's Specific Residential 1 designation on the Future Land Use Map and so a change to the Applicant's designation would be contiguous with this present designation. Changing of the designation of the Applicant's property as requested would have minimal to no impact with the objectives of the Comprehensive Plan.

In December, 2007 the PC approved a similar application for Comprehensive Plan Map change, ZC07-02 for Sam Moore and Pam Howard, for a property at 506 First St., a lot on the same side of First St. and 3 lots to the north of the Applicant's. The Applicant's at this property were also intending to be able to obtain a mortgage and were suffering the same difficulties in obtaining a mortgage.

Since there are no conflicts with the purposes and objectives of the Comprehensive Plan and since the PC has already approved a Zone Change and Future Land Use Map change on nearby properties under essentially identical conditions, this criterion is met without condition.

2) *Whether the change is consistent with and promotes the objectives of this ordinance and other City ordinances.*

Finding:

One boundary of the Applicant's property borders on the City's R-1/B Residential Zone which the applicant is seeking their property to be rezoned to. A change in the zoning of the Applicant's property to R-1/B would still make it be contiguous to the existing R-1/B zone and therefore, it would not violate the minimum zone size requirement of the OZO. It is noted that the lot size of 5,000 sq. ft. of the Applicant's property is non-conforming in the City's C-1 Commercial Zone which is 7,500 sq. ft. It would also be non-conforming in lot size at 5,000 sq. ft. in the R-1/B zone which has a minimum lot size of 10,000 sq.ft. While the lot would be sub-standard in the R-1/B zone it

would be conforming in use and it should be noted that several lots in the immediate neighborhood of the Applicant's property and contained within the R-1/B zone are also substandard in lot size. It is determined that the lot would be no more non-conforming as a result of the zone change and comprehensive plan map change than in its present status. Therefore, this criterion is met without condition.

- 3) *Whether the change is consistent with and promotes Oregon's Statewide Planning Goals as developed and amended by the Department of Land Conservation and Development (DLCD).*

Findings:

It is noted that in the Statewide Planning Goals are achieved through local comprehensive planning and that the State Law requires review for consistency with these goals by the DLCD for approval at which point it is acknowledged and becomes the controlling document for land use in the area covered by the plan. The Findings in criteria 1) above acknowledge the proposed Future Land Use Map amendment to be consistent with the City's Comprehensive Plan which was approved and acknowledged by the DLCD.

Furthermore, State Planning Goals 9 & 10 address issues of economic development and housing especially as related to the availability of adequate inventory of buildings and land for commercial and residential housing. The City of Oakland has available land for commercial development and is experiencing no pressure related to commercial use in this area of the City. The Applicant's property has always been in residential use and they wish to continue it as such.

The Applicant's proposal for Zone change and Comprehensive Plan Map change will have no impact on the availability of adequate lands for commercial use within the City of Oakland and will only continue the existing and long term use of the property as residential. Therefore, this criterion is met without condition.

NOW, THEREFORE, based upon the foregoing Findings of Fact, the Oakland Planning Commission hereby enters its

RECOMMENDATION

The Applicant's proposal for an amendment to the Zoning Map changing their parcel from C-1 General Commercial to R-1/B Low Density Residential and for amendment of the Future Land Use Map changing their parcel from Commercial to Specific Residential 1 is hereby

RECOMMENDED FOR APPROVAL

to the Oakland City Council.

By:





Wayne Estes

Mr. Wayne Estes, Chairman
Oakland Planning Commission

Date:

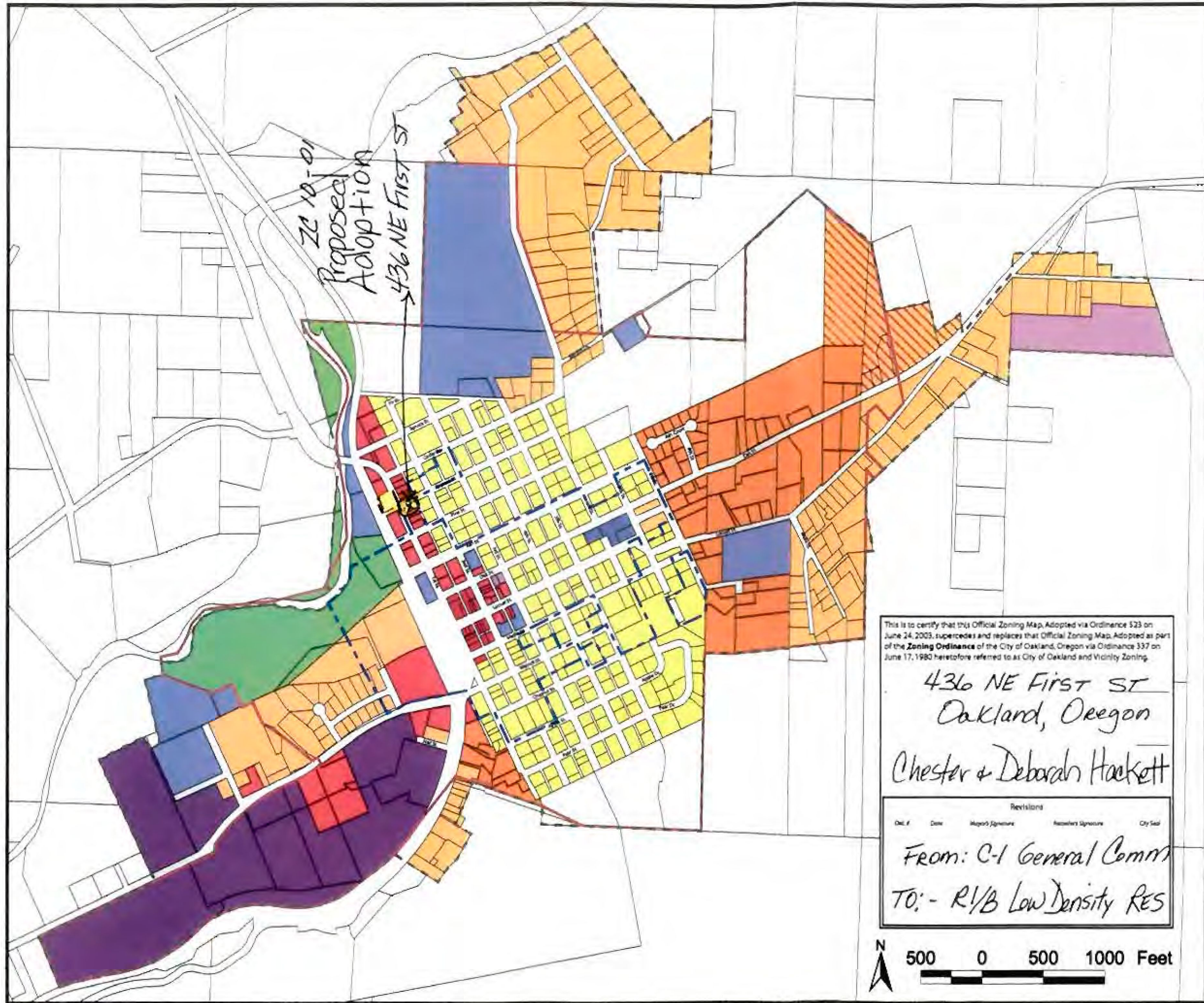
April 18, 2011

City of Oakland Zoning Map Legend

-  Urban Growth Boundary
-  City Limits
-  Historic District Boundary
-  Tax Lots

Zoning

-  A: Agriculture/ Open Space
-  R-R: Rural Density Residential
-  R-1/B Low Density Res (10,000 sf)
-  R-1/A: Low Density Res. (7,500 sf)
-  R-2: Medium Density Residential
-  DU: Duplex Overlay Zone
-  C-1: General Commercial
-  M-1: Light Industrial
-  M-2: General Industrial
-  PL: Public Land

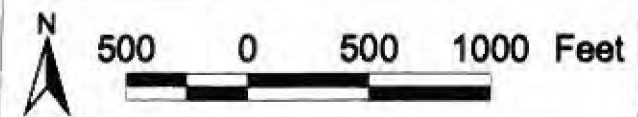


This is to certify that this Official Zoning Map, Adopted via Ordinance 523 on June 24, 2003, supersedes and replaces that Official Zoning Map, Adopted as part of the Zoning Ordinance of the City of Oakland, Oregon via Ordinance 337 on June 17, 1980 heretofore referred to as City of Oakland and Vicinity Zoning.

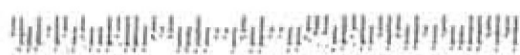
*436 NE First St
Oakland, Oregon*

Chester & Deborah Hackett

Revisions				
Ord. #	Date	Mayor's Signature	Assessor's Signature	City Seal
<i>From: C-1 General Comm</i>				
<i>TO: - R1/B Low Density RES</i>				



CITY OF OAKLAND
37 NE LOCUST ST
OAKLAND, OR 97462



UNITED STATES POSTAL SERVICE
UNITED WE STAND

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DEPT OF

JUN 10 2011

LAND CONSERVATION
AND DEVELOPMENT

*Department of Land Conservation
and Development*

*Attention:
Plan Amendment Specialist*

635 Capitol St. NE

Suite 150

Salem, OR 97301-2540