



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

November 7, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Yamhill County Plan Amendment
DLCD File Number 009-08

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: November 28, 2008

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: Doug White, DLCD Community Services Specialist
Steve Oulman, DLCD Regional Representative
Ken Friday, Yamhill County

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FORM 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DEPT OF

NOV 07 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Yamhill County**

Local file number: **PA-03-08**

Date of Adoption: **10/29/2008**

Date Mailed: **11/6/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/12/2008

☐ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☒ Other: **De-Annexation**

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

Group Mackenzie, on behalf of Evergreen Vintage Aircraft and Evergreen Agricultural Enterprises, makes three joint requests: 1) Amendment of the McMinnville UGB to remove approximately 30 industrially designated acres south of Hwy 18 from the UGB and the addition of approximately 30 acres north of Hwy 18 to the UGB; 2) De-Annexation of that southern 30 acres; and 3) Designation of the northern 30 acres as commercial on the comprehensive plan map.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Ag/Forestry Large Holding**

to: **Future Urbanizable**

Zone Map Changed from:

to:

Location: **Both south & north of Hwy 18**

Acres Involved: **30=30**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☐	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

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

DLCD # 009-08 (17080)

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: **Ken Friday**

Phone: (503) 434-7516 Extension: 3630

Address: **525 NE 4th St.**

Fax Number: **503-434-7544**

City: **McMinnville**

Zip: **97128-**

E-mail Address: **fridayk@co.yamhill.or.us**

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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not 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 now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

Approval of an Amendment to the McMinnville Urban Growth Boundary (UGB))
to Add Approximately 30-acres to Accommodate an Expansion of the)
Evergreen Aviation Museum for the Construction of a Water Park and Lodge,) Ordinance 835
And Application of a Commercial Comprehensive Plan Designation to the Expansion)
Area, Tax Lots 4423-800 & 1300 And 4427-200, Applicant Group Mackenzie,)
Docket PA-03-08, And Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on October 29, 2008, Commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that Group Mackenzie, on behalf of Evergreen Vintage Aircraft and Evergreen Agricultural Enterprises, requested an amendment to the McMinnville Urban Growth Boundary (UGB) to add approximately 30-acres of land (and de-annex another 30 acres) to accommodate an expansion of the existing Evergreen Aviation Museum complex for the future construction of a water park and overnight lodge, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed joint public hearing of the McMinnville City Council, McMinnville Area Urban Management Commission, and the Yamhill County Board of Commissioners on October 7, 2008, and the Council and the Board voted unanimously for approval. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE this 29th day of October, 2008, at McMinnville, Oregon.

ATTEST:

JAN COLEMAN

County Clerk

By

D

APPROVED AS TO FORM:

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

MARY P. STERN

Commissioner

LESLIE LEWIS

Commissioner

KATHY GEORGE

Evergreen Museum UGB - Ord. 835

B.O. 08-738

Exhibit "A"

DOCKET NO.: PA-03-08 (McMinnville File No. UGB-01-04/CPA-02-08)

REQUEST: Approval of an amendment to the McMinnville Urban Growth Boundary (UGB) to add approximately 30-acres of land to accommodate an expansion of the existing Evergreen Aviation Museum complex for the future construction of a water park and overnight lodge, and application of a commercial comprehensive plan designation to the expansion area. The subject property is generally located west of the existing Evergreen Aviation Museum campus and north of Cumulus Avenue. Also requested is the removal of some 30-acres of land from the existing UGB south of Highway 18 and west of the McMinnville Municipal Airport; withdrawal ("de-annexation") of this same land from the McMinnville city limits; and, amendment of the McMinnville and Yamhill County comprehensive plan maps to designate this withdrawn land from Industrial to Agricultural.

APPLICANT: Group Mackenzie, on behalf of Evergreen Vintage Aircraft and Evergreen Agricultural Enterprises

TAX LOT: 4423-800 and 1300 and 4427-200

LOCATION: Land to be added to the UGB is located north of Cumulus Avenue, west of the existing Evergreen Aviation Museum, and is further described as a portion of tax lots 4423-800 and 1300. Land to be withdrawn from the UGB is located south of Highway 18 and southeast of the Willamette Valley Medical Center and is further described as a portion of Tax Lot 4427-200.

CRITERIA:

1. Oregon Administrative Rule 660-004-0010 (1)(c)(B) – Application of the Goal 2 Exception Process to Certain Goals;
2. Oregon Administrative Rule 660-012-060 - Transportation Planning, Plan and Land Use Regulation Amendments;
3. Oregon Statewide Planning Goal 2 (Land Use Planning, Part II – Exceptions), and Goal 14 (Urbanization, Factors 1 – 7), and other goals including but not limited to 3, 9, 11, 12, and 14;
4. Oregon Revised Statute 197.298 – Priority of land to be included in the urban growth boundary;
5. McMinnville Ordinance No. 4146 – McMinnville Urban Growth Boundary Management Agreement, Section 1 – Urban Growth Boundary Amendment Policies (B); Section II – Urban Growth Boundary Amendment Procedure (A);
6. McMinnville Planned Development Ordinance No. 4131 (Three Mile Lane Planned Development Overlay), as amended by Ordinance No. 4572; and
7. The goals and policies of the Yamhill County and City of McMinnville Comprehensive Plans.

FINDINGS:

A. Background Facts:

1. Instead of repeating what is listed in the City's Findings, then entire City Findings, including the Subject Site description and Observations, are incorporated here by reference. This staff report will use the same reference names as found in the McMinnville Staff Report. The northern 30 acres

proposed for inclusion in the McMinnville urban growth boundary (UGB) will be referred to as the "subject site" or "site". The 30-acres proposed for exclusion from the UGB will be referred to as the "exclusion site".

2. Water and sewer: City of McMinnville.
3. Surrounding Land Use and Zoning: South of the site, across Highway 18, is the Captain Michael King Smith Memorial. The existing museum complex is zoned Commercial, C-3 PD. The land in the County adjacent to the subject site and exclusion area is zoned EF-80 Exclusive Farm Use.
4. Fire Protection: McMinnville Rural Fire District
5. Soils: The Yamhill County Soil Survey shows that the majority of the subject site is made up of Amity (Am) and Woodburn (WuB) soils, which are rated as Class II high-value farmland. Approximately 5% is made up of Dayton Silt Loam (Dc) which is rated as Class III high-value farmland. The exclusion site is made up of Woodburn (WuB) and Amity (Am) soils (Class II high-value farmland) with approximately 3% along the southern boundary of the exclusion site being terrace escarpments (Te) and rated as Class VI non-high value farmland.
6. Previous Actions: In November of 1998, the City Council approved a Comprehensive Plan amendment and zone change for the 32-acre site from Mixed Use-Agricultural Holding (AH) and county EF-40(80) to Commercial (C-3) to allow the AirVenture Museum. The Council also approved a conceptual design for the AirVenture Museum, with conditions, through the planned unit development process. In May of 1999, the citizens of McMinnville voted overwhelmingly to annex the site to the City, specifically for the purpose of construction of the museum. (A portion of the site (6.2 acres) was already in the City. The May annexation included the remaining 23.8 acres.) Also in 1999 an application was made to "trade" property from within the UGB with farmland in order to move the museum away from some unconsolidated fill. In 2004 an application was made to amend the McMinnville UGB to add approximately 34.58 acres of land to accommodate the proposed expansion of the existing Evergreen Aviation Museum complex.
7. Procedure: The McMinnville Urban Area Growth Management Agreement governs the procedures for processing a UGB amendment. The application will first go before the McMinnville Urban Area Management Commission (MUAMC) for a public hearing. The MUAMC will make findings and forward its decision to the McMinnville City Council and the Board of County Commissioners. The agreement states *"Each governing body may then make a determination based upon the facts and record presented at the MUAMC hearing without holding an additional public hearing thereon."* The agreement does not have a prohibition on these hearings being held together. In order to accommodate the applicant and interested parties, a joint hearing before the MUAMC, City Council and Board of Commissioners was held on October 7, 2008.

B. Urban Area Growth Management Agreement Provisions

1. Criteria addressed in UGB amendment requests include the *McMinnville Urban Area Growth Management Agreement*, the statewide planning goals, and the city and county Comprehensive Plans. The review standards from the first three of these are detailed in the city's staff report, hereby incorporated into these Findings by this reference. Consideration of the Yamhill County Goals and Policies will be discussed below.

Even though the majority of the Yamhill County Goals and Policies are aspirational and are not to be mistaken for, or treated as, approval criteria it is important that they be considered. It is a fact that some of the goals and policies conflict with one another. They are simply to be used as a guide to aid decision makers. For example, where goals or policies conflict the decision makers need to weigh the evidence and decide which goal or policy the request satisfies. Therefore, in each case, the MUAMC would need to decide whether the subject site and exclusion site are more appropriate to be preserved as farm land or it is better suited for urban development. The applicant has done a good job of describing the proposed uses of an indoor waterpark and 75-room lodge on the subject site. Based on the described uses, and the accessory uses required to support them, approximately 30 acres of land will be needed to support those uses. .

2. The Yamhill County Comprehensive Plan, Section I.A., Goal 1, directs County:

To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land use.

The applicant's point to their response given to Goal IV No. 1 of McMinnville's goals because it is very similar to that of the above goal. This response is found on the bottom of Page 57 and the top of page 58 of the application. Part of the purpose of this goal is to avoid leapfrog development and assure that cities will grow in an orderly fashion. As indicated in the application, the Evergreen Aviation Museum is located on adjacent land located within the city limits. It was originally placed at this location for a number of reasons. Among those reasons were the fact that the property was near the McMinnville Airport and a major state highway. During the previous land use hearings to establish the facility it was indicated that there would be some planned expansion of the facility. Therefore, there was some thought given on the part of both the applicants and the decision-makers that this facility would expand onto nearby land. In this case the expansion is proposed to go towards McMinnville, The applicant states that, "This is a far more logical addition to the urban fabric of McMinnville because it does not require incorporation of lands at the periphery of the existing urban form." Because this is expansion of an existing facility, the expansion is related to the existing museum, and that facility is not something that would be easy to relocate onto other property, the request satisfies Section I.A, Goal 1 in that it provides orderly, staged, and compatible development.

As for the 30-acre exclusion site, it is located at the edge of the “existing urban form” and is in farm use. The reason for this proposed “trade” of land is explained in the applicant’s narrative on Page 8 of the application. The second paragraph on this page states:

“Several important implication stem from a UGB exchange proposal as opposed to a net UGB expansion. First and foremost, the burden of proof does not include a clear demonstration that there is a need for more urban land because no additional urban land will be included within the boundary. OAR 660-024-0070 stipulate that ‘a local government considering an exchange of land may rely on its acknowledged population forecast and land needs analysis, rather than adopt a new forecast and need analysis, provided the land added to the UGB is planned for the same uses.’ In terms of a quasi-judicial UGB expansion such as the one proposed here, no additional analysis of population and land needs is required, significantly reducing the scope of the ‘needs analysis.’”

The applicant has shown by substantial evidence in the Record that the lands to be exchanged are similar. Certainly as far as the agricultural soil capability class the parcels are nearly identical as each have a similar percentage of Class II soils.

3. The Yamhill County Comprehensive Plan, Section II, Goal 1, states:

To conserve Yamhill County’s farm land for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.

The applicant maintains, and the Board finds, that the application preserves farm land in that there is no net loss of farm land because their application is to “trade” land within the UGB with that of the subject site. The soil suitability, aspect and slope of both parcels are similar and the County does not object to the trade from the standpoint of preserving land for farm use.

4. The Yamhill County Comprehensive Plan, Section II, Goal 2, Policy a. states:

Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

Both of the properties under review consist primarily of Woodburn silt loam (WuB) and Amity (Am) soils. Both of these are identified as Class II soils by the SCS and are classified as high-value farmland. The applicant does not dispute that both of these sites can, and have been, utilized as farmland. As noted above, the addition of the subject site appears to provide the orderly development of property by providing needed area for

urban expansion adjacent to the City, where services are available or can be readily extended, thereby avoiding leap-frog development or other land consumptive practices.

5. Both the City and the County have recognized that Three Mile Lane is a unique area of McMinnville which requires careful development consideration. Therefore, specific plan goals and policies have been adopted.

d. The designated PUD area (along Three Mile Lane in McMinnville) will be retained for the time being in its present agricultural and limited commercial, industrial and public uses and be designated for the uses shown on the plan map, and the area will be developed in accordance with the general policies of this plan and the following principles set out in the recommendations of the city and county planning commissions relative to Three Mile Lane land use policy:

1) Both Yamhill County and the City of McMinnville recognize that residential, commercial and industrial development along Three Mile Lane is desirable if it is of good quality and design. Further, such development should be staged in accordance with need and be compatible with the traffic-carrying function of Three Mile Lane, and the design capacity of the sewer and water service extensions into the area. Therefore, both governing bodies will consider applications for zone changes to property within their jurisdiction provided that the planned unit development concept is utilized.

In 1996 both McMinnville and Yamhill County worked on a Corridor Refinement Plan for Three Mile Lane. This plan was developed with the involvement of property owners along Three Mile Lane, including significant involvement of Evergreen Aviation. The City of McMinnville adopted the Corridor Refinement Plan for Three Mile Lane. The applicant's proposal would require some modifications to that plan. The City of McMinnville's staff report goes over these proposed amendments to McMinnville Ordinance No. 4131 (as amended by Ordinance No. 4572) that would make the amendment consistent with that plan. In addition, a referral was sent to the Oregon Department of Transportation (ODOT). ODOT responded that they could not determine specific mitigation measures given the lack of data available for the proposed use. However, as detailed in the City's staff report, the transportation planning rules under OAR 660-012-0060 do not need to be applied to a UGB amendment if the land added is not designated with a zone which would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary. A zone change is not part of this application. Therefore, at the time the property is rezoned, a more detailed traffic analysis will be required, which may result in additional traffic mitigation measures.

6. The Yamhill County Comprehensive Plan, Section I, Goal 1, Economic Development directs the County:

To maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and under-employment in the county,

balance the real property tax base of the various cities, and strengthen local economic bases.

The Board finds conversion of UGB land back to an agricultural designation is a desirable action in this case. Certainly there are real economic benefits from agricultural use of the property. The Board finds it is in the best interest of both the County and City to have the conversion of industrially plan designated UGB land revert back to agricultural use.

CONCLUSION:

1. The request is to amend the McMinnville Urban Growth Boundary (UGB) to add approximately 30-acres of land to accommodate an expansion of the existing Evergreen Aviation Museum complex for the future construction of a water park and overnight lodge. Also requested is the removal of some 30-acres of land from the existing UGB south of Highway 18 and west of the McMinnville Municipal Airport; withdrawal ("de-annexation") of this same land from the McMinnville city limits; and amendment of the McMinnville and Yamhill County comprehensive plan maps to designate this withdrawn land from Industrial to Agricultural.
2. The Board finds that the applicant has demonstrated that the request to add 30-acres of land to accommodate the expansion of the Evergreen Aviation Museum satisfies the Yamhill County Comprehensive Plan goals and policies.
3. The Board finds that the applicant has demonstrated that the request to withdraw 30-acres of land from the City limits and UGB satisfies the Yamhill County Comprehensive Plan goals and policies. The Yamhill County Comprehensive Plan Map shall be amended by designating the exclusion site as AFLH Agriculture/Forestry Large Holding.

EvergreenUGBOrdinance.wpd

**Yamhill County Dept
of Planning & Development**
525 NE Fourth St
McMinnville, OR 97128
<http://www.co.yamhill.or.us/plan/>



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