



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

July 13, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Winston Plan Amendment
DLCD File Number 008-05

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: July 28, 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
John Renz, DLCD Regional Representative
John J. Boyd, City of Winston

<paa> ya/



FORM 2

DEPT OF

D L C D NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** JUL 10 2006
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Winston Local File No: 05-W029
(If no number, use none)

Date of Adoption: July 5, 2006 Date Mailed: July 7, 2006
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: December 29, 2005

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

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."
Amend the Plan from Residential 3 DU/AC to Residential 4.5 DU/AC. Amend the Zoning from Residential Low Density B to Residential Low Density A (RLA), on a 13.06 ac +/- parcel.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."
Same

Plan Map Changed From: Residential 3 DU/AC to Residential 4.5 DU/AC

Zone Map Changed From: Residential Low Density B to Residential Low Density A

Location: Brockway Road between Lookingglass Road and Looking Glass Creek, Winston

Acres Involved: 13.06 acres ±

Specify Density: Previous: 3 DU/AC New: 4.5 DU/AC

Applicable Statewide Planning Goals: 1, 2, 5, 7, 10, 11, 12 (Already inside UGB)

Was an Exception Adopted? Yes: No:

=====
DLCD File No: 008-05(14908)

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 Government or Special Districts: ODOT, Umpqua Regional Council Of Governments, Umpqua Transit, Douglas County, City of Winston, Winston Dillard Water District, Winston Dillard Fire District, Winston Dillard School District.

Local Contact: John J. Boyd AICP Area Code + Phone Number: (541) 440-4289

Address: Room 106, Justice Building, Douglas County Courthouse

City: Roseburg, Oregon Zip Code + 4: 97470

=====

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** of 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 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 "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 8½ x 11 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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 616

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP FROM RESIDENTIAL 3 DU/ACRE TO RESIDENTIAL 4.5 DU/ACRE AND ZONING MAP FROM RESIDENTIAL LOW DENSITY B TO RESIDENTIAL LOW DENSITY A ON PROPERTY IDENTIFIED AS TAX LOT 803 IN SECTION 20 TOWNSHIP 28S, RANGE 06W

Whereas, the City of Winston Planning Commission held a public hearing on March 22, 2006 and April 12, 2006 to consider a request for a Comprehensive Plan map amendment and zone change for property owner Koch Revocable Trust for property located east of Brockway Road and north of Lookingglass Creek.

Whereas, the Planning Commission forwarded a favorable recommendation to the City council to adopt the proposed Plan amendment and Zone change.

NOW THEREFORE, THE CITY OF WINSTON ORDAINS AS FOLLOWS:

SECTION ONE: FINDINGS OF FACT

- A. A public hearing to amend the Comprehensive Plan and Zoning Map was held before the Planning Commission on March 22, 2006 and April 12, 2006.
- B. The Findings of Fact adopted by the Planning Commission on April 26, 2006, in support of their recommendation are attached as Exhibit "A" and by this reference made part of this ordinance.
- C. The City Council Staff Report on this action proposed a modification of the conditions of approval. This report is attached as Exhibit "B" and by this reference, the modification is approved and made part of this ordinance.

SECTION TWO: AMENDING COMPREHENSIVE PLAN AND ZONING MAPS

The Comprehensive Plan Land Use Map and City Zoning Map are hereby amended to designate the following properties as Residential (4.5 Dwelling Units per Acre) and Residential Low Density A (RLA):

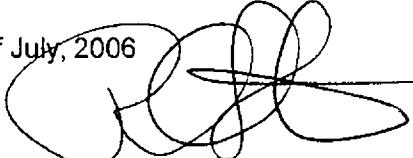
Tax Lot(s) 803 in Section 20, Township 28S, Range 6W, W.M.
Property ID No. R119867.

SECTION THREE: EFFECT OF AMENDMENT


Ordinance No.(s) 588 (Comprehensive Plan) and 590 (Zoning Ordinance) heretofore and herein amended, remain in full force and affect.

First reading before the City Council on the 5th day of June, 2006

PASSED BY THE COUNCIL THIS 5th day of July, 2006


Rex A. Stevens, Mayor

ATTEST:


David M. Van Dermark, City Administrator

**BEFORE THE PLANNING COMMISSION
OF THE
CITY OF WINSTON**

IN THE MATTER of a Plan Amendment to Residential 4.5]
DU/AC and Zone Change to Residential Low Density A on]
a portion of property located east of Brockway Road and] **FINDINGS OF FACT**
north of Lookingglass Creek. Identified as a portion of] **AND**
Township 28 Range 6W, W.M. Section 20 Tax Lot 803] **DECISION**
for the Property owner KOCH Revocable Trust .]
Planning Department File 05-W029]

1. Notice of the proposed amendment was mailed to the Department of Land Conservation and Development on December 29, 2005.
2. Notice of the public hearing was mailed to adjacent property owners within 150 feet of the subject property on February 24, 2006.
3. This matter came before the Winston Planning Commission for a public hearing on March 22, 2006, upon request from applicant and owner Koch Revocable Trust.
4. There was no declarations of ex parte contact or other conflicts of interest.
5. The Planning Commission declared the following as parties to the hearing:
 - a. Koch Revocable Trust
 - b. Charles Cates
 - c. Jennifer Kruse
 - d. Erik Ranger
 - e. Bob Prehall
 - f. Todd Mobley
 - g. Stephanie Morgan
 - h. Tom Guevara
 - i. Bob Young, Winston Dillard Water District
 - j. Jennifer Sikes, City of Winston
 - k. Helen & Terry Guillory
 - l. Sumi Okuma-Wright
 - m. Ed Balfour
 - n. Mike Perine
 - o. Vi Moore
 - p. Avrom & Carole Finkel
6. The Planning Commission received clarifying questions along with oral testimony and exhibits in support of the application.
7. The applicant, Charles Cates, presented the original proposal and then discussed an update to the Transportation Impact Study. Mr. Cates:
 - a. Read a March 22, 2006 letter from Todd Mobley of Lancaster Engineering, into the record.
 - b. Clarified that the area under consideration is 7.9 acres.

- c. Asserted there are only two identified wetlands on the subject property.
 - d. Regarding the March 22, 2006 ODOT letter,
 - i. he explained the proportionate share should be negligible.
 - ii. The applicant was willing to complete the update to the Transportation Impact Study.
 - iii. The applicant would be willing to pay for their proportionate share of the transportation impact.
 - e. The applicant requested a continuance to review the wetland impact and to complete a re-development plan.
8. The Planning Commission received clarifying questions and oral testimony in opposition of the application.
- a. Helen Guillory discussed a letter (stamped March 20, 2006) and pictures she entered into the record and expressed a concern about a wetland behind her property.
 - i. She summarized her concerns listed in her letter: wetlands, grading, drainage, adequate infrastructure, historic school site, drainage easements, privacy, development plans and taxation issues.
 - ii. She expressed a concern that during rain events water fills from the adjacent field into her back yard.
 - iii. She expressed a concern that as fill occurs, there will be more drainage coming into her property.
 - b. Ed Balfour stated he did not oppose the project but asked how storm water will be addressed.
 - i. He stated a 15 foot drainage easement is located on his property.
 - ii. He clarified this drainage handles runoff from the school, Safari Estates and Lookingglass Creek Estates properties.
 - iii. He expressed a concern that the impact from the new development was not studied.
 - c. Avrom Finkel expressed a concern on the transportation impact to Brockway Road from the additional traffic.
 - i. He stated there will be additional traffic turning onto Brockway Road and wondered what impact that would have on safety.
9. The applicant was provided an opportunity for rebuttal. Charles Cates provided the following testimony.
- a. On the issue of a storm water, he stated they were working with neighbors.

- i. They recognize that drainage is an issue because of the creation of additional impervious surfaces.
 - ii. The intent was to drain all surfaces to the street and then direct that drainage for retention on the property. The storm water will drain off the property after being retained on site.
 - iii. He concluded that no more runoff will occur than is happening now. The storm water system for the subdivision will be designed to address these issues.
 - b. On the issue traffic, he stated controls for intersections would occur when warrants are met.
 - i. He mentioned the Inter Governmental Agreement with ODOT and the City of Winston defines who is responsible for projects along Highway 42.
 - ii. The Applicant asserts their development will have a negligible impact on those intersections.
10. Planning Commissioner Kelly expressed a concern that the Transportation Impact Statement had missing information regarding the impact on Abraham Road and trip distribution information. In addition, more material was needed to address the storm drainage issues.
11. The hearing was left open until April 12, 2006 to allow the applicant time to update the Transportation System Plan and to address deficiencies in the preliminary plat.
12. Reference was made to the March 15, 2006, Staff Report, and findings of fact addressing conformance to the policies of the Zoning Ordinance, Subdivision Ordinance and Comprehensive Plan.
13. The territory is designated by the City as Residential (3 dwellings per acre) on the City Comprehensive Plan Land Use Diagram.
14. The territory is zoned as City (RLB) Residential Low Density B.
15. The hearing on the matter was left open and the Planning Commission continued the action until the April 22, 2006 meeting.
16. The Planning Commission reconvened on April 22, 2006. By the time of the re-opening of the hearing four submittals were received.
 - a. An update to the Transportation Impact Statement dated March 22, 2006 by Todd Mobley
 - b. An update to the Transportation Impact Statement dated March 29, 2006 by Todd Mobley
 - c. A March 22, 2006 letter from Tom Guevara of ODOT
 - d. A March 28, 2006 letter from Tom Guevara of ODOT

17. Reference was made to the April 5, 2006, Supplemental Staff Report, and revised findings of fact addressing conformance to the policies of the Zoning Ordinance, and Comprehensive Plan. This supplemental staff report provided updated findings that addressed the revised preliminary plat. The original staff report findings of fact remained in effect unless modified by the April 5, 2006 supplemental report.
18. The applicant's representative, Charles Cates, provided the following updated information:
 - a. He asserted the proportionate share issue is more applicable in the subdivision than the plan amendment and zone change.
 - b. The applicant's representative stated they have a permit ready for submission to the Division of State Lands. The site has more wetlands than delineated on the City's Wetland Inventory.
 - c. The applicant's representative reviewed the supplemental staff report and proposed modifications or amendments.
 - d. The proposed bicycle/pedestrian path along the creek was not clearly delineated in the Plan.
 - e. He clarified that there would be a total of 31 dwelling units in the subdivision proposal.
19. The Planning Commission provided opportunity to receive clarifying questions and oral testimony in opposition of the application.
 - a. Helen Guillory asked the Planning Commission to clarify what the applicant intends to do with the wetlands.
 - b. She asked for clarification on storm water design and where run off would be diverted.
20. The Planning Commission considered specific information from the Comprehensive Plan
 - a. The West Side Park maps from the Parks Master Plan showing the linear trail along Lookingglass Creek.
 - b. The Transportation System Plan map from the Winston Transportation System Plan showing the location of proposed "Collins Road".
 - c. The Bicycle and Pedestrian Needs Map from the Winston Transportation System Plan.
21. The Planning Commission considered the following findings:
 - a. A development agreement specific to the transportation improvements identified in the applicant's TIS shall be required as a condition of approval.

The Planning Commission voted unanimously to approve the Plan Amendment to Residential 4.5 DU/AC and Zone Change to Residential Low Density A for the 7.6+/- acre portion of the property owned by Koch Revocable Trust.

The Commission adopts the findings of the staff report in support of their decision.

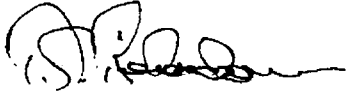
NOW, THEREFORE, based upon the foregoing findings of fact, the Winston Planning Commission **APPROVED** the requested Plan Amendment to Residential 4.5 DU/AC and Zone Change to Residential Low Density A for property owner Koch Revocable Trust subject to the following conditions of approval.

1. The owners will provide the City with an irrevocable offer to participate in future local improvement districts (including but not limited to Lookingglass Road, Brockway Road, Abraham Road, Collins Road and intersections with Highway 42) that effect the property.
2. The property owner(s) shall complete a development agreement with the City that addresses payment of a proportionate share for the 32 lot development potential of this site. The proportion shall be a ratio agreed upon by the City and the property owner.
 - a. The proportion shall consider the average daily trip count of 320 (or 10 ADT per dwelling unit.)
 - b. The proportionate share shall include, but not be limited to, the intersection improvements for Highway 42 and Brockway Road, Highway 42 and Abrahams Road and Highway 42 and Lookingglass Road.

The Commission adopts the findings of the staff report and as revised by the supplemental staff report in support of their decision.

NOW, THEREFORE, based upon the foregoing findings of fact, the Winston Planning Commission **APPROVED** the requested plan amendment and zone change for the application in this matter by property owner Koch Revocable Trust.

DATED THE 26th DAY OF APRIL, 2006



DON RICHARDSON, ACTING PRESIDENT

ATTEST:



David Van Dermark, CITY ADMINISTRATOR



201 N.W. Douglas Blvd. • Winston, OR 97496-9594 • Telephone (541) 679-6739

June 29, 2006

MEMORANDUM

TO: City Council

RE: KOCH REVOCABLE TRUST, request for Comprehensive Plan Map amendment from Residential 3 DU/Acre to Residential 4.5 DU/Acre, Zone Change from Residential Low Density B (RLB) to Residential Low Density A (RLA), on a 7.9 acre portion of a 13± acre unit of land located on the east side of Brockway Road and generally located between Lookingglass Road and Lookingglass Creek. The property is described as Tax Lot 803 in Section 20, Township 28S, Range 6W, W.M.; Property ID No. R119867. The subject property is currently designated Agriculture and Open Land, Residential 3 DU/Acre by the City of Winston Comprehensive Plan and is zoned Agriculture and Open Space, (RLB) Residential Low Density B, contains a wetland site and is subject to the Flood Plain Overlay. Planning Department File No. 05-W029.

Recommendation: The Planning Commission has reviewed the application and forwarded a recommendation of approval to the City Council.

Staff supports the Planning Commission recommendation with one amendment. Move condition of approval No. 2 from this approval and renumber the condition to be applicable to the Subdivision tentatively approved for Koch Revocable Trust (Planning Department File No. 06-W004):

2. The property owner(s) shall complete a development agreement with the City that addresses payment of a proportionate share for the 32 lot development potential of this site. The proportion shall be a ratio agreed upon by the City and the property owner.
 - a. The proportion shall consider the average daily trip count of 320 (or 10 ADT per dwelling unit.)
 - b. The proportionate share shall include, but not be limited to, the intersection improvements for Highway 42 and Brockway Road, Highway 42 and Abrahams Road and Highway 42 and Lookingglass Road.

This amendment is required to address the additional time needed to coordinate the development agreement.

Parties: Sixteen parties were established for the decision

FINDINGS SUMMARY

1. The applicant, Charles Cates, presented the original proposal and then discussed an update to the Transportation Impact Study. Mr. Cates:
 - a. Read a March 22, 2006 letter from Todd Mobley of Lancaster Engineering, into the record.
 - b. Clarified that the area under consideration is 7.9 acres.
 - c. Asserted there are only two identified wetlands on the subject property.
 - d. Regarding the March 22, 2006 ODOT letter,
 - i. he explained the proportionate share should be negligible.
 - ii. The applicant was willing to complete the update to the Transportation Impact Study.
 - iii. The applicant would be willing to pay for their proportionate share of the transportation impact.
 - e. The applicant requested a continuance to review the wetland impact and to complete a re-development plan.
2. The Planning Commission received clarifying questions and oral testimony in opposition of the application.
 - a. Helen Guillory discussed a letter (stamped March 20, 2006) and pictures she entered into the record and expressed a concern about a wetland behind her property.
 - i. She summarized her concerns listed in her letter: wetlands, grading, drainage, adequate infrastructure, historic school site, drainage easements, privacy, development plans and taxation issues.
 - ii. She expressed a concern that during rain events water fills from the adjacent field into her back yard.
 - iii. She expressed a concern that as fill occurs, there will be more drainage coming into her property.
 - b. Ed Balfour stated he did not oppose the project but asked how storm water will be addressed.
 - i. He stated a 15 foot drainage easement is located on his property.
 - ii. He clarified this drainage handles runoff from the school, Safari Estates and Lookingglass Creek Estates properties.
 - iii. He expressed a concern that the impact from the new development was not studied.

- c. Avrom Finkel expressed a concern on the transportation impact to Brockway Road from the additional traffic.
 - i. He stated there will be additional traffic turning onto Brockway Road and wondered what impact that would have on safety.
- 3. The applicant was provided an opportunity for rebuttal. Charles Gates provided the following testimony.
 - a. On the issue of a storm water, he stated they were working with neighbors.
 - i. They recognize that drainage is an issue because of the creation of additional impervious surfaces.
 - ii. The intent was to drain all surfaces to the street and then direct that drainage for retention on the property. The storm water will drain off the property after being retained on site.
 - iii. He concluded that no more runoff will occur than is happening now. The storm water system for the subdivision will be designed to address these issues.
 - b. On the issue traffic, he stated controls for intersections would occur when warrants are met.
 - i. He mentioned the Inter Governmental Agreement with ODOT and the City of Winston defines who is responsible for projects along Highway 42.
 - ii. The Applicant asserts their development will have a negligible impact on those intersections.
- 4. Planning Commissioner Kelly expressed a concern that the Transportation Impact Statement had missing information regarding the impact on Abraham Road and trip distribution information. In addition, more material was needed to address the storm drainage issues.
- 5. The hearing on the matter was left open and the Planning Commission continued the action until the April 22, 2006 meeting.
- 6. The Planning Commission reconvened on April 22, 2006. By the time of the re-opening of the hearing four submittals were received.
 - a. An update to the Transportation Impact Statement dated March 22, 2006 by Todd Mobley
 - b. An update to the Transportation Impact Statement dated March 29, 2006 by Todd Mobley
 - c. A March 22, 2006 letter from Tom Guevara of ODOT
 - d. A March 28, 2006 letter from Tom Guevara of ODOT

7. Reference was made to the April 5, 2006, Supplemental Staff Report, and revised findings of fact addressing conformance to the policies of the Zoning Ordinance, and Comprehensive Plan. This supplemental staff report provided updated findings that addressed the revised preliminary plat. The original staff report findings of fact remained in effect unless modified by the April 5, 2006 supplemental report.
8. The applicant's representative, Charles Cates, provided the following updated information:
 - a. He asserted the proportionate share issue is more applicable in the subdivision than the plan amendment and zone change.
 - b. The applicant's representative stated they have a permit ready for submission to the Division of State Lands. The site has more wetlands than delineated on the City's Wetland Inventory.
 - c. The applicant's representative reviewed the supplemental staff report and proposed modifications or amendments.
 - d. The proposed bicycle/pedestrian path along the creek was not clearly delineated in the Plan.
 - e. He clarified that there would be a total of 31 dwelling units in the subdivision proposal.
9. The Planning Commission provided opportunity to receive clarifying questions and oral testimony in opposition of the application.
 - a. Helen Guillory asked the Planning Commission to clarify what the applicant intends to do with the wetlands.
 - b. She asked for clarification on storm water design and where run off would be diverted.
10. The Planning Commission considered specific information from the Comprehensive Plan
 - a. The West Side Park maps from the Parks Master Plan showing the linear trail along Lookingglass Creek.
 - b. The Transportation System Plan map from the Winston Transportation System Plan showing the location of proposed "Collins Road".
 - c. The Bicycle and Pedestrian Needs Map from the Winston Transportation system Plan.
11. The Planning Commission considered the following findings:
 - a. A development agreement specific to the transportation improvements identified in the applicant's TIS shall be required as a condition of approval.

Original Conditions of Approval

1. The owners will provide the City with an irrevocable offer to participate in future local improvement districts (including but not limited to Lookingglass Road, Brockway Road, Abraham Road, Collins Road and intersections with Highway 42) that effect the property.
2. The property owner(s) shall complete a development agreement with the City that addresses payment of a proportionate share for the 32 lot development potential of this site. The proportion shall be a ratio agreed upon by the City and the property owner.
 - a. The proportion shall consider the average daily trip count of 320 (or 10 ADT per dwelling unit.)
 - b. The proportionate share shall include, but not be limited to, the intersection improvements for Highway 42 and Brockway Road, Highway 42 and Abrahams Road and Highway 42 and Lookingglass Road.