



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

December 22, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Estacada Plan Amendment
DLCD File Number 002-06



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: January 4, 2007

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
Stacy Humphrey, DLCD Regional Representative
Mike McCallister, City of Estacada

<paa> ya/

PROF 2 Notice of Adoption

DEPT OF

DEC 15 2006

LAND CONSERVATION AND DEVELOPMENT

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

For DLCD Use Only

Jurisdiction: City of Estacada Local file number: Annex 2006-4
Date of Adoption: 12/11/2006 Date Mailed: 12/14/2006
Date original Notice of Proposed Amendment was mailed to DLCD: 2/6/2006

- Comprehensive Plan Text Amendment
Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
Zoning Map Amendment
Other: Annexation

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

Annex to the City of Estacada property described as 34E, 28B, tax lot 101. Zone change map amendment from RRFF-5 (County designation) to R-2 (medium density residential) consistent with the City Comprehensive Plan.

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".

No substantial changes.

Plan Map Changed from: n/a to:
Zone Map Changed from: RRFF-5 to: R-2
Location: 34E, 28A, tax lot 1101 Acres Involved: 1.25
Specify Density: Previous: 5 acre New: 5000 sq ft
Applicable Statewide Planning Goals: 9, 10, 11, 12 & 14
Was and Exception Adopted? YES NO

DLCD File No.: 002-06 (14989)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Clackamas County, Estacada Fire Dept, ODOT.

Local Contact: **Mike McCallister** Phone: **(503) 353-4502** Extension: _____
Address: **9101 SE Sunnybrook** City: **Clackamas**
Zip Code + 4: **97015-** Email Address: _____
mikem@co.clackamas.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 (2) Copies** 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to 8-1/2x11 green paper only; or 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.

RESOLUTION 2006 – NO. 28

A RESOLUTION OF THE ESTACADA CITY COUNCIL PROCLAIMING ANNEXATION OF 1.45 ACRES OWNED BY MICHAEL MOFFORD.

WHEREAS, Michael Mofford submitted a petition to the City requesting that certain properties of which he has ownership be annexed to the City. The petition met the requirements for initiating a proposal set forth in Estacada Code Chapter 16.124; and

WHEREAS, the Estacada Planning Commission conducted a public hearing on the proposal on March 23, 2006 after the proper publications and notices and forwarded a recommendation of approval with conditions; and


WHEREAS, after proper notices and publications the Estacada City Council conducted a public hearing on April 24, 2006 and voted to approve the annexation request with conditions and submit it to a vote of the City electors at the next available election; and

WHEREAS, the Estacada City Council adopted Resolution 2006 – No. 007 at their June 12, 2006 meeting calling for a measure election to submit to the electors of the City the question of annexation of 1.45 acres into the City limits; and

WHEREAS, on November 7, 2006 there was an election held and the question of this annexation was asked of all electors inside the City of Estacada and the outcome was 516 yes to 252 no votes, therefore a majority of the electors approving the annexation.

NOW, THEREFORE IT IS ORDERED THAT the territory described in Exhibit "A" is annexed to the City of Estacada according to the City Council findings and decision in Exhibit "B".

PASSED and effective this 11th day of December, 2006.


Mayor

ATTEST:

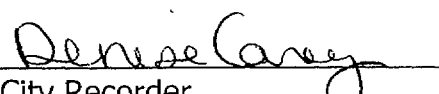

City Recorder

EXHIBIT A



GAYLORD
LAND SURVEYING, INC.

- Surveying Oregon Since 1970 -

2910 S.E. Oak Grove Blvd. • Milwaukie, OR 97267

Phone 503-654-1492 • Fax 503-654-7878

E-mail: pat@gaylordlandsurveying.com

June 15, 2005

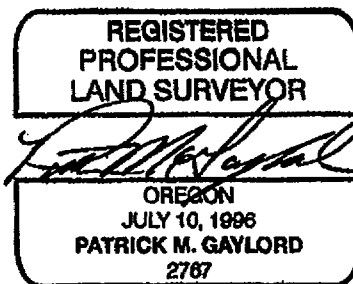
LEGAL DESCRIPTION FOR PROPOSED ANNEXATION

LEGAL DESCRIPTION FOR A PROPOSED ANNEXATION TO THE CITY OF ESTACADA IN THE NORTHWEST ONE QUARTER OF SECTION 28, T3E, R4E, W.M., CLACKAMAS COUNTY, OREGON. THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

THE NORTH 245 FEET OF LOT 3, EXCEPTING THEREFROM THE WEST 35 FEET THEREOF AND THE NORTH 245 FEET OF LOT 4, ALL IN BLOCK 1, ESTACADA HEIGHTS

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1, PARTITION PLAT NO. 1997-139, CLACKAMAS COUNTY SURVEY RECORDS; THENCE NORTH 00°03'45" WEST 40.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD NO. 2508; THENCE ALONG THE SAID RIGHT OF WAY LINE SOUTH 89°51'09" EAST 221.54 FEET TO A POINT IN THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 4, BLOCK 1, ESTACADA HEIGHTS; THENCE ALONG THE SAID NORTHERLY EXTENSION AND THE EAST LINE OF SAID LOT 4, SOUTH 00°04'20" EAST 285.00 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE NORTH LINE OF PARCEL 2 OF PARTITION PLAT NO. 1997-139, NORTH 89°51'09" WEST 221.58 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 2 AND A POINT IN THE EAST LINE OF PARCEL 1 OF THE SAID PLAT; THENCE ALONG THE EAST LINE OF PARCEL 1, NORTH 00°03'45" WEST 245.00 FEET TO THE POINT OF BEGINNING. CONTAINING 1.45 ACRES MORE OR LESS.



NAME: Michael Mofford
FILE NO.: 2006-02-A
PUBLIC HEARING DATE: April 24, 2006

CITY COUNCIL FINDINGS AND DECISION

GENERAL INFORMATION

Applicant: Michael Mofford

Owner(s): Same.

Proposal: Annexation of approximately 1.45 acres of land within the Estacada Urban Growth Boundary into the City Limits. This application includes a corresponding zone change from RRFF-5 to R-2 consistent with the Estacada Comprehensive Plan.

Location: The subject property is located on the south side of 4th Avenue, approximately 250 feet east of its intersection with Mountain View Lane.

Legal Description: T3S, R4E, Section 28B, Tax Lot 101.

Zone: Rural Residential Farm Forest, 5 acre minimum lot size (County Zoning District).

Comprehensive Plan Designation: Rural (County Designations); Medium Density Residential (City Designation).

Planning Commission Recommendation: The Planning Commission held a public hearing on this application on March 23, 2006 and recommended approval of the application with conditions to the Estacada City Council.

PART 1: ANNEXATION APPLICATION

REVIEW PROCESS

Section 16.124 of the City Code outlines the review procedures for Annexation applications. The procedure is summarized as follows. Once a complete application is submitted and the City Planner completes a staff report, the Planning Commission is required to hold at least one open public meeting on the annexation request. Within 45 days following the Planning Commission meeting, unless a continuance is requested, the Commission shall adopt specific findings of fact addressing the review criteria and forward a recommendation to the City Council. The matter will then be set for a public hearing before the City Council. The City Council may adopt the Planning Commission

2. Section 16.124.030(B): Adequate capacity of urban services must exist or be made available with three years of annexation approval. An adequate capacity of urban services shall mean:

a. *Municipal sanitary sewer and water service meeting the requirements enumerated in the City of Estacada's Water and Sewer Master Plans for the provision of these services.*

Public sanitary sewer and water service does not currently exist to the site. The Public Works Director, Chris Randall has submitted comments addressing the adequacy of the public water and sewer system. See Exhibit 2. Improvements to both the City sewer and water systems are planned and funded for the year 2005-2006 consistent with the City of Estacada Sewer and Water Master Plans. These improvements will provide an adequate capacity of sewer and water services to support development on the subject property. The planned improvements will also ensure that these services can be made available within 3 years of annexation. This memorandum is adopted as part of this staff report by reference therein.

This criterion is met.

b. *Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the City shall note requirements including but not limited to dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The City shall also consider public costs for improvement and the ability of the City to provide for those costs.*

The subject site has frontage on 4th Avenue, which is designated as a minor collector street. The City of Estacada Transportation System Plan (TSP) does address the adequacy of the transportation system to accommodate traffic based on existing plan and zoning designations through the year 2019. The TSP also provides a Level of Service (LOS) analysis for specific intersections within the City limits and the urban growth boundary. The TSP indicates there are no significant LOS deficiencies at any intersections within the City or in the urban growth boundary. The TSP indicates the 4th Avenue / Ginseng Avenue intersection will operate at a LOS A in the year 2019 with build out in the area. The TSP demonstrates the area traffic system is adequate to accommodate future traffic (Year 2019) based on the existing zoning and potential development in the area.

The subject property and surrounding area is served from the main street downtown area by 4th Avenue. The existing right-of-way along the frontage of the subject property on 4th Avenue is approximately 50'. The minimum road right-of-way width to meet City road standards is 60 feet for a minor collector. An additional 10' of right-of-way is required along the entire frontage of 4th Avenue to meet minimum right-of-way widths. A condition of approval is warranted requiring the applicant to sign a waiver of

D. Section 16.124.050 requires the City Planner to review Annexation applications to assure consistency with the purposes of the Annexation Chapter of the City Code, with the policies and standards of the City Charter, Code and Comprehensive Plans and any requirements of State law. The recommendation of the city planner shall contain, at a minimum, a finding that the city is capable of providing services to the subject property(ies) commensurate with the needs of existing and proposed development at maximum allowable densities.

The applicable provisions of the Annexation Chapter of the City Code are addressed throughout this report.

Section 16.20.010 of the City Code is also applicable to this application. This Section of the Code outlines the purpose and general locational characteristics of the R-2 zoning district. This Section states *“Created to allow single-family and two-family dwellings. Intended for residential use at a moderate density and to utilize existing subdivided lots with affordable housing.”*

The application is being processed in compliance with all policies and standards of the City Charter and requirements of State law.

The City Council finds the following Sections and policies of the Comprehensive Plan to be applicable to this proposal:

1. GOAL 14 includes the following policies and Findings of Fact:

- New urban development may only occur concurrent with or following provision of the development site with public streets, water and sewer services, drainage facilities (as necessary), fire and police protection. And other public services as provided for in the policies governing public facilities and services.
- The City of Estacada plans to provide public facilities and services within the UGB area.
- The UGMA requires annexation to effectuate the City’s Comprehensive Plan for the area.
- The City requires annexation in order for urban services to be provided.
- The Plan and UGMA provides the process by which rural lands within the established urban growth boundary may be committed to urban uses as the need occurs.

Overall these policies and Findings of Fact require a property to be annexed into the City Limits in order for the Comprehensive Plan and implementing zoning district to be applied to a property. Also annexation is required in order for urban services to be provided. Previous findings in this report demonstrate the City has adequate public

H. Section 16.124.120 requires Annexation requests to be coordinated with affected public and private agencies, including but not limited to, Clackamas County, Estacada School District, Estacada Fire District, local utilities, the Oregon Department of Transportation, and Portland General Electric.

The City has completed the necessary coordination by providing notice of this application to affected agencies, including Clackamas County, Estacada School District, Estacada Fire District, Estacada Public Works Department, Cascade Utilities, Portland General Electric and the Department of Land Conservation and Development.

This criterion is met.

I. Section 16.124.130: Annexation of Non-conforming Uses.

A. Section 16.124.0130(A): When property proposed to be annexed into the city contains a land use not permitted in the zone as an outright permitted use or conditional use specified by the comprehensive plan and/or city code, all nonconforming uses in the annexed area must be abated within ten (10) years of annexation. The council may impose conditions of approval on any conditional use proposed in the annexed area. If a property owner in the area to be annexed initiates annexation, that applicant shall provide a schedule for the removal of all non-conforming uses as part of the annexation application. If initiated by the city, no schedule shall be required. For all annexation proposals, the city council may add conditions to ensure the removal of the nonconforming use within a reasonable time period, not to exceed ten (10) years after annexation.

The subject property will be zoned R-2 upon annexation. Uses Permitted Outright in the R-2 zoning district include single family dwellings built on site, factory-built dwellings, manufactured homes and duplexes and two-unit commonwall dwellings. The subject property is currently developed with a single family dwelling which is an allowed use in the proposed R-2 zoning district. The property is not developed with any nonconforming uses.

This criterion is not applicable.

B. Section 16.124.130(B): This section shall not apply to a non-conforming use consisting of the continued use of a property as a single family dwelling which, by virtue of annexation, is no longer an outright permitted or conditional use in the zone. Use of an annexed property as a single-family dwelling may continue as a non-conforming use until:

- 1. The property is no longer used as a single family residence.**
- 2. Application is made for development of the property other than as a single family dwelling.**

EXHIBITS

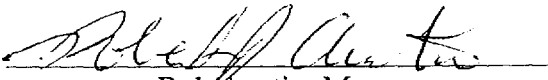
1. Tax assessors/location map
 2. Comments, Chris Randall, Public Works Director
-

Decision: Based on the above findings, it is the decision of the Estacada City Council to approve the Annexation and Zone Change application and refer the matter to a vote of the city electors at the next available election. Final approval of the application is subject to the following condition:

1. The applicant / property owners shall sign a waiver of remonstrance for the dedication of road right-of-way and other road improvements along the frontage of the subject property consistent with City Roadway and Improvement Standards required in any future development applications.

Approved on April 24, 2006

Signed this 24th day of April, 2006


Bob Austin, Mayor

NUMBERED KEY CANVASS

General Election
Clackamas County, Oregon
November 7, 2006

RUN DATE:11/22/06 12:33 PM

REPORT-EL52 PAGE 0174

	VOTES	PERCENT		VOTES	PERCENT
3-247 CITY OF ESTACADA: ANNEXATION OF 1.45 ACRES					
Vote For 1					
01 = Yes	516	67.19	03 = OVER VOTES	0	
02 = No	252	32.81	04 = UNDER VOTES	50	
	01	02	03	04	
	516	252	0	50	

0106 106

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK
BY: *Sherry Hall*

Addresses within annexation:

33014 SE Regan Hill Road
Estacada, OR 97023