



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT



February 24, 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 003-04

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. This adoption was adopted by the City on December 13, 2004, and passed the 21-day appeal period from the date of the adoption.

Appeal Procedures*

DLCD DEADLINE TO APPEAL: Acknowledged under ORS 197.625 and ORS 197.830 (9)

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

***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: Doug White, DLCD Community Services Specialist
Stacy Hopkins, DLCD Regional Representative
Mike McCallister, City of Estacada

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FORM 2 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

DEPT OF

FEB 17 2006

LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: City of Estacada Local file number: Annex #2004-3
Date of Adoption: 12/13/2004 Date Mailed: 2/16/2006
Date original Notice of Proposed Amendment was mailed to DLCD: 5/11/2004

- 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, 21CD tax lot 8690.
Zone change map amendment from RRFF-5 (county designation) to R-1 (low
density residential), consistent with 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".
Same.

Plan Map Changed from: _____ to: _____

Zone Map Changed from: RRFF-5 to: R-1

Location: 34E, 21CD, tax lot 8690 Acres Involved: .31

Specify Density: Previous: 5 acres New: 7500 sq ft

Applicable Statewide Planning Goals: 2, 9, 10, 11, 12 & 14

Was an Exception Adopted? YES NO

DLCD File No.: 003-04
(13644)

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.

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 2004 – NO. 23

A RESOLUTION OF THE ESTACADA CITY COUNCIL PROCLAIMING ANNEXATION OF 0.31 ACRES OWNED BY JOHN AND MARY MULLINS.

WHEREAS, the City of Estacada submitted a petition requesting that certain property owned by John and Mary Mullins 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 meeting on the proposal on July 22, 2004 after the proper publications and notices and forwarded a recommendation of approval to the City Council; and

WHEREAS, after proper notices and publications the Estacada City Council conducted a public hearing on August 9, 2004 and voted to approve the annexation request and submit it to a vote of the City electors at the next available election; and

WHEREAS, the Estacada City Council adopted Resolution 2004 – No. 16 at their August 9, 2004 meeting calling for a measure election to submit to the electors of the City the question of annexation of 0.31 acres into the City limits; and

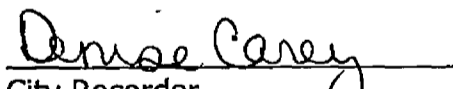
WHEREAS, on November 2, 2004 there was an election held and the question of this annexation was asked of all electors inside the City of Estacada and the outcome was 765 yes to 255 no votes, therefore a majority of the electors approving the annexation.

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 13 day of December 2004.


Mayor

ATTEST:


City Recorder



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

March 30, 2005

LEGAL DESCRIPTION FOR TAX LOTS 8690

LEGAL DESCRIPTION FOR A TRACT OF LAND IN THE FRANKLIN PEARCE DONATION LAND CLAIM NO. 38 IN THE SOUTHEAST ONE QUARTER OF THE SOUTHWEST ONE QUARTER OF SECTION 21, T3S, R4E, W.M., CITY OF ESTACADA, CLACKAMAS COUNTY, OREGON. THE BOUNDARY OF THE SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO M.N. RICHARDS BY DEED RECORDED APRIL 13, 1905 IN BOOK 95 PAGE 333, CLACKAMAS COUNTY DEED RECORDS WHICH BEARS S 03°34' WEST 74.01 FEET AND S 89°34' W ALONG THE SOUTH LINE OF THAT TRACT OF LAND CONVEYED TO MAILA MILLARD BY DEED RECORDED SEPTEMBER 7, 1954 IN BOOK 465 PAGE 704, CLACKAMAS COUNTY DEED RECORDS, 502.9 FEET FROM THE INITIAL POINT OF THE VACATED PLAT OF FOUR SEASONS ESTATES, PLAT NO. 2512, CLACKAMAS COUNTY SURVEY RECORDS; THENCE FROM THE SAID POINT OF BEGINNING, S 04°21'41" W ALONG THE WEST LINE OF SAID RICHARDS TRACT A DISTANCE OF 651.89 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID RICHARDS TRACT AND A POINT IN THE NORTH LINE OF REGAN HILL ROAD; THENCE S 89°44'12" W 20.06 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO JP OSBORNE BY DEED RECORDED MARCH 15, 1908 AT BOOK 102 PAGE 528, DEED RECORDS; THENCE ALONG THE EAST LINE OF SAID OSBORNE TRACT N 04°21'41" E 652.35 FEET MORE OR LESS TO A POINT ON THE WESTERLY EXTENSION OF THE NORTH LINE OF THE SAID RICHARDS TRACT; THENCE S 88°57'56" E 20.03 FEET ALONG THE SAID WESTERLY EXTENSION OF THE NORTH LINE TO THE POINT OF BEGINNING. CONTAINING 0.30 ACRES MORE OR LESS.



NAME: City of Estacada / Mullins
FILE NO.: 2004-03-A
PUBLIC HEARING DATE: August 9, 2004

CITY COUNCIL FINDINGS AND DECISION

GENERAL INFORMATION

Applicant: City of Estacada

Owner(s): John and Mary Mullins

Proposal: Annexation of approximately .31 acres of land within the Estacada Urban Growth Boundary into the City Limits. A zone change from RRFF-5 (County zoning) to R-1, Low Density Residential (City zoning) to correspond to the Low Density Residential Plan Designation on the Estacada Comprehensive Plan will also be evaluated as part of the annexation proposal.

Acres: .31

Location: Legal Description: T3S, R4E, Section 21CD, Tax Lot 8690

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

Comprehensive Plan Designation: Rural Residential (County Designation); Low Density Residential (City Designation)

Planning Staff Recommendation: Approval

BACKGROUND INFORMATION:

The Planning Commission previously reviewed this application, as well as two other island annexation applications (File Nos. 2004-01-A; Newcomb and 2004-02-A; Dunlop) on January 29, 2004. In the review of this application, the Planning Commission determined the application was incomplete and recommended denial of the application to the City Council. The application was determined to be incomplete in part because a boundary survey of the property was not completed.

At that time Section 16.124.040 of the City Code required a boundary survey of the property to be completed by a registered engineer or surveyor. The City did have a survey drawing/map completed by a surveyor, but this drawing did not qualify as a "boundary survey." Since that time the City has amended two sections of the Annexation Chapter of the Code regarding the submittal/application requirements and annexation of nonconforming uses.

The subject property is currently located within the Estacada UGB.

2. Section 16.124.020(B) requires the subject property to be contiguous to the existing City limits.

The subject property is contiguous to the existing City limit boundaries on all sides.

The two conditions of Section 16.124.020 are met.

B. Section 16.124.030 outlines the criteria which applies to all annexation requests.

1. Section 16.124.030(A) requires the proposed use for the site to comply with the Estacada Comprehensive Plan and with the designation on the Estacada Comprehensive Plan map. If a redesignation of the plan map is requested concurrent with the annexation, the uses allowed under the proposed designation must comply with the Estacada Comprehensive Plan.

The Comprehensive Plan map designates this property Low Density Residential, with a corresponding R-1 (single family, 7,500 square foot district) zoning district. There is no proposed use for this site, as it is being initiated by the City under the "Island Annexation" procedures. The applicant has not requested a change of the Comprehensive Plan map. If the application is approved, the proposed uses on the property would be limited to single family residential uses and other uses allowed in the Low Density Residential district consistent with the Estacada Comprehensive Plan and Comprehensive Plan map designation.

This criterion is met.

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

a. Section 16.124.030(B)(1): 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.

The City Public Works Director has submitted comments indicating the City's sewer and water systems have adequate capacity to service to this area. Given the location of the existing sewer and water facilities and adequate capacity of these systems it is feasible to extend the necessary sewer and water service to the site consistent with the City's adopted facilities master plan.

This criterion is met.

C. Section 16.124.040 outlines ten submittal requirements necessary for a complete annexation application.

The applicant has addressed or otherwise provided all the information identified in Section 16.124.040(A-J) necessary for a complete application, except for consent of at least one-half of the property owners of the area to be annexed. This requirement is not applicable as this application has been initiated under the "Island Annexation" provisions in Section 16.124.100 which allows the City to initiate the proposal without property owner consent. The application does include legal descriptions and a survey map of the area to be annexed which was completed by Gaylord Surveying.

The minimum submittal requirements are satisfied.

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 applicable provisions of the Annexation Chapter of the City Code have been addressed throughout this report. The application is being processed in compliance with all policies and standards of the City Charter and requirements of State law.

The Planning staff has identified several Sections and Policies of the Comprehensive Plan applicable to Annexations.

The Planning staff has identified several Sections of the Comprehensive Plan applicable to Annexations. These are discussed below:

1. GOAL 10, Housing Element includes the following goals and policies:

- The City will zone areas annexed in accordance with the plan map land-use designations.

This proposal is to zone the property R-1 which is consistent with the City's Comprehensive Plan map.

2. 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 proposal has been found to be in compliance with the Comprehensive Plan in the discussion above under Sections 16.124.030 and 16.124.110 above. This Section also requires the area to be annexed to automatically be zoned to correspond to the Estacada Comprehensive Plan map, unless an application for a zone change is requested concurrent with the annexation application. The applicant has not requested to change the Comprehensive Plan map the corresponding zoning district. If this application is approved the Comprehensive Plan map designation of Low Density Residential would not change and the zoning would change from RRF-5 to R-1.

This criterion is met.

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.

Clackamas County has no objections to the proposed annexation. No comments have been received from the remaining agencies as of the writing of this report. The Planning staff finds the property is generally ripe for annexation and there are no significant coordination issues with future land use/development proposals that cannot be adequately coordinated with the affected agencies.

This criterion can be met.

I. Section 16.124.130 outlines the requirements for Annexation and abatement of Non-conforming Uses.

This Section requires the applicant to provide a schedule for the removal of any nonconforming uses on the property to be annexed. During the previous public hearing, the property owner indicated that there is a small structure covering a well somewhere in the area of the subject property. From discussions with staff, it is unclear whether or not this structure is located on the subject property and/or an adjacent property. In either case, it is irrelevant. This structure is considered an accessory use in the proposed R-1 zoning district. It is not a non-conforming use, and does not need to be removed from the property if this application is approved.

This criterion is met.

ZONE CHANGE APPLICATION

The zone change application is subject to the criteria in Section 16.101 of the City Code. Section 16.101.010 states the City Council may allow a zone change after a hearing conducted pursuant to Chapter 16.132 provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this title: