



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 Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

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



NOTICE OF ADOPTED AMENDMENT

December 6, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Pendleton Plan Amendment
DLCD File Number 003-06

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: December 18, 2006

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: Gloria Gardiner, DLCD Urban Planning Specialist
Darren Nichols, DLCD Regional Representative
Michael Muller, City of Pendleton

<paa> ya



FORM 2

DLCD 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

(See reverse side for submittal requirements)

DEPT OF

NOV 29 2006

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: CITY OF PENDLETON Local File No.: ZC 06-03
(If no number, use none)

Date of Adoption: 11-21-06 Date Mailed: 11-27-06
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 09-14-06

☐ 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."

ZONE CHANGE FROM R-3 (HIGH DENSITY RESIDENTIAL) & R-2 (MEDIUM DENSITY RESIDENTIAL) TO R-1 (LOW DENSITY RESIDENTIAL) FOR PROPOSED SINGLE FAMILY SUBDIVISION ON A 5.31 ACRE PORTION OF A 6.72 ACRE TRACT OF LAND (SEE ATTACHED EXHIBIT A)

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."

THE SUBJECT ACREAGE INCREASED FROM 4.8 ACRES TO 5.31, FOLLOWING A SURVEY OF THE SUBJECT PARCEL,

Plan Map Changed from: RESIDENTIAL HIGH DENSITY & RESIDENTIAL MEDIUM DENSITY to RESIDENTIAL, LOW DENSITY

Zone Map Changed from: R3 & R-2 to R-1

Location: _____ Acres Involved: 5.31 ACRES

Specify Density: Previous: R3 = 11 TO 25 DWELLING/ACRE New: R-1 = 1 TO 9 DWELLING/ACRE

Applicable Statewide Planning Goals: 2, 10

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 003-06 (15560)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: ☒ No: ☐

If no, do the Statewide Planning Goals apply. Yes: ☐ No: ☐

If no, did The Emergency Circumstances Require immediate adoption. Yes: ☐ No: ☐

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

Local Contact: MICHAEL W. MULLER Area Code + Phone Number: 541-966-0261

Address: 500 SW DORION AVENUE City: PENDLETON

Zip Code+4: 97801-2090 Email Address: mike.muller@cl.pendleton.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.**

ORDINANCE NO. 3738

AN ORDINANCE AMENDING ORDINANCES NO. 3442 AND 3250 (THE 1990 COMPREHENSIVE PLAN, AND THE OFFICIAL ZONING MAP) BY REZONING A CERTAIN DESCRIBED AREA FROM R-3 (HIGH DENSITY RESIDENTIAL) AND R-2 (MEDIUM DENSITY RESIDENTIAL) TO R-1 (LOW DENSITY RESIDENTIAL) AND ADOPTING FINDINGS OF FACT

WHEREAS, the Pendleton Planning Commission received a request from H. Gale Marshall to rezone a 5.31 acre portion of two parcels of property containing 6.72 acres located on the north side of NW Furnish Avenue, west of Northgate Avenue (US Hwy 37), legally described below:

That portion of land owned by H. Gale Marshall which is located in the SE ¼ of Section 4, Township 2 North, Range 32 East of the Willamette Meridian and described as follows:

Commencing at the Southwest Corner of the Southeast Quarter of the Southeast Quarter of said section 4, a point which bears South 89°43'34" West a distance of 1308.62 feet from the Southeast Corner of said section 4; thence North 87°51'02" East 2.93 feet to Point "A" of Boundary line Agreement between R.E. Lorren, et. al. and Blue Mountain Area Education District, recorded at Book 286, Page 235, Deed Records of Umatilla County; thence North 00°19'23" West along said Boundary Line Agreement Line a distance of 1159.78 feet to a point on the South line of Royal Ridge Subdivision, Phase I, the TRUE POINT OF BEGINNING for this description, said True Point of Beginning bears North 89°40'37" East a distance of 90.00 feet from the Initial point of said Royal Ridge Subdivision; thence North 45°59'00" East continuing along the Southerly line of said Royal Ridge Subdivision a distance of 223.81 feet; thence North 89°29'10" East, continuing along said southerly line of Royal Ridge Subdivision and along the North line of the Southeast Quarter of the Southeast Quarter of said Section 4 a distance of 432.75 feet; thence South 18°22'19" West a distance of 329.76 feet to a point on the Northerly right-of-way line of N.W. Furnish Avenue as dedicated to the City of Pendleton by Dedication Deed recorded as Instrument No. 2006-5060247, Office of County Records; thence continuing along said Northerly right-of-way line, along the arc of a 106.10 foot radius curve to the left a distance of 87.05 feet (long chord bears South 79°48'21" West a distance of 101.47 feet); thence South 51°14'22" West, continuing along said Northerly right-of-way line a distance of 152.66 feet; thence continuing along said right-of-way line, on the arc of a 205.60 foot radius curve to the right a distance of 264.29 feet, (long chord bears South 88°03'52" West a distance of 246.46 feet); thence continuing along said right-of-way line on the arc of a 214.43 foot radius, non-tangent curve to the right a distance of 224.91 feet (long chord bears North 16°47'01" West a distance of 214.74 feet); thence continuing along said right-of-way line, on the arc of a 229.96 foot radius, non-tangent curve to the right a distance of 80.99 feet, (long chord bears North 21°56'21" East a distance of 80.57 feet); thence South 89°40'37" West a distance of 11.13 feet to the TRUE POINT OF BEGINNING. (Tract described contains 4.8 acres more or less)

All lands subject to this rezoning are further depicted on Exhibit "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, the Pendleton Planning Commission has conducted a public hearing on said request November 02, 2006, and recommended the adoption of findings of fact and conclusions of law attached hereto as Exhibit "B" and incorporated herein by this reference; and,

WHEREAS, the City Council has held a public hearing on said request and accepts the recommendation of the Planning Commission to approve the request; and,

WHEREAS, the Oregon Department of Land Conservation and Development has been given a 45 day period before the first evidentiary hearing in which to review and comment on the request.

NOW THEREFORE, CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. The official zoning map (established by Ordinance #3250) is hereby amended to change the zoning of the property described herein from R-3 High Density Residential and R-2, Medium Density Residential to R-1, Low Density Residential.

SECTION 2. The official Land Use Map (Map I) of the Comprehensive Plan (established by Ordinance #3442) is hereby amended to change the land use designation of the property described herein from High Density Residential and Medium Density Residential to Low Density Residential.

SECTION 3. The City Council hereby adopts the Findings of Fact and Conclusions of Law as recommended by the Planning Commission (Exhibit "B") and grants said comprehensive plan map change and rezone.

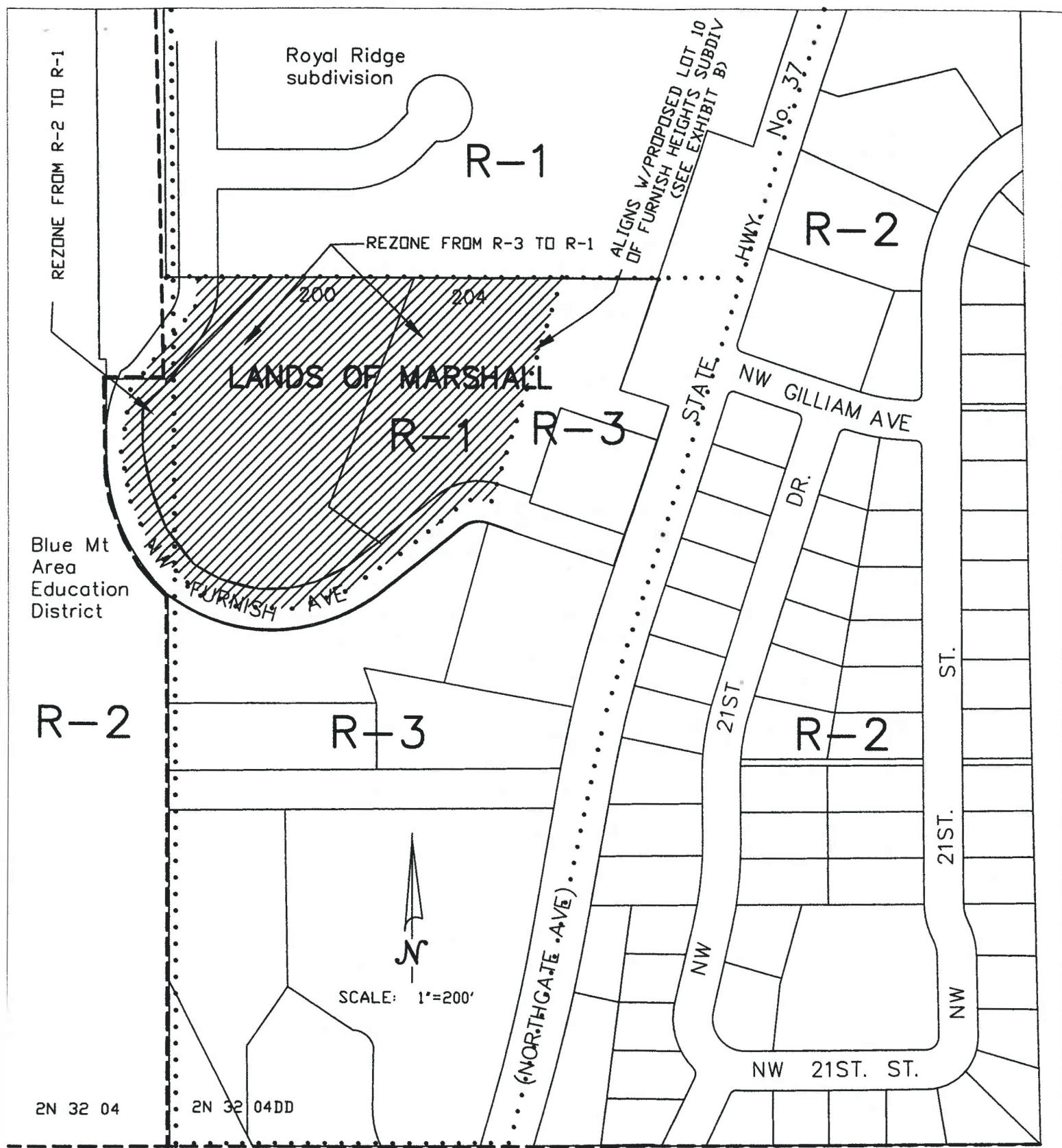
PASSED by the vote of the Council members present and approved by the Mayor on this _____ day of _____, 2006.


APPROVED: _____
Mayor

ATTEST: _____
City Recorder

APPROVED AS TO FORM: 
City Attorney

LEGAL DESCRIPTION APPROVED: _____
Engineering Dept.



<p>.....</p> <p>ZONE BOUNDARIES</p> <p>-----</p> <p>ASSESSORS BOUNDARY</p> <p></p> <p>PROPERTY TO BE REZONED R-1</p>	<p>CITY OF PENDLETON – PLANNING DEPARTMENT</p> <p>EXHIBIT "A"</p> <p>REZONE TO R-1 (LOW DENSITY RESIDENTIAL)</p> <p>DATE: 9/14/06 DRAFTER: MWM SCALE AS SHOWN</p> <p>FILE NO. ZC06-03 (GALE MARSHALL/APPLICANT)</p> <p>k: \PROJECTS\Platts\Planning\drawings\public hearings & agreements\NW\ZC06-03(MARSHALL-FURNISH HEIGHTS)</p>
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**PLANNING COMMISSION
FINDINGS AND DECISION**

November 2, 2006

A recommendation to the City Council for a Comprehensive Plan Map change and rezoning of a 5.31 acre portion of property containing 6.72 acres, located within the City Limits and Urban Growth Boundary on the north side of NW Furnish Avenue (identified as Tax Lot 200 and Tax Lot 204, Map 2N 32 04DD, Umatilla County) from R-3 (High Density Residential) to R-1 (Low Density Residential); H. Gale Marshall, applicant (File No. ZCO6-03)

REVIEWED BY: Michael W. Muller, City Planner

RELEVANT CRITERIA:

1. Zoning Ordinance No. 3250, Section 147, 148 and 149 states the following:

SECTION 147. AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the Planning Commission or by application of the property owner for an amendment by filing an application with the City Manager using forms prescribed pursuant to Section 157 of this Ordinance.

SECTION 148. COMPLIANCE WITH COMPREHENSIVE PLAN. An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Comprehensive Plan text and Comprehensive Land Use Map. Any deviation from this section shall be preceded by an amendment to the Comprehensive Plan Text or to the Comprehensive Land Use Map.

SECTION 149. PUBLIC HEARING ON AMENDMENTS. The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of Section 161 of this Ordinance at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment and render a final decision within one hundred twenty (120) days after application submittal unless longer review is agreed upon by the City and applicant. Public hearings on amendments encompassing lands of a mobile home park shall be conducted after notification of park tenants at least twenty (20) but no more than forty (40) days prior to the hearing.

FINDINGS OF FACT:

1. The subject parcels of property (Tax Lot 200 and Tax Lot 204 ,Map 2N 32 04 DD) Umatilla County, Oregon, totaling 6.72 acres are contiguous to property to the north, zoned R-1 Low Density Residential and platted as the Royal Ridge Subdivision.
2. The abutting property to the west, zoned R-2 Medium Density Residential, is developed as the Pendleton Campus of Blue Mountain Community College.
3. The property to the south and east, front on State Highway 37 (Northgate Avenue) are zoned R-3 High Density Residential and contain apartment complex developments.
4. Where the subject 5.31 acre portion of property abuts R-1 (Low Density Residential) zoning to the north, it is appropriate and makes sense to rezone the parcel to conform with the predominate neighborhood land use characteristics to the north.
5. Where the east portion of the subject property, fronting on State Highway 37 (Northgate Avenue), is currently zoned R-3 High Density Residential it makes sense to retain the R-3 High Density Residential zoning on the easterly 1.41 acre portion of the subject property, to allow development in conformance with the predominate neighborhood land use characteristics of adjacent properties fronting on State Highway 37 (Northgate).

4. If this request is recommended for approval by the Planning Commission, the City Council will be presented with an ordinance amendment that would be considered in public hearing for enactment that would redesignate and rezone the subject property on the Comprehensive Plan Map and the Zoning Map from R-3 (High Density Residential) zone to R-1 (Low Density Residential) zone.

4. The Department of Land Conservation and Development (DLCD) have been provided notice of this proposal. This notice is provided pursuant to ORS 197.610 and OAR Chapter 660, Division 18, and must be sent at least 45 days prior to the initial evidentiary hearing date to allow the DLCD staff the opportunity to file an objection and/or attend the hearing if they have a concern. The final hearing date before the City Council will be scheduled for the November 21, 2006 meeting.

5. On December 16, 1980, the City Council adopted a standard condition to be placed upon all land use requests to protect the city taxpayer from any costs of potential appeals to the decisions. This condition shall be applied in this case as well.

CONCLUSIONS: The proposed redesignation and rezone is valid for the following reasons, as well as those that are presented above:

1. The proposal recognizes the need for applying the appropriate zoning that is compatible with and matches the land use of the properties in the vicinity.
2. The R-1 zoning is contiguous to the subject property and would represent a logical extension thereof.

RECOMMENDATION: The Planning Commission forwards a favorable recommendation to the City Council to enact an ordinance that would accomplish to redesignate and rezone the subject parcel from R-3(High Density Residential) zone to R-1 (Low Density Residential) zone, subject to the following condition:

1. The applicant(s) have the burden of proof regarding all requests affecting this subject property, and the applicant(s) recognize that it is the sole obligation of the applicant(s) to substantiate this request.

If any administrative review, suit or action is instituted in connection with any appeal of this decision, the applicant(s) shall be required to: (1) reimburse the city of all costs incurred in defending this action, including, but not limited to, attorneys fees, staff costs, and materials and other related cost; (2) notify the city that the applicant(s) do not desire to undertake such costs and will drop the request; or (3) defend the city's actions on behalf of the city.

The applicant(s) shall notify the City Manager within five days from the city's receipt of any notice of appeal by delivering a written statement to the City Manager advising the City Manager whether the applicant(s) will reimburse the City for all costs as described above; desires to drop the request; or intends to defend the City's actions on behalf of the City.

In the absence of written communication from the applicant(s) within the allotted five days, the City may, at its option, presume the applicant(s) desire to drop the request and the City shall have no obligation to defend the appeal.

In appeals involving questions of City wide significance, the City may participate in the proceedings described herein at its own expense. Nothing in this condition affects the applicant's right to retain independent counsel in making its own legal appearance on appeal.

If any proceeding, including recession, is instituted by the applicant(s), in which the City is a party, in connection with any controversy arising out of this request, the applicant(s) will indemnify and hold the City harmless from any costs of the action, including a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and on appeal.

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