



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

April 5, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cottage Grove Plan Amendment
DLCD File Number 013-05



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: April 17, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) 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 ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Marguerite Nabeta, DLCD Regional Representative
Amanda Ferguson, City of Cottage Grove

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FORM 2

DLCD NOTICE OF ADOPTION

DEPT OF

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

(See reverse side for submittal requirements)

APR 03 2006

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: Cottage Grove Local File No.: ZC 1-06 (If no number, use none)

Date of Adoption: 03-27-06 (Must be filled in) Date Mailed: 03-31-06 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 12-07-05

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

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

Rezoned 66.9 acres known as Mt. David from RR-5 to R Single Family Residential District.

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."

Proposed amendment was for R-1 zoning. Applicant requested change to R Zoning.

Plan Map Changed from : Lane Code RR-5 to City R Single Family

Zone Map Changed from: to

Location: Map 20-03-28-20; Tax Lots 1301 & 1900 Acres Involved: 66.90

Specify Density: Previous: vacant New: 1 DU/10,000 s.f.

Applicable Statewide Planning Goals: 1, 2, 9

Was an Exception Adopted? Yes: No: x

DLCD File No.: 013-05 (14856)

ORDINANCE NO. 2930

AN ORDINANCE AMENDING TITLE 18 OF THE
MUNICIPAL CODE OF COTTAGE GROVE,
THE CITY WIDE ZONING MAP FOR 66.90 ACRES OF MOUNT DAVID.
(EMERALD HEIGHTS LLC)

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to amend the adopted city-wide "zoning map" to identify the rezoning of the property described as Map 20-03-28-20, Tax lots 1301 and 1900, and further described by the warranty deed attached as Exhibit 'A'.

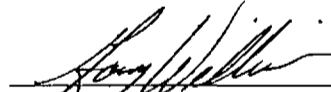
Section 2. Procedural Compliance. This amendment is in compliance with Title 18, Chapter 18.58 of the Municipal Code of the City of Cottage Grove and is based upon the City Council determination, after a City Planning Commission public hearing and recommendation, that the zone change (ZC 1-06) is a proper implementation of the City Comprehensive Land Use Plan and, therefore, is in the public interest and serves the health, safety and welfare of the citizens of the City of Cottage Grove.

Section 3. Findings. City Council with the adoption of this Ordinance hereby adopts the findings as detailed in "Exhibit B".

Section 4. Amendment. The city-wide "zoning map" which is a part of Title 18 is hereby amended as follows with respect to the property described in Exhibit 'A' change of zoning district classification from Lane Code Chapter 10 RR-5 Rural Residential to 'R' Single Family Residential District.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 27TH
DAY OF MARCH, 2006.


Richard Meyers, City Manager


Gary Williams, Mayor

Dated: March 28, 2006

Dated: March 28, 2006

After Recording Return
Western Title & Escrow Company
497 Oak
Eugene

Division of Chief Deputy Clerk
Lane County Deeds and Records

2004-048865

EXHIBIT A



\$51.00

0024

06/28/2004 09:31:54 AM

RPR-DEED Cnt=1 Stn=6 CASHIER 07
\$10.00 \$20.00 \$11.00 \$10.00

WARRANTY DEED -- STATUTORY FORM

CHONG AE KIM-HEMENWAY and DAVID HEMENWAY and ROBERT DALE GHEEN, ROBERT
LOUIS SCHMIDT and DIANA LEE SCHMIDT, Grantor,

conveys and warrants to

EMERALD HEIGHTS, LLC, an Oregon Limited Liability Company, Grantee,

the following described real property, free of encumbrances except as
specifically set forth herein, to wit:

Beginning at a point described as being 228.30 feet South 89 degrees 57' 15"
West of a point 103.98 feet North 00 degrees 02' 45" West of the Northwest
corner of D. G. MCFARLAND'S FOURTH ADDITION, as platted and recorded in Book 2,
Page 35, Lane County Oregon Plat Records; thence North 89 degrees 56' 41" East,
a distance of 227.96 feet; thence South 00 degrees 06' 15" East, a distance of
103.94 feet to the Northwest corner of said subdivision; thence South 89
degrees 50' 26" East, a distance of 469.90 feet along the North line of said
subdivision to the Southwest corner of that tract of land deeded to Lester G.
Porter, et ux, by deed recorded July 7, 1942 in Book 233, Page 354, Lane County
Oregon Deed Records; thence along the boundary of said Porter tract, North 00
degrees 35' 11" East, a distance of 46.32 feet; thence North 44 degrees 55' 11"
East, a distance of 141.00 feet; thence North 79 degrees 55' 11" East, a
distance of 73.02 feet; thence South 73 degrees 04' 49" East, a distance of
105.24 feet; thence South 65 degrees 04' 49" East, a distance of 212.00 feet;
thence South 00 degrees 04' 49" East, a distance of 40.28 feet to the Southeast
corner of said Porter tract; thence leaving the East line of said Porter tract,
South 89 degrees 50' 26" East along the North line of said D. G. MCFARLAND'S
FOURTH ADDITION, a distance of 239.95 feet; thence North 00 degrees 01' 38"
West, a distance of 145.00 feet; thence North 53 degrees 05' 00" East, a
distance of 279.00 feet; thence South 86 degrees 15' 00" East, a distance of
283.27 feet; thence North 30 degrees 00' 00" East, a distance of 461.92 feet to
corner No. 3 of County Survey No. 1421; thence North 00 degrees 05' 43" West, a
distance of 159.92 feet to corner No. 2 of said County Survey No. 1421; thence
North 57 degrees 06' 36" West, a distance of 148.49 feet to a point on the arc
of a 600.00 foot radius curve right; thence along the arc of said curve (the
chord of which bears North 65 degrees 42' 50" West, a distance of 448.28 feet)
a distance of 459.42 feet to the point of tangency; thence North 43 degrees 46'
41" West, a distance of 190.58 feet to the point of curvature of a 1000.00 foot
radius curve to the left; thence along the arc of said curve (the chord of
which bears North 50 degrees 09' 26" West, a distance of 222.22 feet) a
distance of 222.67 feet; thence North 56 degrees 32' 11" West, a distance of
1565.64 feet to the East line of that parcel conveyed to Terry Lee Hibbard,
Pamela Kay Thies and Christine L. Watson by deed recorded December 15, 1992 on
Reel 1811, Reception No. 92-70832, Lane County Oregon Deed Records; thence
South 00 degrees 04' 08" East along said East line, a distance of 2155.31 feet
to the point of beginning, all in Lane County, Oregon. EXCEPTING THEREFROM:
The land on which a spring is located, 165 feet North and 40 feet West of the
Northeast corner of Lot 3, Block 4, D. G. MCFARLAND'S FOURTH ADDITION to
Cottage Grove, Oregon, as described in deed recorded July 7, 1942, Book 233,
Page 354, Deed Records of Lane County, Oregon.

Tax Account No(s): 1589603 0891422

Map/Tax Lot No(s): 20 03 28 20 01900 20 03 28 20 01301

This property is free from encumbrances, EXCEPT: All those items of record, if
any, as of the date of this deed, including any real property taxes due, but
not yet payable.

The true consideration for this conveyance is \$63,384.93 .

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST

EXHIBIT B - FINDINGS
Zone Change ZC 1-06

1. Gary Reed, Weber Elliott Engineers, submitted an application on December 7, 2005 on behalf of Emerald Heights LLC to change the zoning on 2 parcels identified as Map 20-03-28-20 TL 1301 and 1900, and locally known as Mt. David.
2. The two parcels, equaling approximately 66.9 acres, were annexed into the City of Cottage Grove on November 21, 2005 but are currently zoned Lane Code RR-5 Rural Residential 5 Acre minimum.
3. The owner, Emerald Heights LLC, has requested a zone change to City of Cottage Grove R-1 Single Family Residential, and has submitted an application to that effect.
4. The City accepted the Zone Change application, identified as ZC 1-06, as complete on December 7, 2005.
5. Forty-five day notice was given to DLCD on December 7, 2005 of the proposed Zone Change pursuant to ORS 197.610, OAR Chapter 660, Division 18.
5. Notice was given pursuant to Chapter 18.58 of the Cottage Grove Municipal Code for the public hearing held on February 15, 2006.
6. The Planning Commission held a public hearing on this zone change on February 15, 2006; and staff recommended that an approval recommendation be made to City Council. No one spoke in favor of the application and nine people spoke against the application. The Planning Commission closed the public hearing and entered into discussion on the application.
7. The Planning Commission requested staff to prepare findings for denial of the R-1 Single Family Zoning and to bring them back for their consideration at a special meeting on February 22, 2006.
8. Staff prepared findings for denial based on the directions of the Planning Commission, review of the public testimony and the zone change application.
9. The Cottage Grove Comprehensive Plan designates the property as "L" Low Density Residential, the implementing zones for which are R Residential, R-1 Single Family Residential, and RS Suburban Residential. Although the proposed R-1 zoning is one of the implementing zones, it is not the most appropriate zoning for the properties, due to location-specific hazards and potential traffic impacts.

10. The subject parcels have been identified by the Department of Geology and Mineral Industry (DOGAMI) as an Area of Further Study for rapidly moving landslide hazard. Geologic stability of the area is therefore in question. Development of this area under the R-1 zoning, which allows 6000 square foot lots, would pose a threat to life and safety due to this geologic instability. The R zoning, which requires minimum 10,000 square foot lots, would be more appropriate, as larger lots give developers greater options for sensitive site development. This zone would also reduce the potential density of the development whether it was for a single family dwellings or clustered housing development.
11. Following the public hearing and prior to consideration of the application at a public hearing before City Council, Bill Kloos of the Law Office of Bill Kloos, LLC submitted a letter identifying that he is now representing the applicant and that they do not have any objection zoning the property to "R" Single Family Residential District.
12. After checking with legal counsel it was determined that City Council could consider the application at the hearing to zone it to "R" Single Family Residential District for the following reasons:
 - a. The property owner has no objections;
 - b. Those with standing at the Planning Commission were in favor of the proposed zone and recommended it during their testimony;
 - c. In keeping with the Land Use Comprehensive Plan; and
 - d. Less intense residential development as the lot size is 10,000 square feet rather than 6,000 square feet and both districts are primarily single family residential.
13. The proposed zone change to "R" Single Family Residential District when reviewed against the Statewide Goals, it was found:

- Goal 1: Citizen Involvement: The public hearing met this goal, as the Planning Commission is the body designated in the plan to consider zoning change amendments. Our process also includes a public hearing at the City Council level, various forms of notification of the public in the immediate area, notification of the general public through the media, and other governmental agencies through mailed notification. Our public process follows our citizen involvement program. This goal is in compliance.
- Goal 2: Land Use Planning: The city has established a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The proposed change is compatible.
- Goal 3: Agricultural Lands: Not applicable.
- Goal 4: Forest Lands: Not applicable.
- Goal 5: Natural Resources, Scenic and Historic Areas and Open Spaces: Through the PUD process the natural resources, scenic, historic, and cultural areas should be identified. Development will need to take

this inventory into consideration. 10% of the site will be required to be in open space as determined through the PUD process. For this zone change this goal is in compliance.

- Goal 6: Air, Water and Land Resources Quality: Impacts to air, water and land resource quality shall be considered during the PUD process. This goal is in compliance.
- Goal 7: Areas Subject to Natural Disasters and Hazards: The site is subject to potential natural hazards as identified by DOGAMI where further study is required. The goal is to protect life and property from natural disasters and hazards. Through the development process of the PUD these factors would be taken into consideration. This goal is in compliance.
- Goal 8: Recreational Needs: While there is a desire to obtain Mt. David for recreational development in both the Comprehensive Plan and the Park Plan, however, neither the city nor any other group to our knowledge has ownership or the funds to obtain it. Through the PUD process a minimum of 10% of the site will be required recreation and open space. This goal is in compliance
- Goal 9: Economic Development: Not applicable.
- Goal 10: Housing: To provide for housing needs. This zone change will provide for housing needs. This goal is in compliance.
- Goal 11: Public Facilities and Services: The zone change and subsequent PUD development will provide for a timely, orderly, and efficient arrangement of public facilities and services. This goal is in compliance.
- Goal 12: Transportation: With the development through the PUD process this goal will be addressed.
- Goal 13: Energy Conservation: Not applicable.
- Goal 14: Urbanization: Proposed zone change provides for an orderly and efficient transition form rural to urban land use. This goal is in compliance.
- Goal 15: Willamette River Greenway: Not applicable.
- Goal 16: Estuarine Resources: Not applicable.
- Goal 17: Coastal Shorelands: Not applicable.
- Goal 18: Beaches and Dunes: Not applicable.
- Goal 19: Ocean Resources: Not applicable.