



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



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

Date: March 04, 2015
Jurisdiction: City of Eugene
Local file no.: Z 14-7 Summit Bank
DLCD file no.: 011-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/27/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 55 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



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

FOR DLCD USE

011 - 14

File No.: {22574}

Received: 2/27/2015

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 14-7**

Date of adoption: 2/26/15

Date sent: 2/27/2015

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): 12/3/14

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): Gabe Flock, Senior Planner

Phone: 541-682-5697

E-mail: gabriel.flock@ci.eugene.or.us

Street 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 I-2	to E-2	Acres: 6.71
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): Willow Creek and West 11th - 17-04-33-30/00200

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

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

INTRODUCTION

Application File Name (Number):

Mary Merriman for Summit Bank (Z 14-7)

Applicant's Request:

Zone change from I-2 Light-Medium Industrial to E-2 Mixed-Use Employment.

Subject Property/Location:

Located on the south side of West 11th Avenue, west of Willow Creek Road; Tax Lot 200 of Assessor's Map 17-04-33-30.

Relevant Dates:

Zone change application submitted on September 2, 2014; application deemed complete on December 3, 2014; public hearing held on January 28, 2015.

Applicant's Representative:

Kristen Taylor from TRG Architects and Planners.

Lead City Staff:

Gabe Flock, Senior Planner, Eugene Planning Division.

Summary of the Public Hearing

The Hearings Official held a public hearing on this application on January 28, 2015. The Hearings Official stated he had no conflicts of interests, was not biased, and had no *ex parte* communications to disclose. No person objected to the Hearings Official conducting the hearing. Gabe Flock (Flock), Senior Planner, was present for the hearings. Flock presented the staff report at the public hearing, recommending approval of the zone change request. Kristen Taylor testified that she agreed with the staff report. Kelly Sandow testified regarding transportation issues. There was no testimony in opposition to the application. At the conclusion of the public hearing, the Hearings Official closed the record.

FACTS

The subject property is 6.73 acres located on the south side of West 11th Avenue, west of Willow Creek Road and east of Renee Street. The applicant seeks to have the property rezoned from I-2 Light-Medium Industrial to E-2 Mixed-Use Employment. The E-2 Mixed-Use

Employment zone is a new City industrial classification. The new industrial classification, however, allows for greater retail uses than the I-2 Light-Medium Industrial zone. The City's Transportation System Plan (TSP) assumptions for industrial zones did not include the new E zones. Therefore, as explained later, the application does not qualify for an exception to the Transportation Planning Rule.

DOCUMENTS CONSIDERED BY THE HEARINGS OFFICIAL

I have considered all of the documents in the planning file for the proposed zone change (Z 14-7) as well as the testimony and documents provided at the public hearing.

ANALYSIS

Eugene Code (EC) 9.8865 provides the criteria for approval of a zone change:

"Zone Change Approval Criteria. Approval of a zone change application, including the designation of an overlay zone, shall not be approved unless it meets all of the following criteria:

- "(1) The proposed 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.
- "(2) The proposed zone change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.
- "(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.
- "(4) The proposed zone change is consistent with the applicable siting requirements set out for the specific zone * * *.
- "(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."

EC 9.8865(1)

EC 9.8865(1) requires that the proposed zone change be consistent with applicable provisions of the Metro Plan. The most obviously applicable provision of the Metro Plan is the plan designation for the property. The plan designation for the property is Light-Medium

Industrial. Both the existing I-2 Light-Medium Industrial and E-2 Mixed-Use Employment zones are consistent with the plan designation. No specific Metro Plan policies were identified as being mandatory approval criteria. As described in the application, the E-2 Mixed-Use Employment zone furthers economic policies of the Metro Plan. Therefore, I find that the proposed zone change is consistent with the provisions of the Metro Plan and that EC 9.8865(1) is satisfied.

EC 9.8865(2)

EC 9.8865(2) requires that the proposed zone change be consistent with the applicable adopted refinement plans. In the present case, the applicable refinement plan is the Willow Creek Special Area Study (WCSAS). The WCSAS designates the subject property as Light-Medium Industrial. Both the existing I-2 Light-Medium Industrial and E-2 Mixed-Use Employment zones are consistent with the WCSAS designation. No specific WCSAS policies were identified as being mandatory approval criteria. As described in the application, the E-2 Mixed-Use Employment zone furthers WCSAS policies that encourage improved amenities for alternative modes of transportation. Therefore, I find that the proposed zone change is consistent with the WCSAS and that EC 9.8865(2) is satisfied.

EC 9.8865(3)

EC 9.8865(3) requires that the uses and densities allowed by the proposed zoning can be served through the orderly extension of key urban facilities and services. Key urban facilities and services are defined in the Metro Plan as: 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.

Key urban facilities and services are available to the property as explained by the staff report and the referral comments. Therefore, I find that EC 9.8865(3) is satisfied.

EC 9.8865(4)

EC 9.8865(4) requires that the proposed zone change be consistent with certain applicable siting requirements set out for the specific zone. EC 9.8865(4)(b) provides:

“EC 9.2430 Employment and Industrial Zone Siting Requirements.

“* * * * *

“(2) E-2 Mixed-Use Employment. This zone is limited to areas designated Light-Medium Industrial in the Metro Plan and those that meet either (a) or (b) of the following minimum siting requirements:

“(a) Property has frontage on an arterial street.

“(b) Contiguous to parcels currently zoned E-2 or C-2 Community Commercial.”

As discussed earlier, the subject property has a Light-Medium Industrial plan designation. The property has frontage on West 11th Avenue, which is classified as a major arterial street. Therefore, I find that EC 9.8865(4) is satisfied.

EC 9.8865(5)

EC 9.8865(5) requires that certain arrangements must be made with the City when an NR Natural Resource zone is applied based on EC 9.2510(3). The proposed zone change does not include any NR Natural Resource zoning, so this criterion does not affect the application. Therefore, I find that EC 9.8865(5) is satisfied.

Transportation Planning Rule

Oregon Transportation Planning Rule (TPR), OAR 660-012-0060(1) provides:

“(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

“(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

“(b) Change standards implementing a functional classification system; or

“(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- “(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- “(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- “(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”

If a proposed zone change would “significantly affect an existing or planned transportation facility” then certain measures must be put in place to approve the zone change. Although the E-2 Mixed-Use Employment zone is consistent with the Light-Medium Industrial designation for the property, the additional retail uses allowed could generate more vehicle trips than provided for in the City’s TSP. The applicant’s traffic impact analysis demonstrates that the worst case scenario under the proposed zone change would result in a significant effect on a transportation system. An applicant for a zone change may avoid the analysis of OAR 660-012-0060(1) if it qualifies for an exception under OAR 660-012-0060(9), which 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.”

The proposed zone change satisfies OAR 660-012-0060(9)(a) & (c) because the proposed zoning is consistent with plan designation and the area was not exempted from the rule at the

time of an urban growth boundary agreement. The City's TSP, however, does not account for the additional trips allowed under the E-2 Mixed-Use Employment zone, so the proposed zoning is not consistent with the TSP. Therefore, OAR 660-012-0060(9)(b) is not satisfied.

OAR 660-012-0060(2) provides that when a zone change would significantly affect an existing or planned transportation facility mitigation measures must be taken in order to allow the zone change. In the present case, the applicant initially proposed some improvements to existing roads and operation of the traffic lights. The City stated that those proposed measures would not be adequate. Instead, the City and the applicant have agreed on a proposed condition of approval to impose a trip cap on future development to ensure no significant effect on a transportation facility will occur. The development potential for the proposed zone change has an estimated trip generation of 814 p.m. peak trips.¹ The existing zoning trip generation is 630 p.m. peak trips. The applicant has agreed to a condition of approval that would limit p.m. peak trips to 611. While it is unusual to condition a zone change, I conclude that under the circumstances the TPR is satisfied.

DECISION

Based upon the available evidence and preceding findings, the Hearings Official APPROVES the applicant's request for a zone change from I-2 Light-Medium Industrial to E-2 Mixed-Use Employment.

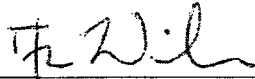
CONDITION OF APPROVAL

Development of the subject site is limited to a maximum of 611 p.m. peak hour trips, based on the Trip Generation Manual from the Institute of Transportation Engineers (ITE). This trip cap will be automatically lifted upon adoption of the City's updated TSP, so long as the updated TSP includes level of service changes or other mitigation sufficient to eliminate the need for the trip cap under OAR 660-012-0060. Alternatively, the City may allow development intensity beyond this maximum number of peak hour vehicle trips if the applicant submits an analysis to the City and ODOT (subject to the Type II land use application procedures) demonstrating that the intensification of use would be consistent with the Transportation Planning Rule (TPR) at OAR 660-012-0060, through the provision of other acceptable mitigation measures.

¹ Peak p.m. trips are the type of trips that would cause a significant effect on a transportation facility.

Dated this 11th day of February, 2015.

Mailed this _____ day of February 2015.



Fred Wilson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL
RIGHTS

Summit Bank (Z 14-7)

17-04-33-30/00200

Change in zoning from I-2 Light-Medium Industrial
to E-2 Mixed-Use Employment



Subject Site

