



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

July 2, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Myrtle Creek Plan Amendment
DLCD File Number 002-07



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 13, 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: Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative
Lisa Hawley, City of Myrtle Creek

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PROP **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

In person electronic mailed

DEPT OF

JUN 25 2007

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Myrtle Creek**

Local file number: **07-MC005**

Date of Adoption: **6/19/2007**

Date Mailed: **6/22/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/8/2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Applicants(Murray & Hoppe) proposed to convert two residentially developed lots from Commercial to High Density Residential to be consistent with the existing residential uses on the subject properties and the surrounding residential uses in the neighborhood. Properties are located within city limits.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Commercial**

to: **High Den Residential**

Zone Map Changed from: **Community Comm (C-2)**

to: **High Den Res (R-3)**

Location: **NE Division Street, Myrtle Creek**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New: **11-25 du/ac**

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD File No. _____

002-07 (15942)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Myrtle Creek (water/sewer/police/fire), Douglas County, ODOT, School District No. 19, and Umpqua Transit

Local Contact: **Lisa Hawley, Planner**

Phone: (541) 863-3171 Extension:

Address: **PO Box 940**

Fax Number: **541-863-6851**

City: **Myrtle Creek**

Zip: **97457-**

E-mail Address: **lahawley@co.douglas.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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also 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. 757

AN ORDINANCE AMENDING ORDINANCE NO. 508 AND ORDINANCE NO. 513, THE MYRTLE CREEK ZONING AND COMPREHENSIVE PLAN ORDINANCES, BY CHANGING THE LAND USE AND ZONING DESIGNATION AND COMPREHENSIVE PLAN MAP DESIGNATION OF CERTAIN PROPERTY WITHIN THE CITY

WHEREAS, the record owners of certain real property initiated an amendment to the Myrtle Creek Comprehensive Plan Map and Zoning Map by filing the proper application and addressing the prescribed filing fee; and

WHEREAS, the Myrtle Creek Planning Commission conducted a public hearing on the Comprehensive Plan Map Amendments and Zoning District change request on April 24, 2007, and provided the opportunity of public participation in the matter; and

WHEREAS, the Planning Commission adopted certain Findings of Fact regarding the matter and forwarded the Findings to the City Council together with a recommendation that the request for Comprehensive Plan Map Amendments and Zoning District change be formally adopted by the Council; and

WHEREAS, the City Council adopted Findings of Fact supporting the Planning Commission's decision to approve the requested Comprehensive Plan Map Amendments and Zoning District change;

NOW, THEREFORE, the City of Myrtle Creek ordains as follows:

Section 1. Amendment of Official Zoning Map

The official zoning map for the City of Myrtle Creek, as originally adopted by Ordinance No. 508, is hereby amended to change the zoning classification for property depicted on attached Exhibit A from (C-2) Neighborhood Commercial to (R-3) High Density Residential. The designation of (R-3) High Density Residential shall apply as the primary zoning classification.

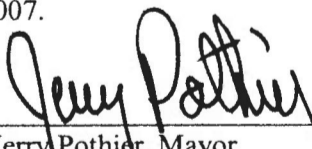
Section 2. Amendment of Comprehensive Plan Map

The official comprehensive plan map for the City of Myrtle Creek, as originally adopted by Ordinance No. 513, is hereby amended to change the comprehensive plan designation for property depicted on attached Exhibit A from Commercial to High Density Residential. The designation of High Density Residential shall apply as the primary comprehensive plan classification.

PASSED BY CITY COUNCIL UPON ITS FIRST READING this 15th day of May, 2007.

APPROVED BY CITY COUNCIL UPON ITS SECOND READING this 19th day of June, 2007.

APPROVED BY THE MAYOR this 19th day of June, 2007.



Jerry Pothier, Mayor

ATTEST:



Carolyn D. Shields, City Recorder

EXHIBIT "A"

Lot 1:

A parcel of land described as Lot 9, Block 1, JOHNSON'S ADDITION, City of Myrtle Creek, Douglas County, Oregon.

T29S, R05W, S22BB, TL 800

Lot 2:

A parcel of land described as Lot 8, Block 1, JOHNSON'S ADDITION, City of Myrtle Creek, Douglas County, Oregon.

EXCEPTING THEREFROM any portion lying within the boundaries of Division Street.

ALSO EXCEPTING THEREFROM any portion of the herein described property lying within the boundaries of that property described in Instrument No. 88-7505, Deed Records, Douglas County, Oregon.

T29S, R05W, S22BB, TL 700

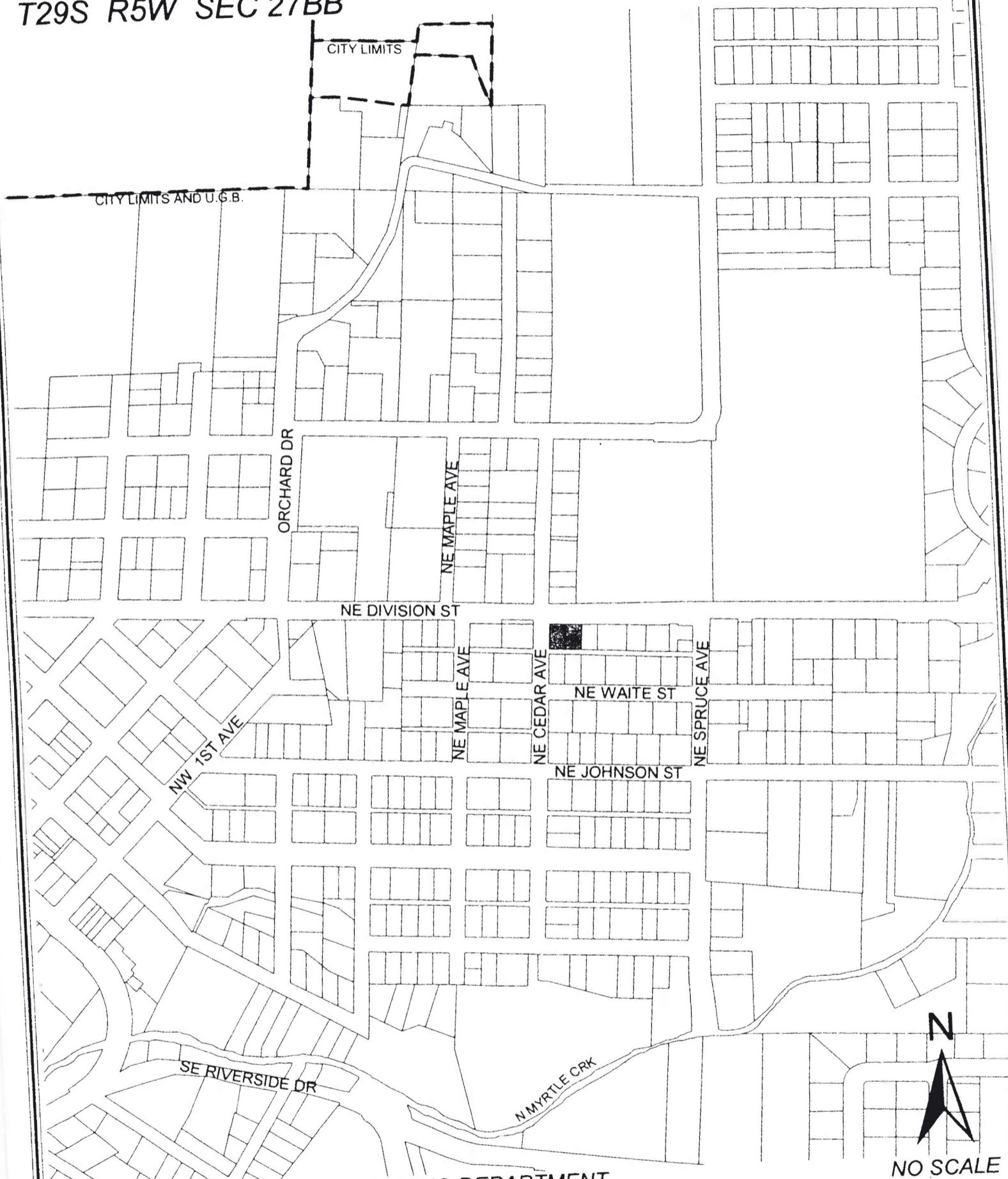
VICINITY MAP

T29S R5W SEC 27BB

EXHIBIT "A"
- continued -

MURRAY/E & J HOPPE II, LLC

07-MC005



CITY OF MYRTLE CREEK PLANNING DEPARTMENT



CITY OF MYRTLE CREEK
207 NW PLEASANT, P.O. BOX 940, MYRTLE CREEK, OR 97457
PHONE 541-863-3171, FAX 541-863-6851

May 9, 2007

STAFF REPORT

TO: MYRTLE CREEK CITY COUNCIL

FROM: MYRTLE CREEK PLANNING DEPARTMENT

RE: WILLIAM & SONY MURRAY AND E&J HOPPE LLC, request for a Comprehensive Plan Map amendment from Commercial to High Density Residential and a Zone Change from (C-2) Neighborhood Commercial to (R-3) High Density Residential on a 0.20 acre property located on the south side of NE Division Street at its intersection with NE Cedar Street in the City of Myrtle Creek. The subject property is comprised of two adjacent units of land described as Tax Lots 700 and 800 in Section 27BB, Township 29S, Range 5W, W.M.; Property I.D. Nos. R17782 and R17790. Planning Department File No. 07-MC005.

INTRODUCTION

The applicants, William & Sony Murray and E&J Hoppe LLC, are requesting a Comprehensive Plan Map amendment from Commercial to High Density Residential and a Zone Change from (C-2) Neighborhood Commercial to (R-3) High Density Residential.

The subject 0.20 acre property is comprised of two separately-owned, adjacent units of land, which are described as Tax Lot 700 [owned by the Murrays] and Tax Lot 800 [owned by E&J Hoppe LLC] in Section 27BB, Township 29S, Range 5W, W.M.; Property I.D. Nos. R17782 and R17790. The subject property is located on the south side of NE Division Street at its intersection with NE Cedar Street in the City of Myrtle Creek.

The Myrtle Creek Planning Commission, at its regular meeting on April 24, 2007, held a public hearing on the applicants' requested comprehensive plan map amendment and zone change of the property. The following parties were established at the Planning Commission hearing: William and Sony Murray, applicant/property owners; E&J Hoppe II LLC, property owners; Vince Lytsell; and JoAnne Williams. No other parties were present either in favor or against the application.

The Planning Commission voted unanimously to forward a recommendation to City Council to approve the requested Comprehensive Plan Map Amendment and Zone Change from Commercial to High Density Residential and a Zone Change from (C-2) Neighborhood Commercial to (R-3) High Density Residential, based upon the findings of the staff report dated April 17, 2007, in support of their decision.

An amendment to the Myrtle Creek Comprehensive Plan Map and Zoning Map is subject to review by both the Myrtle Creek Planning Commission and City Council. Should the Council agree with the Planning Commission's recommendation and findings of facts, the Council shall by ordinance effect such change of plan map and zone designation (ordinance attached).

FINDINGS OF FACT

1. The applicants propose to convert the two residentially-developed lots from commercial to high density residential so that they will be conforming with their existing residential uses and with the surrounding residential uses in the neighborhood. The existing residential development on the subject properties is considered a nonconforming use in the commercial zone. This situation limits the ability of the property owners from obtaining financing or refinancing for the property, and prohibits the replacement of the home if it was ever damaged or destroyed, as outlined in the provisions of Article VI of the Zoning Ordinance (Nonconforming Uses). This request is similar to one which was processed by the City in 2002 to redesignate and rezone numerous properties located on Waite Street from commercial to high density residential based upon similar issues with nonconforming residential uses.
2. The applicant proposes to convert the residentially-developed lot from commercial to high density residential so that it will be conforming with the existing residential uses on the property and the surrounding residential uses in the neighborhood. The subject properties are currently developed with existing residence uses: Tax Lot 700 is developed with a 1949 single family dwelling and is addressed as 414 NE Division Street, and Tax Lot 800 is developed with a 1900 single family dwelling and is addressed as 406 NE Division Street.
3. The Comprehensive Plan Map Amendment and Zone Change Applications were filed with the City on February 16, 2007, and were deemed completed on March 2, 2007.
4. DLCD Notice of Proposed Amendment was mailed to the Department of Land Conservation and Development on March 8, 2007, which was at least 45 days prior to the public hearing on April 24, 2007.
5. Notice of a Public Hearing on the application for the Comprehensive Plan Map Amendment and Zone Change before the Planning Commission was given in accordance with Article IX, Section 9.04.2 of the City of Myrtle Creek Zoning Ordinance. Notice was sent to affected property owners of record within 150 feet of the proposed amendment, to service providers, and governmental agencies on April 2, 2007.
 - a. No written comments or remonstrances have been received from any affected property owners, service providers or governmental agencies.
6. Both units of land comprising the subject 0.20 acre property are accessed via NE Division Street. Both units of land are addressed as 406 NE Division Street (Tax Lot 800) and 414 NE Division Street (Tax Lot 700). NE Division Street is identified in the Comprehensive Plan as a Major Collector street, and is a designated bike lane. There are existing sidewalks along the subject property.

7. The subject properties have access to public water and sanitary sewer through the City of Myrtle Creek along NE Division Street and NE Cedar Street.
8. Present Situation: The applicants are not requesting any new development with this review. The requested amendment to High Density Residential will allow the existing nonconforming residential uses on the properties to be consistent with surrounding residential uses in the neighborhood.
9. Plan Designation: Commercial designation. The applicants are requesting an amendment to the High Density Residential plan designation.
10. Zone Designation: (C-2) Neighborhood Commercial. The applicants are requesting an amendment to the (R-3) High Density Residential zone.
11. Overlays: No overlays have been applied to the subject properties. The subject properties are not located within the 100-year flood plain.

Applicable Criteria

12. The requested application is subject to conformance with the applicable Statewide Planning Goals and the applicable findings and policies of the Myrtle Creek Comprehensive Plan and Zoning Ordinance. Based upon the applicable criteria, the following findings are made:
 - a. The findings of the Planning Commission staff report, dated April 17, 2007, demonstrate that the requested amendment substantially conforms with the applicable Statewide Planning Goals, including Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources), Goal 6 (Air, Water and Land Resource Quality), Goal 7 (Areas Subject to Natural Disasters and Hazards), Goal 8 (Recreational Needs), Goal 9 (Economic Development), Goal 10 (Housing), Goal 11 (Public Facilities and Services), and Goal 12 (Transportation), Goal 13 (Energy Conservation), and Goal 14 (Urbanization).
 - b. The findings also demonstrate conformance with the applicable Comprehensive Plan policies:
 - i. The subject 0.20 acre property has been developed with residential uses since at least 1949. No new residential development is proposed. The two properties do not contain any areas identified in the Comprehensive Plan for needed Open Spaces, Scenic and Historic Areas or Natural Resources in the City of Myrtle Creek
 - ii. The existing residential development on the subject property will not affect the City policies for quality of air, water and land resources of the area. No new residential development (or increased residential density) is proposed with this request.
 - iii. The subject parcels are physically developed and are not located in any natural disaster or hazard area that requires special protection. The site is located outside of the floodplain and not within an area of steep slopes (over 12% slopes). The properties are too small to be further divided.

- iv. The Comprehensive Plan does not identify a public park or recreational facility on the subject properties. There are currently two City parks located in close proximity to the property, along with the City public pool located across NE Division Street. The change in density from Commercial to High Density Residential created by this proposal does not alter the plan policies identified for open spaces or recreation facilities.
- v. The Comprehensive Plan originally envisioned commercial development expanding from the Central Business District easterly along NE Division toward the business area at the intersection with North Myrtle Road (Super Y area). Over the years, commercial development has expanded primarily to the south along South Main Street and not along NE Division. The existing nonconforming residential uses along the south side of NE Division have remained primarily residential in nature, and have not been converted to commercial uses.
 - (1) There are no industrially designated lands involved in the proposed plan amendment. The findings of the Planning Commission staff report, dated April 17, 2007, support the conversion of commercial land to high density residential land. There will be no increase in residential density as a result of this request. The proposed change from Commercial to High Density Residential will not have a significant impact on the City's policies for economic development.
- vi. Rezoning of the subject properties would not increase the City's ability to meet the overall housing needs for the urban area, but would make the properties consistent with their existing residential uses.
- vii. The subject properties are located within city limits and the Urban Growth Boundary. They are both developed with residences established prior to 1950, and have access to both public water and sewer services from the City. Existing services lines are located within the right-of-way of NE Division Street and NE Cedar Street. Existing fire and police protection are also provided by the City. The proposed change will not impact the City's policies for public facilities and services.
- viii. The subject properties have existing accesses onto NE Division Street, which is identified in the Myrtle Creek TSP as a Major Collector street with existing sidewalks and an existing designated bike lane. Due to the small size of the properties and their existing residential use, no traffic impact study or analysis was required as part of this request.
 - (1) The applicants propose to convert the subject 0.20 acre [8,712 square foot] residentially developed property from commercial to high density residential so that it will be conforming with the existing residential uses on the property and the surrounding residential uses in the neighborhood. The proposed change will not adversely impact the City's transportation system.

- (2) Notice was provided to the Oregon Department of Transportation and no written comments or responses have been received.
- ix. This proposal is consistent with the City's energy conservation policies. NE Division Street is a designated major collector street with existing sidewalks and an identified bicycle path. No change to the residential nature of the properties proposed with this application. The proposed change will not impact energy conservation.
- x. The subject 0.20 acre property is already developed and no changes to the residential nature of the property are proposed. It is surrounded by lands to the north designated public/semi-public across NE Division, to the northwest designated low density residential across NE Division, to the south designated high density residential, and east and west designated commercial along NE Division, with one parcel located west across NE Cedar Street designated low density residential.
 - (1) The requested change to high density residential would be consistent with the surrounding high density residential. The increase in density will not be significant on the City's land use pattern or urbanization policies.
- c. The applicants' proposal is consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance. The applicants have demonstrated the proposal's appropriateness and desirability. Rezoning the property to residential from (C-2) Neighborhood Commercial to (R-3) High Density Residential would be consistent with the current and past use of the properties. The existing dwellings would no longer be considered nonconforming uses.
- d. The proposed zone change is consistent with the Comprehensive Plan and does not significantly affect a transportation facility. It does not change the functional classification of an existing or planned transportation facility, including Interstate 5, Main Street, or NE Division Street. The proposed change will reduce the performance standards of the transportation facility below the minimum acceptable level identified in the TSP.

CONCLUSION AND RECOMMENDATION

In conclusion, the applicants' requested Comprehensive Plan Map Amendment from Commercial to High Density Residential and a Zone Change from (C-2) Neighborhood Commercial to (R-3) High Density Residential substantially conforms with all the applicable criteria, including the Statewide Planning Goals and the findings and policies of the City of Myrtle Creek Comprehensive Plan and Zoning Ordinance. The subject 0.20 acre property is already developed with residential uses and no new development is proposed. There will be no increase in residential density as a result of this request.

Approval of the applicants' request to convert the residentially-developed properties from commercial to high density residential will enable conformance with the existing residential uses on the property and the surrounding residential uses in the neighborhood.

ALTERNATIVES

1. Approve the requested Comprehensive Plan Map Amendment from Commercial to High Density Residential and a Zone Change from (C-2) Neighborhood Commercial to (R-3) High Density Residential for property owners, William and Sony Murray, and E&J Hoppe LLC, by the first reading of Ordinance No. _____.
2. Deny the request based on findings, which would not support the proposed Comprehensive Plan Map Amendment and Zone Change.
3. Take no action at this time.

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