



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

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 003-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office. This adoption was adopted by the City on December 19, 2005, 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 prior to adoption with less than the required 45-day notice. 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

<paa> yl

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 #2005-1
Date of Adoption: 11/28/2005 Date Mailed: 2/16/2006
Date original Notice of Proposed Amendment was mailed to DLCD: 5/31/2005

- 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, 17, tl 1900; 34E, 17D, tl 400, 500, 600, 700, 800, 900, 1000, 402, 1400, 1500, 1501. Zone change map amendment from RRFF-5 (county designation) to M1 (light industrial) 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: M-1

Location: 34E, 17, tl 1900, 34E, 17D, tl 400, 500, 600, 700, 800, 900, 1000, 402, 1400, 1500, 1501 Acres Involved: 37.2

Specify Density: Previous: 5 acres New: no minimum lot size

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

Was and Exception Adopted? YES NO

DLCD File No.: 003-05 (14431)

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:

Valley View Airport, ODOT

Local Contact: **Mike McCallister** Phone: **(503) 353-4522** 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 2005 – NO. 17

A RESOLUTION OF THE ESTACADA CITY COUNCIL PROCLAIMING ANNEXATION OF 38.90 ACRES OWNED BY LEROY FORMAN, WAYNE & FERN MATHEWS, DONNA WALLAERT, & ESTACADA LODGE #333.

WHEREAS, The Leroy T. Forman Trust submitted a petition to the City requesting that certain properties of which they have ownership and Wayne & Fern Mathews, Donna Wallaert & Estacada Lodge #333 have 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 July 21, 2005 after the proper publications and notices and forwarded a recommendation of approval with conditions; and

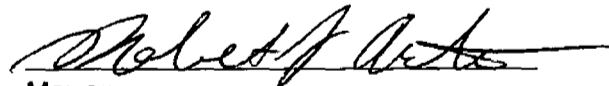
WHEREAS, after proper notices and publications the Estacada City Council conducted a public hearing on August 8, 2005 and voted to approve the annexation request with conditions and submit it to a vote of the City electors at the next available election; and

WHEREAS, the Estacada City Council adopted Resolution 2005 – No. 11 at their August 22, 2005 meeting calling for a measure election to submit to the electors of the City the question of annexation of 38.90 acres into the City limits; and

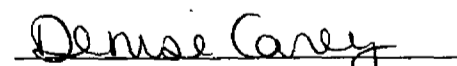
WHEREAS, on November 8, 2005 there was an election held and the question of this annexation was asked of all electors inside the City of Estacada and the outcome was 218 yes to 187 no votes, therefore a majority of the electors approving the annexation.

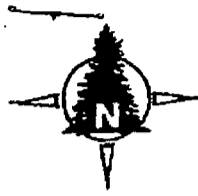
NOW, THEREFORE IT IS ORDERED THAT the territory described in Exhibit "A" is annexed to the City of Estacada according to the City Council findings and decision in Exhibit "B".

PASSED and effective this 28th day of November, 2005.


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 11, 2002

LEGAL DESCRIPTION FOR PROPOSED ANNEXATION
TO THE CITY OF ESTACADA

A PROPOSED ANNEXATION TO THE CITY OF ESTACADA, OREGON, IN SECTION 17, T3S R4E, W.M., AND BEING A PART OF THE HUGH CURRIN DLC NO. 40 AND THE WM. N. WADE DLC NO. 39, IN CLACKAMAS COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE INITIAL POINT OF PARTITION PLAT 1993-138 THENCE ALONG THE SOUTH LINE OF THE SAID PLAT, N 69°45'09" E 1045.91 FEET TO THE SOUTHEAST CORNER OF THE SAID PLAT, BEING ALSO A POINT IN THE WEST LINE OF THAT TRACT OF LAND DESCRIBED BY DEED RECORDED IN BOOK 470 PAGE 663, CLACKAMAS COUNTY DEED RECORDS; THENCE ALONG THE SAID WEST LINE, S 19°16'48" E 914.07 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE SOUTH LINE OF THE SAID TRACT, N 69°30'00" E 91.49 FEET TO THE WEST RIGHT OF WAY LINE OF WREN ROAD; THENCE ALONG THE SAID RIGHT OF WAY LINE; S 04°07'43" E 392.76 FEET TO A POINT IN THE NORTH LINE OF LOT 2 MORROW GLEN TRACTS; THENCE ALONG THE NORTH LINE OF THE SAID LOT 2, S 69°55'16" W 1106.35 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF S.E. EAGLE CREEK ROAD, MARKET ROAD NO. 19; THENCE ALONG THE SAID RIGHT OF WAY LINE, N 04°05'31" W 192.56 FEET TO A POINT OF CURVE LEFT; THENCE AROUND THE CURVE LEFT, (CENTRAL ANGLE = 15°10'27", RADIUS = 600.00 FEET, LONG CHORD BEARS N 11°40'45" W 158.44 FEET) 158.90 FEET TO A POINT; THENCE N 19°15'59" W 339.14 FEET TO THE POINT OF INTERSECTION OF THE EAST LINE OF THE MARKET ROAD RIGHT OF WAY AND THE WESTERLY EXTENSION OF THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED BY DEED BOOK 582 PAGE 402, CLACKAMAS COUNTY DEED RECORDS; THENCE LEAVING THE SAID RIGHT OF WAY LINE ALONG THE SAID WESTERLY EXTENSION AND THE SOUTH LINE OF THE SAID DEED N 69°52'26" E 411.33 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE N 19°01'52" W ALONG THE EAST LINE OF THE SAID DEED 200.04 FEET TO THE NORTHEAST CORNER THEREOF; THENCE ALONG THE NORTH LINE OF DEED BOOK 582 PAGE 402 AND ITS EASTERLY EXTENSION, S 69°52'26" W 412.15 FEET TO ITS INTERSECTION WITH THE SAID EAST RIGHT OF WAY LINE OF MARKET ROAD NO. 19; THENCE N 19°15'59" W 42.84 FEET TO THE INTERSECTION OF THE SAID RIGHT OF WAY LINE AND THE EASTERLY PROJECTION OF THE SOUTH LINE OF PARTITION PLAT 1992-147; THENCE ALONG THE SAID EASTERLY PROJECTION AND THE SOUTH LINE OF THE SAID PLAT, S 69°29'35" W 1294.34 FEET TO A POINT IN THE EASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO.'S 211 & 224; THENCE ALONG THE SAID RIGHT OF WAY LINE, N 5°21'26" W 513.71 FEET TO THE NORTHWEST CORNER OF PARTITION PLAT 1992-147; THENCE ALONG THE NORTH LINE OF THE SAID PLAT, N 69°25'27" E 328.18 FEET TO A POINT; THENCE S 19°15'59" E 346.36 FEET TO A POINT; THENCE N69°29'35"E 842.66 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF S.E. EAGLE CREEK ROAD, MARKET ROAD NO. 19; THENCE ALONG THE SAID RIGHT OF WAY LINE, N 19°15'59" W 214.12 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED. CONTAINING 37.0 ACRES MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Patrick M. Gaylord
OREGON
JULY 10, 1998
PATRICK M. GAYLORD
07207

NAME: Leroy Forman
FILE NO.: 2005-01-A
PUBLIC HEARING DATE: August 8, 2005

CITY COUNCIL FINDINGS AND DECISION

GENERAL INFORMATION

Applicant: Leroy T. Forman Trust

Owner(s): Various (Ownership map is included in Exhibit 1).

Proposal: Annexation of approximately 38.90 acres of land within the Estacada Urban Growth Boundary into the City Limits. This application is also includes a corresponding zone change to M-1 consistent with the existing Light Industrial Comprehensive Plan designation.

Location: The subject properties are located on the east and west side of Eagle Creek Road, just north of River Mill Road and Hinman Avenue. The western boundary of the area has frontage on State Hwy. 224. The eastern boundary of the area has frontage on Wren Road.

Legal Description: T3S, R4E, Section 17, Tax Lot 1900; T3S, R4E, Section 17D, Tax Lots 400, 402, 500, 600, 700, 800, 900, 1000, 1400, 1500 and 1501.

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

Comprehensive Plan Designation: Rural Residential (County Designation); Light Industrial (City Designation)

Planning Commission Recommendation: Approval

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

applicable provisions of the Comprehensive Plan and underlying zoning district in effect at that time.

This criterion is met.

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 applicant has provided a memorandum from the City's Engineer (Curran-McLeod Inc.) to Chris Randall, the Public Works Director, dated March 15, 2005 to address the adequacy of the municipal sewer and water services. The Public Works Director has also submitted comments on this proposal. See Exhibits 2 and 5. These documents demonstrate the sewer and water systems are adequate to serve the subject property and can reasonably be extended to the site within three years. This memorandum and the submitted application demonstrate compliance with this criteria and adopted as part of this 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 City completed a TSP in 1999. The TSP demonstrates the transportation system is adequate to accommodate future traffic (Year 2019) based on the existing zoning and potential development in the area, except for the Hwy. 224 / River Mill Road intersection which will degrade to a LOS F. The City's adopted Capital Improvement Plan (CIP) does identify a signalization improvement to accommodate future traffic at this intersection.

The Department of Land Conservation and Development submitted comments on this application indicating that the proposal does not satisfy the requirements of the Transportation Planning Rule in OAR 660-012 for the reasons set forth in Exhibit 4. DLCDC argues in part that the OAR 660-012-0060 is applicable because this application includes a zone change from the County zoning district to the City zoning district. The City Council disagrees. This Section is only applicable for applications involving an amendment to a functional plan, an acknowledged comprehensive plan or a land use

d. *Section 16.124.030(D): The applicant has the burden for satisfying the requirements of this section and the information required for the application process set forth in Section 16.124.060.*

This criterion does not require any findings or conclusionary statements.

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. Written consent from the property owners of all 12 tax lots is included in the submitted application.

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 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 16.16.010 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-1 zoning district. This Section states "*Devoted to single-family dwellings from which are excluded business and multiple-dwelling structures but does allow certain public nonprofit uses as conditional uses, as well as home occupations, and bed and breakfast facilities with standards.*"

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

The Planning staff finds the following Sections and policies of the Comprehensive Plan are 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

This Section requires the area to be annexed to automatically be planned and 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; therefore M-1 zoning which implements the existing Light Industrial Plan designation will be applied to the subject properties upon final approval of the annexation.

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.

The City failed to notify affected agencies of this application in a timely manner. Notice was sent to the affected agencies approximately one week prior to the Planning Commission Hearing. Notice was provided to Clackamas County, Estacada School District, Estacada Fire District, Estacada Public Works Department, Cascade Utilities, Portland General Electric, ODOT and Estacada Parks and Recreation Commission. The DLCD and ODOT did provide comments on the application prior to the Planning Commission hearing. These agencies were also notified that comments could be submitted and considered at the August 8, 2005 public hearing before the City Council. This advanced notice of the City Council hearing provided adequate coordination with the affected agencies and allows the City to consider any comments prior to final action on the application.

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 applicant has identified the existing uses on each tax lot with a map labeled as "Structures on Tax Lots." (No page number). Several of the uses listed on this map are not allowed as an outright or conditional use permit in the M-1 zoning district.

This criterion is met.

2. Section 16.101.010B: *The property and affected area is presently provide with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.*

The findings in the evaluation of the annexation application under Section 16.124.030B demonstrate there are adequate public facilities and services and transportation system to serve the proposed development of the property. Those findings are adopted to address this approval criteria by reference therein.

This criterion is met.

EXHIBITS

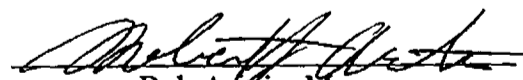
1. Tax assessors/location map
2. Comments, Chris Randall, Public Works Director
3. Letter, Andrew Johnson, ODOT, dated July 15, 2005
4. Letter, DLCDD, Stacy Hopkins, dated July 15, 2005
5. Letter, Curt McLeod, City Engineer, dated July 15, 2005

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 elections. Final approval of the application is subject to the following conditions of approval:

1. Prior to final approval the applicant / property owners sign a waiver of remonstrance for road improvement costs and participation in other traffic improvement costs necessary to support the proposed plan designations and any associated development.
2. All non-conforming uses will be abated consistent with Section 16.124.130 at such time as the property is redeveloped or within 10 years, whichever comes first.
3. The City's official zoning map shall be changed to reflect this action upon final approval.

Approved on August 8, 2005

Signed this 8 day of August 8, 2005


Bob Austin, Mayor