



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

04/15/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 001-13

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: Friday, May 02, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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: Steve Ochs, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist

<paa>



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 001-13 (19695)
[17838]
Received: 4/11/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Eugene

Local file no.: **Z 12-5**

Date of adoption: 3/22/13

Date sent: 4/11/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 2/8/13

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Steve Ochs, Associate Planner

Phone: 541-682-5453

E-mail: steve.p.ochs@ci.eugene.or.usStreet address: 99 West 10th Avenue

City: Eugene

Zip: 97401-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from AG	to R-1	Acres: 3.58
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 1270 Irvington, 17-04-03-34/00500 & 10100

List affected state or federal agencies, local governments and special districts: City of Eugene

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**DECISION OF THE HEARINGS OFFICIAL
FOR THE CITY OF EUGENE, OREGON**

ZONE CHANGE REQUEST

Application File Name (Number):

Bruce Wiechert Custom Homes (Z 12-5).

Applicant's Request:

Zone change from AG/CAS Agricultural with Commercial Airport Safety overlay zone to R-1/CAS Low-Density Residential with Commercial Airport Safety overlay zone.

Subject Property/Zoning/Location:

Tax Lots 500 and 10100 of Lane County Assessor's Map 17-04-03-34; zoned AG/CAS; located on the south side of Irvington Drive between Northwest Expressway and Korbel Street.

Applicant/Owner:

Bruce Wiechert Custom Homes, Inc.

Applicant's Representative:

Anthony Favreau, The Favreau Group (541)683-7048.

Lead City Staff:

Steve Ochs, Associate Planner, Eugene Planning Division,
Phone: (541) 682-5453.

Relevant Dates:

Zone Change application submitted November 20, 2012; application deemed complete February 5, 2013; public hearing held March 13, 2013.

Summary of the Present Request

This application is a request for a zone change from AG Agricultural to R-1 Low-Density Residential, for the 3.58 acre subject property comprised of Tax Lots 500 and 10100 on Lane County Assessor's Map 17-04-03-34. The subject parcels, which were recently annexed (see City File A 12-3) are currently vacant. Abutting properties to the south and east are zoned R-1/CAS and are developed with single family dwellings. To the west, the property abuts an AG Agricultural zoned unincorporated area developed with a single family dwelling and a church. Properties to the north, across Irvington Drive, are outside of the urban growth boundary. The subject property has CAS Commercial

Airport Safety overlay zoning; this overlay zoning will stay on the subject property as the proposal does not make a request to change the overlay.

Summary of the Public Hearing

The public hearing was held on March 13, 2013. Staff presented the application and made the City's recommendation to approve the application. The applicant's representative, Anthony Favreau, concurred in the staff report and provided testimony about the location of stormwater service for the subject property. Derrick Westover, another representative of the applicant, was in attendance at the hearing but made no comments. There was no other testimony at the public hearing; no members of the general public attended the hearing. No hearing exhibits were submitted at the hearing. The record was closed at the conclusion of the public hearing.

Documents Considered by the Hearings Official

Application, application narrative, and initial site plans map.

Completeness review correspondence.

DLCD Form 1.

Public notice for public hearing and mailing list.

Public hearing meeting agenda.

Zone change staff report, with attachment.

Referral comments cover memorandum correspondence.

Public Works referral comments from annexation file No. A 12-03, including related e-mail correspondence.

EVALUATION OF THE ZONE CHANGE REQUEST

In accordance with EC 9.7330, I am required to approve, approve with conditions, or deny this Type III land use application for a zone change. My decision must be based on, and be accompanied by, findings that explain the criteria and standards considered relevant to the decision. My decision must also state the facts relied upon in rendering the decision, and explain the justification for the decision based upon the criteria, standards, and facts set forth. The applicable zone change approval criteria are shown below in **bold** typeface, with each criterion followed by my findings and conclusions related to each criterion.

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

Findings

The Metro Plan land use diagram designates the subject property for Low-Density Residential use. A change in zone from AG Agricultural to R-1 Low-Density Residential is consistent with this designation.

The proposal is consistent with Policy A.2 which notes that residentially designated land within the UGB should be zoned consistent with the Metro Plan and applicable plans and policies. The Metro Plan generally supports the rezoning of land in order to be consistent with the plan designation, and the Eugene Code implements the Metro Plan by providing residential zoning for these uses.

The proposal is also consistent with the second portion of Policy A.2 which allows agriculturally zoned property to maintain the agriculture zoning within the UGB, but also recognizes that these properties within the UGB will be rezoned to their residential zoning in conformity with the residential designation as the City grows.

I find that there are no Metro Plan policies that serve as mandatory approval criteria for this application.

Conclusion

Based upon the above findings and consideration of Metro Plan policies, the proposal is consistent with the Metro Plan.

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

Findings

The River Road-Santa Clara Urban Facilities Plan (RRSC) is the adopted refinement plan applicable to this request. The property is just west of the Northwest Expressway subarea. The RRSC land use diagram designates the subject property and surrounding area east of Northwest Expressway for Low-Density Residential use and an area to the east of the subject property for Commercial.

The following RRSC policies, inset below, also appear to apply to this request.

General Policy 2.0: Adopt zoning that is consistent with the land use diagram and policies contained in the land use element of the Urban Facilities Plan.

Residential Land Use Policy 1.0: Recognize and maintain the predominately low-density residential character of the area consistent with the Metro Plan.

The proposed R-1 Low-Density Residential zoning is consistent with the Low-Density designation on the diagram and will maintain the low-density character of the area.

Residential Land Policy 2.0: Evaluate traffic and compatibility impacts when considering new residential development on parcels fronting arterial streets

The subject property abuts Irvington Road which is a minor arterial under Lane County jurisdiction. Evaluation of traffic and compatibility impacts will be addressed at the time of development of the parcels. The Eugene Code includes requirements for Traffic Impact Analysis and includes public improvement standards, street connectivity standards and requires compliance with Access Management requirements at the time of development. These requirements will ensure traffic and compatibility impacts are addressed along Irvington Road. Nothing further is required at this time.

Conclusion

The proposed zone change is consistent with applicable refinement plan policies.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Findings

Key urban facilities and services referred to in the above criterion are defined in the Metro Plan as including wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis. Metro Plan at page V-3. The minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities.

An 8-inch public wastewater line is available within the public streets adjacent to this site, with an 8-inch stub to the subject property from Irvington Drive, per as-construct records. There is an 18-inch public stormwater line within the Zinfandel Lane, just south of the property that may be able to be extended to the site via Butterfly Creek Lane. As-construct records show that a stub to the property was not constructed, though on-site infiltration may also be an option, provided the infiltration facility is sized to store and infiltrate the Flood Control Design Storm and on-site tests demonstrate the viability of infiltration. There was also evidence submitted that a stormwater line exists within Irvington Drive and would be available to serve the subject property. While this stormwater line is under Lane County jurisdiction, I do not find County control being a limiting factor for this criterion. Staff noted that future development of the property will require the applicant to submit a feasible stormwater proposal and demonstrate that all applicable stormwater management standards are satisfied, establishing capacity of the receiving system, pre-treating impervious areas prior to discharge, and possible oil and source controls, depending on proposed development.

For transportation purposes, the subject property has frontage on Irvington Drive which is under Lane County jurisdiction and functions as a minor arterial street. Street standards will be addressed with future development which may require right-of-way dedication, special setbacks and street improvements.

Conclusion

The proposal meets this criterion.

EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(f) EC 9.2735 Residential Zone Siting Requirements.

Findings

These siting requirements apply only to the R-1.5 zone. As this request is for R-1, this criterion does not apply.

Conclusion

This criterion is satisfied.

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

Findings

EC 9.8865(5) is inapplicable in this instance, as the proposed zone change does not include application of the NR zone.

Conclusion

This criterion is satisfied.

Transportation Planning Rule

Findings

The Transportation Planning Rule (TPR), found at OAR 660-012-0060, applies to zone change applications. This zone change does not implicate the changing of the functional classification of an existing or planned transportation facility or the changing of standards implementing a functional classification system. As a result, for this application, the TPR requires additional analysis if the proposed zone change would significantly affect an existing or planned transportation facility, as defined in OAR 660-012-0060(1). However, OAR 660-012-0060(9) provides an exception to this analysis if the proposal meets the three elements of the subsection. OAR 660-012-0060(9) provides:

"Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

- (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;
- (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and
- (c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area."

As discussed above, the subject property is designated as low-density residential on the City's adopted comprehensive plan map. The proposed R-1 zoning is consistent with that designation. The amendment does not change the plan map. The proposed rezone therefore meets the first element of the subsection 9 exception.

The City of Eugene's adopted and acknowledged Transportation System Plan (TSP) is the Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan). The Eugene City Council adopted the current version of the plan on September 10, 2001, by Ordinance No. 20234. In 2001, the criteria for adopting TransPlan (classified as a "major update" to the 1986 version), was as follows: "(a) Consistency with the relevant statewide planning goals adopted by the Land Conservation and Development Commission; and (b) Consistency with the Eugene-Springfield Metropolitan Area General Plan (Metro Plan)."

Both before and since the City Council adopted the 2001 TransPlan, the subject property was designated on the City's adopted comprehensive plan map as low-density residential. In adopting TransPlan, the City Council found TransPlan to be consistent with the Metro Plan, which includes the Metro Plan diagram. Since the 2001 Metro Plan diagram designated the subject property as residential, the 2001 finding that TransPlan is consistent with the Metro Plan is a finding that TransPlan is consistent with a low-density residential designation for the property. Because residential zoning will not change (is consistent with) the property's comprehensive plan map residential designation, and TransPlan is consistent with the residential designation, a residential zoning on the property is consistent with the City's acknowledged TSP.

Additionally, pursuant to OAR 660-012-0030(3), within UGBs, the determination of local and regional transportation needs must be based on population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan. The City's 2001 finding that TransPlan is consistent with OAR 660-012-0030(3) specifically states that TransPlan relied on the same forecasts and distributions that were relied upon for the Metro Plan periodic review. Because the 2001 Metro Plan

designates the subject property as low-density residential, the forecasts and distributions relied upon for TransPlan were based on that same residential designation. Since TransPlan was found to be consistent with OAR 660-012-0030(3), and acknowledged as such, the determination of transportation needs embodied in, and addressed by, TransPlan, is consistent with the subject property's low-density residential designation.

An identified purpose of the TPR is to "provide for the construction and implementation of transportation facilities, improvements and services necessary to support acknowledged comprehensive plans." OAR 660-012-0000(f). To that end OAR 660-012-0030(2) and (3) require that local governments adopt TSPs that include a determination of transportation needs; the determination of transportation needs must be based on population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan. It is this transportation need that TSPs must accommodate through existing and planned transportation facilities. As such, to determine the Eugene-Springfield area's transportation needs, TransPlan (adopted in 2001) was based on the same forecasts and distributions (e.g., Metro Plan designations) that were relied upon for the Metro Plan periodic review; the transportation needs that arise from the Metro Plan's 20-year plan for distribution of growth is the basis upon which TransPlan developed its transportation projects. This means that, as required by state law, TransPlan was based on the Metro Plan's land use designations and that TransPlan's planned transportation facilities were developed based on the Metro Plan's land use designations.

Accordingly, without something to the contrary in TransPlan, if a subject property held its current designation in 2001 when TransPlan was adopted and the proposed zone is consistent with the current designation, the proposed zone is consistent with TransPlan. Put another way, if a subject property held its current designation in 2001, TransPlan's transportation facility planning would have been based on the current designation; a zone consistent with the current designation is supported by, and consistent with, TransPlan's planned transportation facilities. To ensure that TransPlan does not provide something to the contrary necessitates a review of TransPlan to see if the subject property held unique status in the plan. In this case, the TSP does not identify the subject property in any way that could question the zone's consistency with the TSP.

Both before and since the City Council adopted the 2001 TransPlan, the property was designated on the City's adopted comprehensive plan map as low-density residential. Accordingly, without something to the contrary in TransPlan, since the property held the current residential designation in 2001 and the proposed R-1 zone is consistent with the current low-density residential designation, the proposed R-1 zone is consistent with TransPlan. I found nothing in TransPlan that is inconsistent with the subject property being zoned R-1.

Last, as to the third element of the subsection 9 exception, the subject property was not exempted from the TPR at the time of an urban growth boundary amendment. The third element is satisfied.

Conclusion

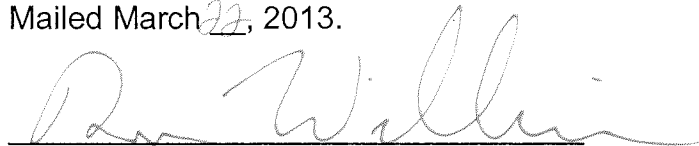
Based on the findings above, the proposed zoning map amendment does not significantly affect an existing or planned transportation facility.

Decision

Based on the application, all additional materials in the record before the Hearings Official and the findings and conclusions contained in this decision, I APPROVE the requested zone change for the subject property from AG/CAS Agricultural with Commercial Airport Safety overlay zone to R-1/CAS Low-Density Residential with Commercial Airport Safety overlay zone.

Dated this 18th day of March, 2013.

Mailed March ~~22~~, 2013.

A handwritten signature in cursive script, appearing to read "Ross M. Williamson", written over a horizontal line.

Ross M. Williamson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS

Bruce Wiechert Custom Homes (Z 12-5)
17-04-03-34/00500, 10100



Change in zoning from AG/CAS Agricultural with Commercial Airport Safety Zone
to R-1/CAS Low Density Residential with Commercial Airport Safety Zone



Existing Zoning

- AG Agricultural
- I-2 Light-Medium Industrial
- C-2 Community Commercial
- R-1 Low Density Residential
- Eugene UGB



Subject Site

